THE UNITED NATIONS AND MIDDLE EAST REFUGEES:

THE DIFFERING TREATMENT OF PALESTINIANS AND JEWS

by

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ABSTRACT

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Rationale

Over the past century, the Arab-Israeli conflict has dominated Middle East affairs. The ultimate and inevitable victims of these years of strife have been the people of the region who were uprooted from their homes and displaced. Two populations of refugees emerged – Palestinians from mandated Palestine and Jews from Arab countries - both groups recognized as *bone fide* refugees by the relevant UN Agencies.

The UN, through statute and precedent, has developed international standards and mechanisms for the protection, resettlement and rehabilitation of refugees around the world. This dissertation will examine whether there was any anomaly in the way the UN responded to these two different Middle East refugee populations.

Methods

To determine whether, in fact, such an anomaly existed, research was conducted, among other places, at the following sites:

- Archives at the UN Headquarters (New York and Geneva);
- Archives of the UNHCR Headquarters (Geneva);
- U.S. National Archives and Records Administration (College Park, MD);

- National Archives of Canada (Ottawa);
- World Jewish Congress Archives (New York and Jerusalem);
- American Jewish Committee Archives (New York); and
- Central Zionist Archives (Jerusalem).

The following archival records were reviewed and analyzed:

1) *Resolutions of the UN General Assembly and Security Council;*

2) *Transcripts of UN General Assembly and Security Council proceedings;*

3) *Transcripts of UNRWA and UNHCR proceedings;*

4) *Bi-lateral and Multilateral Treaties; Agreements and Proceedings of Multinational Entities (e.g. Quartet, Arab League; etc.); and*

5) *Books, Memoirs of Statesmen on Middle East Affairs, Articles*.

Results

Extensive research into voting patterns and UN meeting transcripts reveal that the UN did accord differential treatment to Palestinian refugees, by every measure, including, among others: UN resolutions; UN Agency involvement; and financial support.

Conclusion

This dissertation will attempt to answer, among others, the following questions: Why would the UN react so differently towards Palestinian and Jewish refugees? Is all this a case study in the uniqueness of the Jews? Or in UN bias? Or collusion by Arab states; or in how a seemingly objective international organization can be is subverted politically?

PREFACE

It is a challenge to examine, and report, on Middle East events with dispassion. Longstanding, deep-seeded persuasions and animosities exist on both sides that have polarized nations and peoples around the world. To the residents of the Middle East, these are not only issues of principle but, often matters of life and death.

This dissertation has attempted to report, honestly, on the respective positions of both sides, as they are proffered by Israeli and Palestinian officials and documents. No attempt is made to reconcile contradictions between and among the differing and often conflicting historical, demographic and legal perspectives provided by both sides.

Completing such an in-depth study is not accomplished in a vacuum. I am grateful to S. Daniel Abraham, Founder of the *Center for Middle East Peace and Economic Cooperation*, who first asked me to examine the issue of Jewish refugees from Arab countries.

I will forever be indebted to my Thesis Director, Prof. Norman Samuels of Rutgers University. It is he who provided me with encouragement and support when it seemed that my Ph.D. program might fall by the wayside. During the laborious process of writing this dissertation, his good-natured prodding motivated me, and his incisive comments kept me on course.

If this research has any utility for the whole question of Middle East refugees, and refugee claims, that have emerged at the forefront of the peace process, then it is due to the views and opinions of experts from whose knowledge and expertise I have drawn.

Prof. Irwin Cotler, a trusted friend and mentor, has challenged me to make the case and cause for Middle East refugees with honesty and integrity. Prof. David Matas, a valued colleague, has

generously offered his astute, legal insights with clarity and conviction. I was privileged to have co-authored with both of them, a 2007 Report entitled: *Jewish Refugees from Arab Countries: The Case for Rights and Redress.* As the Report was compiled from papers that each of us wrote, only those sections that I personally researched and penned are utilized in this dissertation.

Invaluable assistance was provided by Prof. Henry Green, of *The University of Miami*, whose discerning eye and invaluable feedback , ensured that this dissertation would be 'academe-ready.'

I will be eternally grateful to my wife Fran for her unfailing support and positive encouragement. During the years that it took me to complete this Ph.D. program, Fran nurtured me – both physically and spiritually - and I am blessed to have her as a part of my life.

Much appreciation goes to my colleague Shelomo Alfassa who accepted the unenviable and arduous task of editing this manuscript. He did so with dedication and skill.

