

# Q and A:

What you need to know about  
**Palestinian Refugees**  
and  
**Internally Displaced Persons**

بديل  
المركز الفلسطيني  
لمصادر حقوق المواطنة واللاجئين



BADIL

Resource Center  
for Palestinian Residency & Refugee Rights

May 2015

## **Q and A: What you need to know about Palestinian Refugees and Internally Displaced Persons**

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May 2015

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**Cover photo:** Picture submitted to BADIL's al-Awda Award Competition, (2015). by Mahmoud al-Kurd, Jabalyia camp, Gaza.

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# 1.0 PALESTINIAN REFUGEES AND INTERNALLY DISPLACED PERSONS: DEMOGRAPHICS OF DISPLACEMENT



## Who is a Palestinian Refugee?

Palestinian refugees are those who have been displaced from their homes of origin and are still denied reparation (return, property restitution and compensation) as a result of the Zionist-Israeli strategy of “taking over the maximum area of land with minimum Palestinians”.

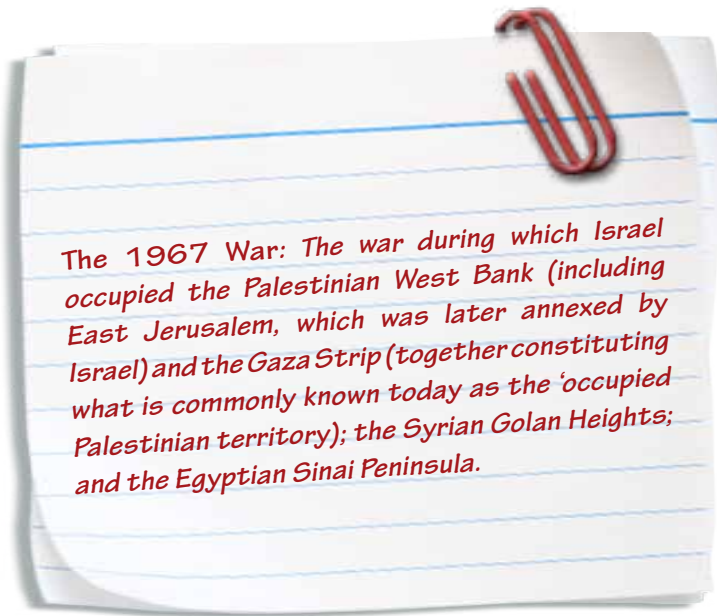
Palestinian refugees constitute one of the largest and longest-standing unresolved refugee groups in the world today. There is no single authoritative source for the global population of Palestinian refugees and internally displaced persons. Estimates of the current size of Palestinian refugee and internally displaced persons populations are based on uneven and shifting data, primarily due to the absence of a comprehensive registration system, frequent forced displacement, and the lack of a uniform definition of a Palestinian refugee. However, according to the most recent estimates, at least 7.9 million (67 percent) of 11.8 million Palestinians worldwide are forcibly displaced persons. Among them are at least 7.25 million are Palestinian refugees, and the rest are internally displaced.

There are three groups of Palestinian refugees, the largest is made up of those who were forced to flee their homes and country during the 1948 War, which the Palestinians call the Nakba (Arabic for catastrophe; see Question 2.1 below), and their descendants. The total number of Palestinian refugees is approximately 6.1 millions, a figure that includes the 5.1 million Palestinian refugees who are registered with and assisted by The United Nations Relief

and Works Agency for Palestine Refugees (UNRWA) (See box). Palestinian refugees registered with UNRWA are often referred to as “registered refugees” or “Palestine refugees”. The other one million Palestinian refugees who were also displaced in 1948 are not eligible or did not register for assistance with UNRWA.


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The second major group of Palestinian refugees is comprised of those displaced for the first time from their homes and country during the 1967 War, and their descendants. The number of Palestinian refugees originating in 1967 is estimated to be 1.1 million.



*The 1967 War: The war during which Israel occupied the Palestinian West Bank (including East Jerusalem, which was later annexed by Israel) and the Gaza Strip (together constituting what is commonly known today as the 'occupied Palestinian territory'); the Syrian Golan Heights; and the Egyptian Sinai Peninsula.*

The third group of refugees is comprised of an unknown number of Palestinians who are neither 1948 nor 1967 refugees but who have also been displaced outside the area of British Mandate Palestine (today, Israel and the 1967 occupied Palestinian territory).



The United Nations Relief and Works Agency for Palestine Refugees (UNRWA) was established in 1950 as a subsidiary organ of the General Assembly, by General Assembly Resolution 302 (IV) of 8 December 1949, "to carry out [...] direct relief and works programs" for 'Palestine refugees'. UNRWA is the lead international agency mandated to assist Palestine refugees in five geographical areas of operations (Syria, Lebanon, Jordan, the West Bank and the Gaza Strip) with humanitarian assistance in the form of education, health and relief and social services.

The Agency does not hold an explicit mandate to protect or promote durable solutions for Palestine refugees. In principle, primary responsibility for protection of the Palestinian refugees in the Agency's area of operations lies with the Arab host governments in Lebanon, Syria and Jordan, and with Israel as the Occupying Power in the occupied Palestinian territory.

Without an explicit protection mandate, UNRWA's provisions are limited and do not include the full panoply of international protection. The lack of an explicit protection mandate for Palestinian refugees has received only periodic attention from the international community, usually in the aftermath of notable crises, and for limited periods of time or scope.

Despite lacking a mandate to seek durable solutions (see Q1.3), UNRWA became, for refugees and host governments alike, the embodiment of international recognition and concern for the situation of Palestinian refugees.



## Who is an internally displaced Palestinian?

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According to the Guiding Principles on Internal Displacement (UN, 1998), internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, or violations of human rights and who have not crossed an internationally recognized state border. Internally displaced Palestinians can be divided into two groups.

The **FIRST** is composed of persons displaced in the area that became Israel in 1948. This group includes those who were displaced in the 1948 Nakba (approximately 384,200 persons today), as well as those subsequently displaced by Israel.

The **SECOND** group (approximately 334,600 persons today) is composed of Palestinians internally displaced in the occupied Palestinian territory since 1967, as a result of Israel's regime of occupation, apartheid and colonization. As 1948 refugees reside and physically exist throughout the occupied Palestinian territory, this figure of internally displaced persons includes Palestinian refugees who suffered subsequent secondary forced displacement inside the occupied Palestinian territory. However, the number of 1948 refugees displaced a second time in 1967 is largely unknown due to the absence of a comprehensive registration system or a follow-up system, as well as the high frequency of displacement.



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### *Why are descendants of refugees and internally displaced persons considered in today's figures?*

The international community continues to classify children and grandchildren of Palestinian refugees as refugees because their entitlement to international assistance and protection and reparation is the same. This situation will remain until old and new generations of Palestinian refugees and internally displaced persons have access to durable solutions (repatriation, integration in their current host country and resettlement in third states) and reparations (including restitution, compensation and satisfaction) which they voluntarily choose in accordance with international law. The same approach is applied by the international community to other refugee situations in the world (such as with Bosnian and Guatemalan refugees) as well as to internally displaced persons worldwide.

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### *Where do Palestinian refugees and internally displaced persons live today?*

Palestinian refugees live very close to their homes and villages of origin, because they left based on the assumption that they would return once the armed conflict ceased. In 1948, an estimated 65 percent of the Palestinian refugees remained in the territory of Palestine which was not under Israeli control at the time – i.e., the West Bank and the Gaza Strip. The remaining 35 percent of the Palestinian refugee population displaced in 1948 found refuge in neighboring states, mainly Jordan, Lebanon, Syria and Egypt.

The majority of Palestinians displaced from the occupied Palestinian

territory during the 1967 War found refuge in neighboring states. Most of them (95 percent) were displaced to Jordan, with smaller numbers displaced to Syria, Egypt and Lebanon. Some were displaced twice from their homes of origin. UNRWA estimates that half of the refugees forced out of the occupied Palestinian territory in 1967 had already been made refugees in 1948.

Most of the refugees still live within 100 km of the borders of Mandate Palestine where their homes of origin are located. By the end of 2014, approximately 41 percent (2,097,300) of all UNRWA-registered persons were residing in Jordan. 24.6 percent (1,258,600) in the Gaza Strip, 15 percent (762,300) in the occupied West Bank, 9.5 percent (480,000) in Syria, and 8.8 percent (450,000) in Lebanon. Most Palestinian refugees (approximately 80 percent) live outside the 58 UNRWA official camps.

The majority of internally displaced Palestinians in Israel are currently concentrated in the Galilee, in the north of the country in cities such as Nazareth and Shafa-'Amr, and in cities with a mixed Jewish-Palestinian population, such as Haifa and Akka (Acre). Internally displaced Palestinians are also located in the Naqab in the south of Palestine. In addition to the systematic discrimination that Palestinians experience in Israel, internally displaced persons are not recognized by Israel and are denied their right of return, restitution and compensation.

Palestinian refugees in the various host countries face differing legal and social realities that shape their struggles and identities. In addition to the lack of a uniform legal system to protect them, they are vulnerable to the political, social, and economic transformations in the host countries.

*(For more details on the living conditions of Palestinian refugee communities in the different host countries, please see BADIL's biennial Survey on Palestinian Refugees and Internally Displaced Persons)*



## What nationality and citizenship do Palestinian refugees have?

Palestinians are the habitual residents of Palestine, of whom two thirds are displaced. Article 5 of the Palestinian National Charter stipulates that,

[t]he Palestinians are those Arab nationals who, until 1947, normally resided in Palestine regardless of whether they were evicted from it, or have stayed there. Anyone born, after that date, of a Palestinian father – whether inside Palestine or outside it – is also a Palestinian.


The term “displaced Palestinians” refers to two main groups: first, Palestinians who were displaced from their places of origin in Mandate Palestine and their descendants; second, displaced Palestinians who are still living in Mandate Palestine (Israel and the 1967 occupied Palestinian territory).

Since the British occupation of Palestine (December 1917) until the adoption of the Palestine Mandate by the League of Nations on 24 July 1922 and the ratification of the Treaty of Peace (Treaty of Lausanne of August 1923), to the enactment of the Palestinian Citizenship Order in 1925, the international status of Palestine and its inhabitants’ nationality and citizenship have undergone several stages of *de facto* and *de jure* changes. Those changes are still relevant and have current legal and political significance. They constitute the roots of the current complexity of the Palestinian-Israeli conflict and affect the ongoing Palestinian plight, particularly the predicament of Palestinian refugees.

Legally, citizenship and nationality are not identical concepts. Nationality is a human right defined under international law. Citizenship is a matter of domestic law, on which international law has little influence unless citizenship provisions violate one of the core obligations of states under international law.

Israeli law, official institutions or records do not recognize an "Israeli nationality". Israel's High Court confirmed that no such status exists. All Jewish-Israelis qualify as "Israeli citizens"; however, their nationality status is "Jewish". The state of Israel is defined as belonging to the "Jewish nation", meaning not only the Jewish-Israelis but also all Jews that do not live in Israel. This unusual distinction between "citizenship" and "nationality" and the special status given to Jewish nationality has been a way to undermine citizenship rights of non-Jews inside Israel. Although all residents of Israel qualify as citizens, the only nationality conferring automatic status to enjoy all civil, political, economic, social and cultural rights in Israeli law is "Jewish nationality." Palestinian citizens of Israel are categorized in different groups, but their main defining characteristic is that they are non-Jews, and therefore are not entitled to the same rights and privileges of the Jewish-Israelis.