Lastly, and most importantly, this dissertation is dedicated to Prof. Dafna (Nundy) Izraeli of *Bar Ilan University* (Israel) who, unfortunately, passed away in 2003. Nundy was the one who initially challenged me to embark upon my Ph.D. program. It was a challenge I could not refuse as Nundy did not accept indifference, nor mediocrity. She was an accomplished academic who also explored the spiritual side of life. Her righteousness and loving family values still inspire me to-day.

Much of the credit for this dissertation belongs to all those noted above. The responsibility for any errors or omissions is solely mine.

Stanley A. Urman

March 26, 2010

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ABBREVIATIONS

AJY - American Jewish Yearbook

CHR – Commission of Human Rights

CPRS - Center for Palestine Research and Studies

ECOSOC – Economic and Social Council

IGCR - Intergovernmental Committee on Refugees

ILO – International Labour Organization

IPCRI - Israel/Palestine Center for Research and Information

IRO - International Refugee Organization

OHCHR - Office of the High Commissioner for Human Rights

OHCR - Office of the High Commissioner for Refugees

OAS - Organization of American States

PAPP – Programme of Assistance to Palestinian People

PLO – Palestine Liberation Organization

UAR – United Arab Republic

UDHR – Universal Declaration of Human Rights

UN – United Nations

UNCCP - UN Conciliation Commission for Palestine

UNDOF - United Nations Disengagement Observer Force

UNEF – United Nations Emergency Force

UNGA – United Nations General Assembly

UNESCO - United Nations Educational, Scientific and Cultural Organization

UNHCR - United Nations High Commissioner for Refugees

UNIFIL - United Nations Interim Force in Lebanon

UNREF- United Nations Refugee Fund

UNRPR - United Nations Relief for Palestine Refugees

UNRRA - UN Relief and Rehabilitation Agency

UNRWA – UN Relief and Works Agency for Palestine Refugees in the Near East

UNSCOP - United Nations Special Committee on Palestine

UNSC – United Nations Security Council

UNSCO –UN Special Coordinator of the Middle East Peace Process`

USHMM – United States Holocaust Memorial Museum

WBGS - West Bank and the Gaza Strip

WHO – World Health Organization

WOJAC - World Organization of Jews from Arab Countries

WUPJ – World Union of Progressive Judaism

CHAPTER 1

INTERNATIONAL REFUGEE LAW AND PRACTICE

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I) INTRODUCTION

In 1951, the year in which the *United Nations High Commissioner for Refugees* (UNHCR) was established, there were an estimated two million refugees left in Europe in the wake of World War II. (UNHCR, *History*)

Currently, the UNHCR reports that: "The number of people forcibly uprooted by conflict and persecution worldwide stood at 42 million." (UNHCR 2009, *Annual*) Additionally, there are 4.6 million Palestinian registered and eligible for services provided by the *United Nations Relief and Works Agency for Palestine Refugees* in the Near East (UNRWA). (UNHCR, *Annual*)

In 1951, according to the *United Nations Commissioner on Human Rights*, most of the refugees were European. Today's refugees are from Africa and Asia. Eighty percent of today's refugees are women and children. (OHCHR, *Fact Sheet 20*)

When first enshrined, international humanitarian law was defined as the principles and rules which limit the use of violence in times of armed conflict. The aims were:

i) To protect persons who are not, or are no longer, directly engaged in hostilities-the wounded, shipwrecked, prisoners of war and civilians; and

ii) To limit the effects of violence in fighting to the attainment of the objectives of the conflict. (OHCHR, *Fact Sheet 13*)

To-day, the causes of refugee problems are not only attributable to wars and "hostilities." There is clearly a relationship between human rights and the creation of refugees. The impact of mass violations of human rights is two-fold: precipitating mass exoduses and internal displacements; as well as ruling out the option of voluntary repatriation for as long as that situation persists. (OHCHR, *Fact Sheet 20*)

The causes of refugee populations over the last half-century have also multiplied and go well beyond the original definition that recognized refugees as, *"victims of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion.* (UNHCR, *Convention* Art.1. A2.) The most immediate need of any refugee is securing refuge. Yet, the *Convention Relating to the Status of Refugees* covers only those who are fleeing individualized persecution, not those fleeing generalized violence. (Matas 285)

Unlike the past, current refugee movements increasingly take the form of mass exoduses rather than individual flights. Moreover, many of today's refugees are displaced for reasons other than fleeing persecution, including: *political* (e.g. public disorder, civil war); natural *or ecological disasters* (e.g. famine, earthquake, or environmental degradation) and *extreme poverty* (e.g. economic migrants). (Chimni 1, 270-277)

No doubt these scenarios, which to-day precipitate refugee crises, were not envisioned when the concept of international responsibility to care for the victims of war was first introduced nearly 150 years ago.

II) HISTORY OF REFUGEE RELIEF

The principle of international action to limit the suffering of the sick and wounded in wars is attributed to Henri Dunant, a Swiss who was among thousands of French and Austrian wounded in the battle of Solferino, Italy in June, 1859. Appalled by what he had experienced, Dunant wrote a book entitled *Un souvenir de Solferino* which was published in 1862. In it, he proposed that national societies be created to care for the sick and wounded, irrespective of their race, nationality or religion. Henri Dunant then set up the *International Committee for Aid to the Wounded* (soon to be renamed the *International Committee of the Red Cross*). (OHCHR, *Fact Sheet 20*)

Dunant's ideas made an impact. In several countries, national societies were founded and at a multi-lateral conference in Geneva in 1864, 16 European nations adopted the First Geneva Convention, which formally laid the foundations of international humanitarian law. (OHCHR, *Fact Sheet 20*)

The first organized, international response to the refugee problem can be traced to the League of Nations. By 1920, it became evident that the large scale refugee movements in Europe could not be dealt with without intergovernmental cooperation. (Chimni 210) There were several – even overlapping – attempts at international cooperation.

The *Intergovernmental Committee on Refugees* (*IGCR) (*1938-1947) operated as an independent international refugee organization outside the framework of the League of Nations. Its focus was to take care of Jewish refugees from Germany and Austria. In 1939, a *High Commissioner* for the *League of Nations* was appointed to take care of the Jewish refugee problem. In 1946, he transferred this responsibility back to the IGCR.

During that same period, the UN Relief and Rehabilitation Agency (UNRRA) had been was established in 1943 when 44 participating states. UNRRA's objective was to make, *"Preparations and arrangements... for the return of prisoners and exiles to their homes."* (Chimni 210)

UNRRA assisted in the repatriation of millions of refugees in 1945 and managed hundreds of displaced persons camps in Germany, Italy, and Austria. It provided health and welfare assistance to the displaced persons, as well as vocational training and entertainment. (USHMM)

In 1946, the *International Refugee Organization (IRO)* took over the work of its predecessor, the UN Relief and Rehabilitation Agency (UNRRA), operating as a temporary specialized agency of the United Nations until January, 1952. It was created in order to engage in:

> Repatriation; the identification, registration and classification; the care and assistance; the legal and political protection; the transport; and the re-settlement and re-establishment, in countries able and willing to receive them, of persons who are the concern of the Organization. (UN, *Constitution*)

Two twentieth century wars, (The Spanish Civil War of 1936-1939; and the Second World War of 1939-1945) provided compelling evidence on the need to buttress international humanitarian law. New Geneva Conventions were drawn up, defining protected persons as: "*Those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals."* (Geneva Conventions Art. 4)

The four Conventions, covered respectively: the sick and wounded on land (First Convention); wounded, sick and shipwrecked members of the armed forces at sea (Second Convention); prisoners of war (Third Convention); and treatment of civilian victims in times of war (Fourth Convention). These Conventions were adopted at an international conference held in Geneva in 1949. (OHCHR, *Fact Sheet 13*)

It soon became evident that the United Nations itself must lead the international efforts on behalf of the growing number of refugee populations. On December 3, 1949, the General Assembly adopted a resolution establishing the *"Office of the United Nations High Commissioner for Refugees,"* at the recommendation of the newly established United Nations Commission on Human Rights. The Office was set up as a subsidiary organ of the General Assembly on January 1, 1951, initially for a period of three years.

III) DEFINITION: WHO IS A REFUGEE?

Those who drafted the Charter of the United Nations sought, *"To save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind."* (UN, *Charter*) Created in the aftermath of a world war, one of the first issues the United Nations dealt with was the fate of refugees, displaced persons, stateless persons and returnees, all uprooted by war and in need of assistance.
The legal framework for defining a refugee was influenced by the Cold War, armed conflicts and human migrations from the Third World. Refugee status was linked to human suffering and the need to help individuals find refuge. (Zureik 6)

The internationally accepted definition for the term "refugee" derives from the Statute of the United Nations High Commissioner for Refugees that was established by UN General Assembly Resolution 319 (IV) on Dec. 3, 1949. *The Convention Relating to the Status of Refugees* was adopted on July 28th,1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, which was convened under General Assembly resolution 429 (V) of 14 December 1950 and entered into force on April 22nd, 1954. Article 1 states the following:

> For the purposes of the present Convention, the term 'refugee' shall apply to any person who: (Section A) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. (UNHCR, *Convention* Art.1 A(2))

The Office was set up as a subsidiary organ of the General Assembly on January 1, 1951, initially for a period of three years. The work of the High Commissioner was to be of an "*Entirely non-political character; it shall be humanitarian and social.…"* (UNHCR, *Statute* Ch.1 Prov.2)

IV) INTERNATIONAL STANDARDS

A) *Protection*

Before the current international refugee apparatus was established, protection of refugees was recognized as a primary objective. In 1946, the *International Refugee Organization*

(IRO)'s mandate was to engage in. among other tasks, "*The care and assistance; the legal and political protection...of persons who are the concern of the Organization…."* (UN, *Constitution*)

Thereafter, Provision 1 of the Statute of the Office of the High Commissioner for Refugees states that the UNHCR was to: *"Assume the function of providing international protection, under the auspices of the United Nations, to refugees who fall within the scope of the present Statute."*

As noted earlier, for a refugee population to fall within the mandate of the UNHCR, the High Commissioner must make a determination that the population has, or had, a well-founded fear of persecution. To-day however, the protection mandate of the UNHCR covers not only those who fall within the 1951 Convention definition. The UNHCR currently provides protection services to millions of refugees who fall within much broader categories. (Matas 292)

Interestingly enough, in a ruling that is still being debated to-day, Palestinian refugees do not fall under the protective mandate of the UNHCR. As Palestinian refugees were already receiving protection and assistance as early as 1948 from UNRWA, they were deemed not to fall under the UNHCR's mandate based on Article 1 (D) of the 1951 Refugee Convention which states: "*This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees, protection* and assistance. (Akram 1-2)

There are other, important provisions enunciated in the 1951 United Nations Convention relating to the Status of Refugees, as well as in the subsequent 1967 Protocol relating to the Status of Refugees.

The 1951 Convention Relating to the Status of Refugees, sets the minimum standards of treatment of refugees; establishes the juridical status of refugees; and contains provisions on their rights to naturalization and assimilation; employment and welfare; identity papers and travel documents; and on their right to transfer their assets for the purposes of resettlement. The Convention prohibits the expulsion or forcible return of persons having refugee status. Its Article 33 stipulates that:

> No Contracting State shall expel or return (refouler) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

Other provisions deal with such rights as access to courts, education, social security, housing and freedom of movement. (UNHCR, *Statute* Ch.1 A.2)

Throughout the late 1950s and 1960s new displaced populations emerged, which did not qualify under the 1951 Convention which limits the time frame, "*As a result of events occurring before 1 January 1951*. (UNHCR, *Convention* Ch.1 A.2) Consequently, adopted on Jan. 31, 1967, the *Protocol Relating to the Status of Refugees* extended the application of the 1951 Convention to the situation of "new refugees," i.e. persons who, while meeting the Convention definition, had become refugees as a result of events that took place after January 1, 1951. (Chimni 7)

Other international instruments, some of which are mentioned below, contain provisions relevant to refugees. For example: The *1954 Convention Relating to the Status of Stateless Persons* which details the standards of treatment to be accorded to "stateless persons;" The 1961 *Convention on the Reduction of Statelessness which* grants nationality to a person born in a country who would otherwise be stateless; The *1967 United Nations Declaration on Territorial Asylum*s which is a declaration of fundamental principles in regard to territorial asylum. (OHCHR, *Fact Sheet 20*)

There are a host of other regional instruments which reflect the concern, and standards, for the protection of refugees. The Organization of African Unity, on September 10, 1969; adopted the *"Convention Governing the Specific Aspects of Refugee Problems in Africa";* The Council of Europe has adopted several instruments concerning refugees, including the *"European Agreement on the Abolition of Visas for Refugees 1959"; Resolution 14 (1967) on Asylum to Persons in Danger of Persecution"; "European Agreement on Transfer of Responsibility for Refugees" (1980);* and the *"Recommendation on the Protection of Persons Satisfying the criteria in the Geneva Convention who are not Formally Refugees" (1984).* After the outbreak of civil strife in Central America, the *Cartagena Declaration on Refugees* was adopted by a number of countries in 1984 to enshrine the legal foundations for the treatment of Central American refugees. While not binding on states, it is applied in practice by a number of Latin American States and, in some cases, has been incorporated into domestic legislation. (OHCHR, *Fact Sheet 20*)

The protection of refugees is a principle well enshrined and accepted in international law. There were universal standards established for all of the world's refugees. However, as will be discussed further, there is some ambiguity, and inconsistency, in the manner in which these standards were applied to both Palestinian and Jewish refugees.