There are more than 50 Israeli laws that discriminate against Palestinian citizens of Israel based on their non-Jewish nationality. The cornerstone of the discriminatory legal structure is the Status Law (1952), supported by two Basic Laws: the Law of Citizenship and the Law of Return. Under the Law of Return only Jews are allowed to come to the areas controlled by Israel (both Israel



proper and the occupied Palestinian territory), acquiring their new civil status of Jewish nationals through "return". The notion of Jewish-Israelis being "Jewish nationals" who return to their homeland is the foundation of Zionism, and is ideologically unique among other colonial-settler states.

The Law of Citizenship applies to non-Jews. This law removes Palestinian nationality from all who remained inside Israel at the time of enactment, despite being automatically entitled to, according to the customary international law of state succession. Israeli citizenship is only available to non-Jews and their descendants present in Israel between 1948 and 1952. Those who were not present within Israel or in territory controlled by Israeli-defined "enemy forces" between those dates were precluded from obtaining citizenship. This resulted in approximately 6.1 million Palestinians being ineligible for citizenship and becoming stateless. Israel also refuses to allow their return.

These Laws allow for any Jew to enter Israel and to obtain citizenship at any time, and to live in Israel or settlements in the West Bank, as they are seen as Jewish people "returning" to their homeland. There is no need for them to be born in Israel or to have any previous connection with Israel to enjoy these rights. Ironically, Israel prevents the actual return of Palestinians who are the indigenous people of that land, in breach of international law.

## 2.0 FORCED DISPLACEMENT; ONGOING NAKBA

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### What is the Nakba?

The term *Nakba* (Arabic for 'Catastrophe') designates the first round of massive population transfer undertaken by the Zionist movement and Israel in the period between November 1947 (UN Palestine Partition Plan) and the cease-fire (Armistice) agreements with Arab states in 1949. The *Nakba* was an act of forced population transfer (or ethnic cleansing) undertaken for the purpose of establishing Israel that would ensure permanent dominance of the Jewish colonizers over the indigenous Palestinians. More than 750,000 Palestinians were forcibly displaced from their homes and lands during the Nakba of 1948 and prevented from returning.



### What have been the main waves of displacement?

At the beginning of the 20th century, most Palestinians lived inside the borders of Palestine, which is now divided into Israel and the occupied West Bank (including East Jerusalem) and the Gaza Strip. Five major episodes of forcible displacement have transformed Palestinians into the largest and longest-standing unresolved refugee case in the world today.

1. British Mandate (1922-1947): more than 150,000 Palestinians were displaced within and beyond the borders of Palestine in the context of British support of the Zionist colonization;

2. Nakba (1947-1949): over 750,000 Palestinians were displaced in the context of a UN General Assembly recommendation to partition Palestine; armed conflict, ethnic cleansing and the establishment of Israel;
3. Israel's military government (1949-1966): between 35,000 and 45,000 Palestinians out of the 150,000 who had managed to remain in the area that became Israel in 1948 were displaced.
4. 1967 Arab-Israeli War: between 400,000 and 450,000 Palestinians were displaced in the context of armed conflict and Israel's occupation of the Palestinian West Bank and Gaza Strip, the Egyptian Sinai peninsula and the Syrian Golan Heights;
5. Israel's occupation, apartheid and colonization (1967–Present): these practices have displaced hundreds of thousands of Palestinians and continued forced displacement throughout historic Palestine (Mandate Palestine).



## What is the Ongoing Nakba?

The *Ongoing Nakba* describes the ongoing Palestinian experience of forced displacement, as well as Israel's policies and practices that have given rise to one of the largest and longest-standing populations of refugees, internally displaced persons and stateless persons worldwide. The intentional displacement of Palestinians by Israel from 1948 until the present amounts to a policy of forcible population transfer i.e. ethnic cleansing. By the end of 2011, approximately 7.9 million Palestinians were displaced persons. Forcible displacement of Palestinians by Israel continues to this day, while those in exile are vulnerable to persecution and renewed displacement in their host countries.



## What does the Ongoing Nakba look like today?

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Today, Israel's regime (combining occupation, apartheid and colonization) is the root cause of contemporary and ongoing forced displacement of Palestinians in Mandate Palestine. Contemporary forced displacement is induced by a set of interrelated, discriminatory and oppressive Israeli policies and practices that are implemented in the context of military operations and routine administration. There are at least nine policies aimed at forcibly transferring the Palestinian population. Israel executes these policies through the use of military force and police, legislation and court rulings, and *de facto* state actions carried out by governmental authorities, quasi-state bodies, private individuals or institutions with the state's consent. The nine policies of forcible transfer of Palestinian people are:

- **DENIAL OF RESIDENCY:** this policy includes the revocation of residency, denial or hindrance of child registration, denial or hindrance of family unification, and denial or hindrance of change of residence. The combined impediments undermine normal family life.
- **INSTALLMENT OF A PERMIT REGIME:** permits regulate and interfere with various facets of life such as travel, work, development and transporting goods and assets. There are more than 100 different permits for Palestinians. This regime usually results in the complete denial of access to land, work, health facilities and so on.
- **LAND CONFISCATION AND DENIAL OF USE:** IN ADDITION TO THE ACTUAL CONFISCATION OF LAND, Israel employs different means to restrict or completely deny the use and access of land – effectively appropriating large areas.
- **DISCRIMINATORY ZONING AND PLANNING:** this policy targets Palestinians by containing the growing population



through municipal planning. The unrecognizing of Palestinian communities, substandard living conditions, denial of representation of Palestinians from planning bodies, legalization of annexation, and lack of access to public land, in addition to obsolete infrastructure, restrict Palestinian communities natural growth and expansion and destroy their capacity to develop.

- **SEGREGATION:** dividing the Palestinian populace by geographical borders in order to isolate communities and subjecting them to different legal statuses in order to maintain and enhance fragmentation. The ultimate aim is to erase Palestinian national identity while creating an exclusively Jewish space.
- **DENIAL OF NATURAL RESOURCES AND ACCESS TO SERVICES:** this policy focuses mainly on the denial of natural resources such as water, land, oil, gas and sea resources.
- **DENIAL OF REFUGEE RETURN:** this legally and militarily enforced policy constitutes a violation of Palestinian individual and collective rights.
- **SUPPRESSION OF RESISTANCE:** the policy includes systematic and mass incarceration, torture and the suppression of the freedom of expression and assembly, as well as criminalizing acts of civil opposition or disobedience.
- **NON-STATE ACTIONS (WITH THE IMPLICIT CONSENT OF ISRAEL):** this includes Jewish-Israeli civilian violence against Palestinians and property, and their impunity. It also includes the discretionary power of parastatal organizations such as the Jewish National Fund and its ideological role for the Israeli state.

These policies create a situation of vulnerability among the affected Palestinian population and are directly related to the root cause of the conflict.

*(For more details on these policies, please see our Series of Working Papers: Forced Population Transfer: The Case of Palestine).*



## What is the reason behind the forcible transfer of Palestinians?

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The Zionist Movement was formed in the late nineteenth century with the aim of creating a Jewish homeland through the formation of a '... national movement for the return of the Jewish people to their homeland and the resumption of Jewish sovereignty in the Land of Israel'. As such, the Zionist colonial enterprise combined the notion of Jewish nationalism, which it aimed to create and foster, with the active colonialism of transplanting people, mostly from Europe, into Palestine with the support of Western imperial powers.

Under the maxim "a land without a people for a people without a land," the Zionist movement faced three major obstacles when setting the scene to colonize Mandate Palestine in 1897. The following is a brief outline of these obstacles, and the ways the Zionist movement and then Israel have addressed them:

1. **THE INDIGENOUS PALESTINIAN PEOPLE WHO WERE LIVING IN THAT TERRITORY:** The central obstacle to the Zionist movement, the Palestinian people themselves, has been addressed by various means. The main manifestation of Zionism has been forcible population transfer.
2. **PALESTINIAN PROPERTY AND LAND RIGHTS WITHIN THAT TERRITORY:** The Israeli Absentee Property Law 1950 - among other laws and mechanisms - was used to confiscate Palestinian property, legally owned by forcibly displaced Palestinian refugees and internally displaced persons. The term 'absentee' was defined so broadly as to include not only Palestinians who had fled the newly established Israel but also those who had fled their homes yet remained within its borders.
3. **LACK OF A SUFFICIENT NUMBER OF JEWISH PEOPLE IN THAT TERRITORY:** To ensure a sufficient number of Jewish people in

the colonized territory, the Israeli Law of Return 1950 was adopted. It provides that every Jewish person in the world is entitled to 'Jewish nationality' and can immigrate to Israel and acquire Israeli citizenship.

Forcible population transfer is thus a Zionist necessity, ignoring the brutal requisites and consequences. Zionism also requires a structure of racial discrimination against Palestinians (or whoever is not Jewish) in areas of nationality, citizenship, residency rights and land ownership. This system was originally applied in 1948 in order to dominate and dispossess all Palestinians, including the 150,000 who remained within the borders of the "1949 Armistice Line" and later became citizens of Israel. After the occupation of the remaining part of Mandate Palestine by Israel in 1967, this territory was subjected to a similar regime.



## What are belligerent occupation, colonization and apartheid?

**BELLIGERENT OCCUPATION** is accepted as a possible consequence of armed conflict and allows the occupying power to administer the occupied territory without changing the legal status of the territory, its population and the sovereignty over it. Although under the law of armed conflict (international humanitarian law) it is intended to be a temporary state of affairs. Israel has a *de facto* authority to administer the occupied Palestinian territory, but is not allowed to exercise sovereignty over it. International law prohibits the unilateral annexation or permanent acquisition of territory as a result of the threat or use of force. Israel is to enforce existing laws in the territory, but in principle has no right to change or annul them.

**COLONIZATION** is a practice of colonialism, defined in the Declaration on the Granting of Independence to Colonial Countries and

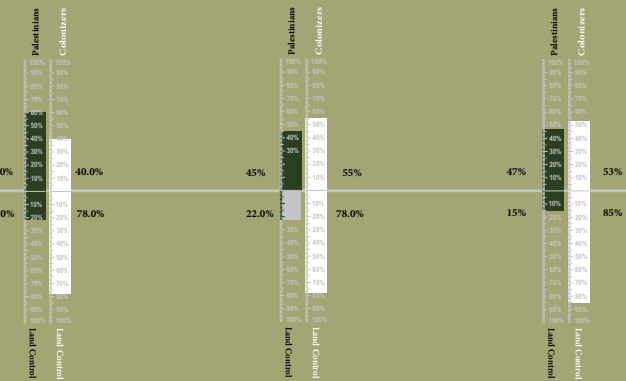
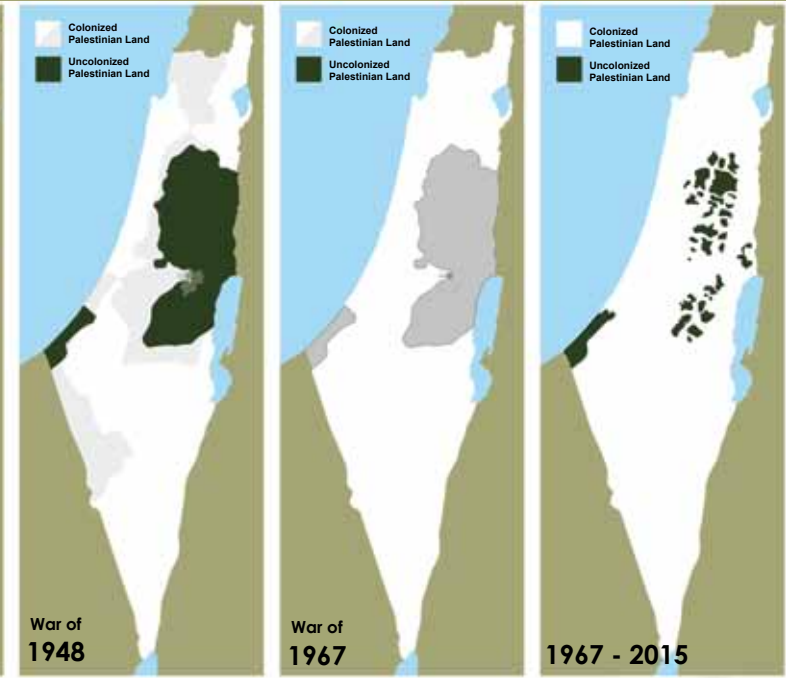
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# "A Minimum Palestinians" NAKBA since 1917