B) *Resettlement*

After protection, refugee organizations focus on the need for resettlement.

As noted earlier, the *International Refugee Organization (IRO)* was established to engage in: *"Repatriation;…the legal and political protection; the transport; and the re-settlement and re-establishment, in countries able and willing to receive them, of persons who are the concern of the Organization.…* (UN, *Constitution*)

Resettlement has been undertaken in one form or another almost from the outset of the international protection for refugees. The thrust of refugee law in the aftermath of WWII has been not so much on repatriation but on compensation and providing new places of residence for displaced persons (i.e. resettlement) and recognizing the need to protect such individuals from persecution either in their adopted countries or in their countries of origin, should they be forced or choose to return to them. (Zureik 8)

The standard is found in Provision 1 of the Statute of the Office of the High Commissioner for Refugees which states that the UNHCR was to:

> Assume the function of…seeking permanent solutions for the problem of refugees by assisting governments and, subject to the approval of the governments concerned, private organizations to facilitate the voluntary repatriation of such refugees, or their assimilation within new national communities. (UNHCR, *Statute* Ch.1. Prov.1)

There are three durable "solutions" to the refugee problem: resettlement in third countries; local integration and voluntary repatriation. The industrialized countries have long advocated resettlement as the principal solution to the plight of refugees. (Goodwin-Gill 27-43)

Repatriation and resettlement have become the primary methods utilized by the UNHCR to ameliorate the plight of refugees. Originally subject to approval by the General Assembly, under Paragraph 9 (in the Statute of the Office of the High Commissioner for Refugees), these objectives have "long since entered the regular program." (Goodwin-Gill, *New Mandate* 38-40)

C) *Rehabilitation of Property*

The principle that refugees are entitled to compensation for their lost property is increasingly gaining recognition in international law.

The Statute of the Office of the United Nations High Commissioner for Refugees obligates the High Commissioner to endeavour to, *"Obtain permission for refugees to transfer their assets and especially those necessary for resettlement."* (Article 8(e))

Under the *Geneva Convention for the Protection of Civilians in Times of War* (Geneva Convention), those fleeing armed conflict can take a reasonable amount with them:

> All protected persons who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so….Those persons permitted to leave may provide themselves with the necessary funds for their journey and take with them a reasonable amount of their effects and articles of personal use (Art. 35)

Moreover, the Convention also refers to when states adopt such measures as expropriation, nationalization, confiscation, imposing of long-term limitations on the use,

and/or taking possession or ownership on abandoned assets: "*Restrictive measures affecting their property (the property of protected persons) shall be cancelled, in accordance with the law of the Detaining Power, as soon as possible after the close of hostilities*." (Geneva Conventions, Art.46)

Principle 4 of the *International Law Association's 1992 Cairo Declaration of Principles of International Law on Compensation to Refugees*, which aims at reflecting customary international law, declares that a state is *"Obligated to compensate its own nationals forced to leave their homes to the same extent as it is obligated by international law to compensate an alien*." (Benvenisti)

Property rights are dealt with in other instruments as well. The *Universal Declaration of Human Rights,* in Article 17, states the following:

> *(1) Everyone has the right to own property alone as well as in association with others.*
>
> *(2) No one shall be arbitrarily deprived of his property.*

It is on the regional level of America and Europe that frameworks for the protection of human right and property have been created, including permanent enforcement mechanisms. (Shachor-Landau 771)

The First Protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms states:

> Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general

> principles of international law. [1] (Council of Europe Art.1)

A parallel, though not identical, clause appears in the Inter-American Convention on Human Rights: "*No one shall be deprived of his property except upon payment of just compensation, for reasons of public utility or social interest, and in the cases and according to the forms."* (OAS, *Treaty* No.36. Art.201. Right to Property 2.)

In 1981, the General Assembly of the United Nations first enunciated the right "of those who do not wish to return to receive *adequate* compensation." (Benvenisti)

Notwithstanding this seeming international consensus on the need to provide compensation to refugees for lost assets, in the 20th century, this principle has not always been followed in practice. According to one international jurist:

> Bilateral agreements on population exchanges, between Bulgaria and Greece (1919), between Greece and Turkey (1923), and between India and Pakistan (1947), provided procedures for compensating the refugees for their lost property. The Bulgarian-Greek and Greek-Turkish agreements contained detailed mechanisms for assessing the value of property and for calculating the amount of compensation. Bulgaria and Greece did pay some compensation for property left in their countries, yet the Greek-Turkish arrangement proved too difficult to implement. After lengthy negotiations, the sides agreed in 1930 to settle the question of refugees' property by the assumption by each state of the property rights in refugee property left in its jurisdiction, and by the setting-off of all claims for compensation, which left Greece liable for a lump-sum payment of 425,000 pounds sterling. India and Pakistan also agreed on a system of compensation, but disagreements over the actual appraisal of property, as well as political difficulties, frustrated its implementation. (Benvenisti)

So while the defined rights of refugees have been enshrined in numerous instruments, they have not always been respected, nor enforced.

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[1] 'Protection of property'

CHAPTER 2
MIDDLE EAST REFUGEES

A. PALESTINIAN REFUGEES

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A) Refugee

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I) INTRODUCTION

The current Arab-Israeli conflict involves many problematic and intractable issues – Jerusalem, borders, settlements. Chief among them is the question of refugees.

In the last 60 years, the plight of Palestinian refugees has drawn extensive political attention. Financial support has accrued to Palestinian refugees. Reasons include:

i) Emanating as a result of the 1948 conflict in the Middle East, Palestinians are the world's longest-standing, still existant, refugee population;

ii) Palestinian refugees are the world's largest population of stateless people;

iii) At 4.6 million people, Palestinian refugees equate to forty-five percent of the world's estimated 10.5 million refugees; (UNHCR. "Refugee Figures.") and

iv) Roughly two-thirds of all Palestinians live outside of the West Bank and Gaza while some one-third remain in refugee camps. (Arzt 1)

Over the course of the 20th century, the Palestinian people have experienced several periods of displacement; in 1948 when war erupted in the region; in 1967 (the 'Six Day' Arab-Israeli War): and as recently as 1991, when some 350,000 Palestinians were forced to leave Yemen during the Gulf War. (Badil 2)

To-day, it is estimated that there are more than 10 million Palestinians,[2] with 1,373,732 (June 2009) still living in refugee camps, ("UNRWA in figures")[3] with the concomitant human suffering, physical and mental degradation. Under UNRWA, they remain under the protective care and assistance of the international community.

The historical narrative, demographic statistics and international legal status of the Palestinian refugees of 1948 and 1967 have been documented in great detail, in numerous books, articles, on websites, etc. [4] What is not in dispute, is the continuing plight of Palestinian refugees.

II) DEFINITIONS

A) Refugee

As noted earlier, the international standard for defining a "refugee" derives from the 1951 *Convention Relating to the Status of Refugees* which states that, under the mandate of the United Nations High Commissioner for Refugees, a refugee is someone who has a "*well-founded fear of being persecuted for reasons of race, religion, nationality…. and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, unwilling to return to it. (...)* (UNHCR. "Convention") This definition applies to Palestinian refugees.

However, in a special exception, Palestinian refugees do not fall under the protective mandate of the UNHCR. A provision was introduced into the *Convention Relating to the*

[2] The Palestinian Central Bureau of Statistics estimated the overall number of Palestinians for the year 2008 to be 10.6 million. Also see (Zureik 13).
[3] As of 2009
[4] See Aruri; Alpher and Shikaki; Fishbach, Records; Gazit; Khalidi R., *Iron Cage*, *Toward a Solution*; Khalidi W.; Morris, *Righteous*, *Birth*, *Revisited*; Said.

Status of Refugees Convention that states: "*This Convention shall not apply to persons who are at present receiving from organs and Agencies of the United Nations other than the United Nations High Commissioner for refugees protection and assistance."*

As Palestinian refugees were already receiving attention and support as early as 1948 from a number of UN entities – particularly from the United Nations Relief and Works Agency (UNRWA) - they were deemed not to fall under the UNHCR's mandate based on the above provision. (Akram 1-2)

B) Palestinian Refugee

Before the advent of the UNHCR, the plight of Palestinians refugees required, and precipitated, action by the United Nations.