## PHASES OF DISPLACEMENT BEFORE AND DURING OCCUPATION



  
By the end of 2014,

at least 67% (7.9 million) of the entire, worldwide Palestinian population (11.8 million) were forcibly displaced persons. Among them were at least 7.25 million internally displaced Palestinians.

Peoples (1960) as a state in which the acts of a State have the cumulative outcome that it annexes or otherwise unlawfully retains control over territory and thus aims permanently to deny its indigenous population the exercise of its right to self-determination. Colonialism is considered to be a particularly serious breach of international law because it is fundamentally contrary to core values of the international legal order. Colonialism “constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and cooperation.” Struggle in the pursuit of the right to self-determination is lawful and legitimate for people whose right to self-determination is denied because of their subjugation, domination and exploitation by a foreign power. Israeli colonialism utilizes settlements (colonies) as a means of subjugation and domination: spatially, legally, socially and economically.

APARTHEID is one of the most severe forms of racism, “a political system where racism is regulated in law through acts of parliament.” Article 3 of the Convention on the Elimination of Racial Discrimination (CERD) defines apartheid as a form of racial segregation. The Convention on the Suppression and Punishment of the Crime of Apartheid (1976) defines apartheid as:

... the purpose of establishing and maintaining domination by one racial group of persons over any other racial group of persons and systematically oppressing them, in particular by means such as segregation, expropriation of land, and denial of the right to leave and return to their country, the right to a nationality and the right to freedom of movement and residence (Article II).

The Rome Statute defines apartheid as inhumane acts “committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial

group or groups and committed with the intention of maintaining that regime.” Apartheid constitutes a crime against humanity. Members of organizations and agents of an apartheid state are subject to criminal prosecution, irrespective of the motive involved, and whenever they commit, participate in, directly incite or inspire, directly abet, encourage or cooperate in the commission of the crime of apartheid (Article III, 1976 anti-Apartheid Convention). All states are obliged to condemn, suppress and punish those involved in the crime of apartheid.



## What is the forced secondary displacement of Palestinians?

Many Palestinians who sought refuge outside their homeland experienced further forced displacement. With their right to a nationality and travel document denied by Israel, they became stateless refugees who have been vulnerable to the impacts of armed conflicts and human rights violations in their respective host countries.

The level of protection provided to Palestinian refugees under Arab regional and national instruments and mechanisms is notably low. Ineffective protection, including discrimination against Palestinian refugees and armed conflicts in Arab host countries, have been, and remain triggers of forced secondary displacement of Palestinians. Throughout the last century, the following political situations illustrate some critical examples:

- Mid-1950s: Palestinian oil industry workers were expelled from the Gulf States;
- 1970: Numerous families of Palestinian refugees were expelled from Jordan as part of the expulsion of the nascent Palestinian resistance movement (the Palestinian Liberation Organization) in the events termed “Black September.” Most of them settled in Lebanon;

- 1976–1991: During the Civil War in Lebanon, more than 100,000 Palestinians were forced to leave the country;
- 1990–1991: More than 400,000 Palestinians were expelled from Kuwait in response to the Palestine Liberation Organization's political support for Iraq during the Gulf War;
- 1995: Libya expelled some 30,000 Palestinians from its territory (some were subsequently re-admitted);
- 2003–2011: Several thousand Palestinian refugees were displaced, and many more remain threatened, in the context of the US-led war against, and occupation of, Iraq;
- 2006-2010: Internal displacement of Palestinian refugees inside Lebanon as a consequence of the 33-day war between Israel and Hezbollah and the siege and bombardment of the Palestinian Nahr Al-Bared refugee camp by the Lebanese army.



*The crisis that broke out in Syria in 2011 has resulted in the forced secondary displacement of thousands of Palestinian refugees. The conflict has deeply affected all 12 Palestinian refugee camps in Syria and all 560,000 registered Palestinian refugees in the country. As a consequence of the violent conflict, more than 50 percent of registered Palestinian refugees of Syria have been displaced inside the country. Other refugees tried to seek refuge in neighboring countries. UNRWA has registered more than 44,000 Palestinian refugees fleeing Syria in Lebanon, and more than 14,000 in Jordan. It is estimated that between 4,000 and 10,000 Palestinian refugees from Syria have fled to Egypt since the beginning of the Syrian conflict, and although there is no official data on the number of Palestinian refugees who escaped to Turkey, local organizations estimate that around 15,000 have found their way to Turkey and to Europe.*



## 3.0 LEGAL STATUS OF REFUGEES AND INTERNALLY DISPLACED PERSONS



### What does international law say?

The framework for durable solutions for all persons displaced in 1948, including internally displaced persons inside Israel, is set forth in Article 11 of UN General Assembly Resolution 194, passed on 11 December 1948. Resolution 194 resolves that the refugees be allowed to return to their homes at the earliest practicable date and that compensation be paid in accordance to international principles and justice.

Palestinian refugees and internally displaced persons displaced in 1967 have a similar framework provided in Paragraph 1 of UN Security Council Resolution 237, passed on 14 June 1967 and calling on Israel to allow the immediate return of all who had fled the hostilities.

In addition, the rights of Palestinian refugees and internally displaced persons are enshrined in different international law instruments such as the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; International Convention on the Elimination of all forms of Racial Discrimination; International Convention on the Suppression and Punishment of the Crime of Apartheid; the Hague Regulations concerning the Laws and Customs of War on Land; and the Fourth Geneva Convention, among others.

Some of the rights recognized by those instruments are the right to an effective remedy by the competent national tribunals; the right to freedom of movement and residence within the borders of each state; the right to leave any country, including his own and to

return to this country; the right to security and protection by the State against violence or bodily harm; the right to nationality; the right to freedom of opinion and expression and the right to housing.



### Why are the rights of Palestinian refugees and internally displaced persons not respected?

Despite numerous United Nations resolutions calling for the implementation of UN Resolutions 194 and 237, no international organization has actively engaged in the search for a comprehensive solution for the problem of Palestinian refugees and internally displaced persons since the early 1950s. Instead of enabling the United Nations Conciliation Commission for Palestine (UNCCP, see Box), which was established by UNGA Res. 194 and mandated to implement it, international politics has undermined the United Nations as a guardian of Palestinian refugee rights and limited its role to providing humanitarian aid, while solutions have been left to political negotiations between the parties. These negotiations have been subject to a balance of power that is in Israel's favor, and Israel, in turn, has sought consistently to avoid recognition and implementation of the right of return.

Balance of power, or a politically driven approach may result in a "peaceful agreement" for a specific set of conditions or a particular moment, but such a peace would be temporary only. According to such a resolution, refugees as groups and individuals, will always seek their rights to ensure that their humanity and dignity are recognized and protected. Therefore, a human rights-based approach is the only viable framework for constructing a durable solution for this protracted conflict.




## Who is responsible for the implementation of UN resolutions regarding the Palestinian refugees?

States have an obligation to protect people under their jurisdiction. Under the Law of State Responsibility, states that are responsible for the commission of an internationally wrongful act must provide reparation. Successor governments remain bound by the responsibility incurred by predecessor governments. Full reparation includes restitution, compensation and satisfaction, rehabilitation and guarantees of non-repetition. Restitution includes, as appropriate: restoration of liberty; enjoyment of human rights, identity, family life and citizenship; return to one's place of residence; return of property; and restoration of employment. When the state's actions are the cause of forcible and arbitrary population displacement, the state is, by definition, not providing the protection required by international law. The state is rather committing an "internationally wrongful act" that triggers a legal obligation to make reparation.

Israel has so far failed to fulfill its obligations towards Palestinian refugees and internally displaced persons. Palestinian victims of forcible and arbitrary displacement lack the protection of their country. The responsibility of the international community and international protection therefore comes into play to ensure that their basic rights are respected.

The international legal regime for the protection of refugees is enshrined in the 1951 Convention Relating to the Status of Refugees, its 1967 Protocol, and the 1950 Statute of the Office of the UNHCR governing the rights of refugees and state obligations towards them. UNHCR is the principal international body mandated to assist host states providing protection for refugees worldwide and to supervise the implementation of the



The United Nations Conciliation Commission for Palestine (UNCCP) was established in 1948 to assist the governments and authorities concerned to achieve a final settlement of the Palestine question. Its mandate included special guidelines to provide assistance and protection, and to find a durable solution for Palestine refugees.

The UNCCP failed to achieve progress towards a peace agreement between Israel and Arab states and repatriation of the 1948 Palestinian refugees. Due to the lack of international political will to facilitate solutions for Palestinian refugees consistent with UN General Assembly Resolution 194(III) and international law, by the mid-1950s, UNCCP had ceased to provide Palestinian refugees with the basic international protection afforded to all other refugees.

The lack of UNCCP protection, the limited protection of UNHCR afforded to Palestinian refugees outside UNRWA's area of operation, and the lack of an explicit protection mandate for UNRWA, has resulted in a severe international "protection gap" for Palestinian refugees.

Refugee Convention and 1967 Protocol in host countries. In the Palestinian case there are two other bodies as well, UNRWA and UNCCP.

Generally, internally displaced Palestinians who remain under the domestic jurisdiction of Israel have many of the same protection rights and needs as refugees, but since they have not crossed an international border they do not fall within the scope of the Refugee Convention and its Protocol. Unlike refugees, no single binding international instrument is exclusively devoted to the protection of internally displaced Palestinians, and identification as an internally displaced Palestinian does not confer legal status under international law. The first comprehensive attempt to define internally displaced Palestinians' protection is contained in the 1998 Guiding Principles on Internal Displacement, but this is not a binding legal instrument.

All host states are obliged to protect Palestinian refugees in accordance with the international standards set by the human rights conventions they are party to, and under international law. In this context, the Palestinian Authority is considered as a host state for the Palestinian refugees in the occupied Palestinian territory. Most states, however, fail to protect Palestinian refugees according to these standards. Consequently, different UN bodies set up alternative mechanisms to ensure protection and accountability. These various agencies are meant to document human rights abuses and hold their perpetrators, namely Israel, accountable. Host countries of Palestinian refugees and third countries also have the responsibility to hold Israel accountable and to force it to comply with international law.

Although these mechanisms provide a channel for Palestinians to receive protection, they are not an adequate substitute for Israel's acceptance of its responsibilities under international law.