The United Nations General Assembly, at its 273rd Plenary Meeting of Dec. 8, 1949, adopted Resolution 302 (IV) that created the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA). The UNRWA applied the following definition specifically applicable to Palestinian refugees and their descendents:

> A Palestinian refugee is a person whose normal residence was Palestine for a minimum of two years preceding the conflict in 1948, and who, as a result of this conflict, lost both his home and his means of livelihood and took refuge in one of the countries where UNRWA provides relief. [5]

In 2003, the Palestinian Authority adopted the Third Draft of a *"Constitution of the State of Palestine"* which provided new dimensions to the definition, and rights, of Palestinian refugees:

[5] Also from UN Document "Consolidated Eligibility Instructions"

> The Palestinian citizenship will be regulated in accordance with the law, without infringing on the rights of any one who held it legally before May 15, 1948, nor on the rights of any Palestinian who had resided in Palestine before that date and had emigrated or left but was prevented from returning. This right is transmitted from fathers and mothers to their posterity and it does not expire or be forfeited except voluntarily. It is not permissible to deprive a Palestinian of his citizenship…(Article 12)

This wider definition allows Palestinians who fall outside of UNRWA's mandate, to still be considered under the rubric of 'Palestinian refugees,' including, among others: i) Palestinians who were outside British Mandatory Palestine when the 1948 and 1967 wars broke out and were prevented from returning by Israel; ii) Palestinian refugees from the 1948 war who ended up in areas outside of UNRWA's mandate; (i.e. Egypt, Iraq, and the Gulf region); iii) Palestinians who were displaced in 1948 and never ended up registering with UNRWA. iv) internally displaced Palestinians, who remained in what became Israel; v) residents from Gaza and the West Bank (including East Jerusalem) and their descendants, who were displaced for the first time in the 1967 war; vi) individuals who, after 1967, were deported by the Israeli occupation authorities from the West Bank and Gaza; and vii) the 'late comers' - those who left the occupied territories whose Israeli-issued residency permits expired and who were prevented by Israel from returning; vi) (Zureik 9)

These definitions result in an annual increase in the number of Palestinian refugees whose continuing plight constitutes an important and significant item on the international agenda.

III) DEMOGRAPHICS

Over the course of the 20th century, the Palestinian people have experienced several periods of displacement, beginning in 1948 during the first Arab-Israeli War when, according to the United Nations, 726,000 Palestinians became refugees. (Zureik 17) This was followed by a second major displacement as a result of the 1967 Arab-Israeli War when approximately 240,000 Palestinians fled their homes in the occupied West Bank and the Gaza Strip. ("PLO Communications" An additional 150,000 Palestinians who were displaced in 1948 became refugees for a second time in 1967. (UN "Report of the Secretary") Once again, as recently as 1991, some 350,000 Palestinians were forced to leave Yemen during the Gulf War. (Badil 2)

No officially recognized population statistics existed at the time of the outbreak of the 1948 war. Depending on the source, figures are either exaggerated or underestimated for political considerations, financial reasons, legal implications and public relations posturing.

The following table provides the British, US, UN, Israeli and Palestinian estimates on the numbers of Palestinian refugees that emanated from the first Arab-Israeli War in 1948.

The number of Palestinian refugees ranged: from the highest estimate of 849,186, provided by the Palestinians; and the figure of 520,000, provided by the Israelis. The UN estimate was right about half-way at 726, 000.

Areas of Arrival	Official British Estimates	Official US Estimates	United Nations Estimates	Private Israeli Estimates	Public Israeli Estimates	Palestinian Estimates
Gaza	210,000	208,000	280,000	200,000		201,173
West Bank	320,000		190,000	200,000		363,689
Arab Countries	280,000	667,000	256,000	250,000		284,324
Totals	810,000[6]	875,000[7]	726,000[8]	650,000	520,000[9]	849,186

Table 1. Estimates of Refugees According to Areas of Arrival 1948-1949[10]

Not all Arab countries surrounding Israel welcomed Palestinians and their treatment varied greatly under different Arab regimes. For example, in Jordan, Palestinians were granted full citizenship rights; in contrast, in Lebanon, they were placed under "stringent policies." (Zureik 29-60)

As noted in Chapter 1, the international standard is to find durable solutions for refugees, including resettlement. Palestinian refugees have not been the beneficiaries of this option. Their numbers are rising.

According to UNRWA, in June 2009, there were exactly 4,671,811 million registered Palestinian refugees. There were more than 1.3 million Palestinian refugees who still lived in 59 U.N administered and 'unrecognized' refugee camps in the occupied territories, Jordan, Syria and Lebanon. (BADIL "2006-2007 Survey")

[6] See Doc.PROFO371-754196 E2297/1821/31 in Morris 1989, 297,364. (Estimate as of Feb. 1949).
[7] (US Senate. "The Problem") Note: The West Bank refugees are added to those of Jordan. Estimate as of 1953.
[8] (United Nations Conciliation 18) and (UN. "Annual Report") Note First estimate as of Sept 1949; second as of May 1950.
[9] (Morris *Birth* 297)
[10] (Palestinian Central Bureau "Demographic.")