## Why is Israel opposed to durable solutions for Palestinian refugees?

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Israel is not opposed to durable solutions for Palestinian refugees. It has historically sought, however, to limit the three durable solutions to two: namely, local integration of refugees in the host countries; and resettlement in third states. Israel is unwilling to accept return as a right. At most, Israel is willing to allow the return of a limited number of refugees within its borders as a humanitarian gesture only. This number has never exceeded 0.5 percent of all Palestinian refugees, according to documents from the negotiations in the past two decades. Tzipi Livni, leader of the Israeli team in the negotiations that took place in 2013-2014, stated in an interview in 2011 that she was implacably against any refugee return. In the 1990s, Israel accepted in principle the right of Palestinians displaced for the first time in the 1967 War to return to the 1967 occupied Palestinian territory, but blocked negotiations over the mechanism of implementation.

## 4.0 PRACTICALITY OF RETURN



If Palestinians are not nationals of Israel, why do they have the right to return to Israel?

International law and practice in other refugee cases provides some answers. Under the law of nationality, as applied upon state succession, newly-emerging successor states are obligated to accord nationality status to all habitual residents of the territory undergoing the change in sovereignty, including to refugees and regardless of where they may have been on the actual date of succession. States may not denationalize their own nationals in an attempt to cast them out, especially when denationalization is based on discriminatory grounds such as ethnic, national or religious criteria. This is what Israel has done in refusing to allow refugees to return to their homes since 1948, and then only granting citizenship to Palestinians that remained in their homes.

Palestinian refugees are not different to other refugees around the world. Just as other refugees have sought to return to the places they call home, as difficult as that may be following persecution, armed conflict and destruction of the very threads of life, so too do Palestinian refugees regard return as the main solution to their plight. According to the Office for the UN High Commissioner of Refugees (UNHCR), return (or repatriation) is the preferred durable solution to the plight of refugees in the world.

The creation of a Palestinian state without full recognition of the right of return to their homes of origin offers no remedy and reparations to Palestinian refugees. It limits self-determination by restricting Palestinian nationhood and abandoning many Palestinians to a state of permanent exile.

The Palestinian right of return is individual and collective. Individual in the sense of UN Resolution 194, which affirms that return must be guided by the individual choice of each refugee. The UN Secretariat stated that “the General Assembly intended to confer upon the refugees as individuals the right of exercising a free choice as to their future.” But the right of return is also a collective right of Palestinian refugees, understood as a principle equal to the right to self-determination. In fact, the *erga omnes* obligation to implement the collective right to self-determination first requires enabling refugees and other displaced persons to return to their homes and repossess their properties. Consequently, it would be accurate to say that the Palestinian right to self-determination is meaningless without ensuring the Palestinian refugees’ right to voluntary repatriation.

The exercise of one does not negate or substitute exercising the other. So some Palestinians may choose not to exercise their right to return as an individual right, but this does not in any way affect or diminish the collective right of Palestinian refugees to return to their homes and villages of origin. Also, if the majority of Palestinians or political bodies decided to limit the scope of self-determination to the ‘State of Palestine within 1967 borders’, the individual right to return of every Palestinian refugee, who chooses to return to his/her home of origin in Israel, is still applicable.





## How can refugees return when their villages and homes have been destroyed and new towns built in their place?

In the early 1950s, Israeli officials informed the UN that “the individual return of Arab refugees to their former places of residence is an impossible thing. Their houses have gone, their jobs have gone.” While it is true that many Palestinian refugee homes and villages were by that time razed to the ground, it is important to remember that many refugee homes and villages were not destroyed until the mid-1960s.

Moreover, the destruction of refugee houses has not prevented the return of refugees in other parts of the world. In Kosovo, 50 percent of the housing stock was destroyed, 65 percent in Bosnia, and 80 percent in East Timor. In each of these cases, the international community supported the right of refugees and displaced persons to return to their places of origin. The logical solution to the problem of damaged or destroyed housing is rehabilitation and reconstruction. The reconstruction of refugee houses is aided by the fact that the land expropriated from the refugees has remained largely vacant. The Jewish population of Israel is concentrated primarily in urban centers with some 160,000 rural Jewish-Israelis living in an area of around 17,000 sq. km, or some three-quarters of Israel. It is from this area that the majority of refugees originate.

In addition, it is estimated that in 90 percent of the communities from which Palestinian refugees originate inside Israel, there is no conflict with existing built-up Jewish communities. In other words, the return of Palestinian refugees would not result in the displacement of the existing Jewish population from their homes and communities. International law and best practice provide

creative solutions enabling refugees to return while maintaining and even developing the existing infrastructure.



### Who will own the land if refugees return?

The starting point for resolving outstanding housing and property claims is international law. In practice, Jewish restitution cases in Europe could form the basis for resolving refugee property claims in Palestine. Relevant precedents include the right of individuals or heirs to repossess homes and properties abandoned during periods of conflict, the right of individuals to repossess housing and property regardless of the passage of time, the right of organizations to receive communal and heirless assets, the role of non-governmental organizations as a party to negotiations concerning housing and property restitution, and the right of individuals to housing and property restitution in states where they are not domiciled or do not hold citizenship.



### What happens when someone else is living in a refugee's home?

Most refugee homes have been destroyed. Numerous Palestinian refugee homes remain, however, in urban centers. Many of these homes are regarded as choice real estate due to their traditional design and spaciousness. In all other refugee cases where housing and property restitution has been implemented, solutions to the problem of secondary occupancy have been governed by refugees' right to restitution which must, if practically possible, be respected. If the property is held by the state, the state is obligated to ensure restitution. In the event that current occupants of refugee homes can show that they have purchased the property in good faith—i.e. they were unaware that the house

belonged to someone else—they may also file a claim for the property. In any case, the administrative or judicial body handling restitution claims must ensure that the current occupants' basic housing rights are protected. Governments and, in some cases the international community, are responsible for ensuring that the secondary occupant has access to alternative housing of similar standards. Compensation is often paid to the secondary occupant for any improvements made to the house.



### How can the right of return contribute to peace and reconciliation?

In cases of mass forced displacement, enabling displaced persons to choose the solution to their plight, whether that choice is return, local integration or resettlement, is considered essential to peace building and reconciliation. The opportunity to make this choice is an individual act of self-determination that in turn contributes to the collective sense of justice. This, finally, is a key component for a durable and lasting peace. When refugees are denied the option of returning to their homes and forced to remain in exile, the peace and stability sought by all parties is delayed. It is the continued denial of the inalienable rights of the Palestinian people to self-determination, national independence, sovereignty and return to the homes and properties from which they have been forcibly displaced that has been the principle reason behind the failure of the 'peace process' since the early 1990s.

## 5.0 So WHAT CAN WE DO?



### What is the role of refugees in implementing a durable solution?

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International best practice insists that refugees be offered their choice of a solution in a voluntary and informed manner. A rights-based approach to assistance and protection, moreover, requires that refugees are consulted and given a right to participate in the design and implementation of national and international interventions. The UN High Commissioner for Refugees (UNHCR) has adopted both the principle of voluntariness (refugee choice) in the search for durable solutions, and a participatory approach in its operations. In the case of Palestinian refugees, UN General Assembly Resolution 194 (1948) affirms that the refugees should choose their preferred solution (return, integration or resettlement), and it obligates the responsible state (Israel) and other international agencies to compensate and rehabilitate refugees, both those who have chosen to return to their homes and those who have chosen not to return.



### What is the responsibility of the international community in implementing a durable solution?

The international community has established three 'durable solutions' for resolving refugee crises: repatriation (implementation of the right of return and the only solution that is a fundamental right), resettlement in a third country and local integration in the host country. Return, property restitution and compensation are part of durable solutions, in particular where refugees have been victims of population transfer, i.e. ethnic cleansing.

The international community plays a large role in holding Israel

accountable for its violations of human rights. States party to the Fourth Geneva Convention have a legal obligation to investigate and prosecute Israeli perpetrators of war crimes in the territory under their jurisdiction. All states should facilitate the prosecution of international crimes in their domestic courts and ensure that appropriate legislation is adopted for universal jurisdiction. Courts should be allowed to investigate and prosecute without undue political interference by the government or interested parties. Robust mechanisms should be developed to bring Israel into compliance with international law, investigate violations, determine responsibility and accountability for the injuries, loss of life and property, ensure reparations from those responsible, and prosecute those guilty of serious violations of international human rights and humanitarian law.

The international community is also responsible for the enforcement of international law and the implementation of international resolutions. The inability of the United Nations and its agencies to implement its decisions, and particularly General Assembly Resolution 194 of 1948 and Security Council Resolution 237 of 1967, does not relieve states individually or collectively from assuming their responsibilities to enable and facilitate the return of Palestinian refugees to their original homes from which they were displaced, the restitution of their property, and compensation for the damages inflicted upon them as a result of their displacement.

The process of crafting durable solutions should include the refugee and the internally displaced communities in order to strengthen democratic principles and structures, expand the range of solutions, and lend greater legitimacy to peace making. Special emphasis should be accorded to the inclusion of Palestinian refugees outside the occupied Palestinian territory and Palestinian internally displaced persons in Israel, including women, children, the elderly and the physically impaired.



## What is the role of international civil society in implementing a durable solution?

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One of the most important roles of the civil society is the creation of a political will to pressure their governments to act according to their responsibilities. Civil society can become the trigger for states to follow their duties and to fulfill their responsibility according to international law.

Civil society can also take part in direct actions against the Zionist enterprise and try to hold Israel accountable to its legal obligations toward Palestinian refugees. The desired end is to realize a just and equitable solution for the plight of Palestinians both within historic Palestine and around the world. An important consideration of international activism and advocacy is that its objectives remain in line with the Palestinian movement for self-determination. With this in mind, one of the most successful campaigns has been the Boycott, Divestment, and Sanctions (BDS) movement. This movement is shaped by a rights-based approach and it aims to pressure Israel to meet three main obligations: the end of the military occupation of the land seized in 1967 and dismantling the Annexation Wall; equal rights for the Palestinians with Israeli citizenship; and the right of return of Palestinian refugees and internally displaced persons. The BDS campaign is the main international civil society movement supporting the rights of displaced Palestinians, and so far it has been successful in both exerting economic pressure on Israel and also attracting a wide range of participants.

International civil society also fulfills an important role in showing solidarity with the Palestinian people. Solidarity actions offer support to Palestinian refugees all around the world, and encourage them to continue with their steadfastness and their fight for the realization of their right of return. Knowing that

people around the world supports the right of return and a just solution for all Palestinians is of great importance and should not be underestimated.

By the end of 2014, at least 67% (7.9 million) of the entire, worldwide Palestinian population (11.8 million) were forcibly displaced persons. Among them were at least 7.25 million Palestinian refugees and 718,800 internally displaced persons.

- 1948 Palestinian refugees, UNRWA-registered refugees  
Refugees not registered with UNRWA
  - 1967 Palestinian refugees
  - Internally displaced Palestinians in Israel since 1948
  - Internally displaced Palestinians in the occupied Palestinian territory since 1967
- |  |  |
|--|--|
|  | 6.1 million (77% of all displaced Palestinians): |
|  | 5.1 million (64%)                                |
|  | 1.05 million (13.1%)                             |
|  | 1,113,200 (13.9%)                                |
|  | 384,200 (4.8%)                                   |
|  | 334,600 (4.2%)                                   |

Most Palestinian refugees (approximately 81%) live outside UNRWA's 58 camps. The majority of the refugees still live within 100 km of the borders of Israel and the 1967 occupied Palestinian territory, where their homes of origin are located.

Source: Survey of Palestinian Refugees and Internally Displaced Persons 2013–2014, BADIL Resource Center, 2015.