The following statistics, derived from UNRWA's website, represent the best estimate(s) in 2009 on the number of refugees and their current place of residence:

Field of Operations	Official Camps	Registered Refugees in Camps	Registered Refugees
Jordan	10	338,000	1,951,603
Lebanon	12	222,776	422,188
Syria	9	125,009	461,897
West Bank	19	193,370	762,820
Gaza Strip	8	495,006	1,073,303
Agency total	58	1,373,732	4,671,811
UNRWA Figures as of 30 June 2009 [11]			

Table 2. Number of refugees and their current place of residence

Surveys show that the overwhelming majority of Palestinian refugees are registered with UNRWA. The West Bank/Gaza Strip (WBGS) came first with 98% registration followed by Lebanon (94%) and Jordan (91%). (Palestine Center for Policy)

Demographics is a slippery slope. The discrepancy in the 1948 estimates of of the numbers of Palestinian refugees could have been the result of less-than-accurate registration procedures; or, it could have resulted from statistics being formulated for political purposes.

On the other hand, the current figure of 4.6 million Registered Palestinian refugees, as reported by UNRWA, is consistent with the figures provided by Palestinian authorities.

[11] (UNRWA. "UNRWA in figures")

IV) HISTORICAL NARRATIVE

The future of Palestine became increasingly a concern for the international community at the end of WWI due to the disintegration of the Turkish Ottoman Empire. Palestine was among several former Ottoman territories that were placed under the administration of Great Britain.[12] Over the next two decades most of these mandated territories (e.g. British, French) became fully independent States. Palestine, at the end of WWII, was still a mandated territory, administered by Great Britain under the mandate of the League of Nations. [13]

When Hitler came to power in 1932, Jews in large numbers began fleeing to Palestine from Europe and Eastern Europe, to escape increasing persecution by the Nazis. At the same time, indigenous Jewish populations and Arab Palestinians were competing for favor from Britain, the colonial power. This competition led to increased violence and post World War II, Great Britain found the situation intolerable. In 1947, Great Britain turned the problem over to the United Nations.[14]

The UN proposed the partitioning of Palestine into two independent States, one Palestinian Arab and the other Jewish. (UN GA Res.181) One of the two states (Israel) envisaged in the 'Partition Plan proclaimed its independence in 1948; the other did not (Palestine). Arab countries rejected the UN Partition Plan and violence immediately erupted as the Palestinians, along with the armies of six Arab countries attacked the

[12] Article 22 of the League's Of Nations Covenant
[13] (UN "History of the Palestine Problem")
[14] (UN "History of the Palestine Problem")

newly created State of Israel. [15] This regional conflict proved to be the nexus of the Palestinian refugee problem.

The number of Palestinians who were displaced has been the subject of much debate. As noted earlier, UN sources estimate that 726,000 Palestinians fled during this period, amounting to 75 percent of the Muslim and Christian population of what became Israel. Approximately, 150,000 Palestinian Arabs remained in what became Israel with thousands of them internally displaced from their homes. (Buttu)

Both Palestinians and Israelis agree that there was mass displacement of Palestinians as a result of the Arab-Israeli conflict. It is clear that Palestinians were, and remain, victims of this 60 year old conflict. However, there is a longstanding disagreement between Arabs and Israelis about the cause of the departure of Palestinians from Mandatory Palestine in the 1948-1949 periods. What is in question is how many were uprooted and why they fled.

There are a number of differing views on what led to the departure of Palestinians from Mandatory Palestine:

i) They were forcefully expelled or removed by Israeli military units that occupied their towns and/or villages;

ii) They obeyed the call of Arab leaders to leave their homes; and/or

iii) They voluntarily chose to flee from their homes in fear of warfare and an unknown fate. (Bill)

[15] (UN "History of the Palestine Problem")

The Palestinian narrative maintains that, once adopted by the U.N. General Assembly, the Partition Plan resolution served as the 'green light' for Jewish forces to begin their campaign of forcible expulsion of Palestinians from Palestine. (Teveth)

Palestinians accused Israel of denying the very existence of Palestinians. Famous among these denials was the statement by former Israeli Prime Minister Golda Meir: *"There is no such thing as a Palestinian people... It is not as if we came and threw them out and took their country. They didn't exist."*[16]

Many Palestinians contend that during the 1948 war, the Palestinian Arab population was deliberately displaced and subsequently expelled in large numbers by armed militias and later by Israeli forces after the establishment of the State of Israel. They claim that Israeli forces 'depopulated' Palestinian villages [17] with deliberate tactics that violated international law, including: military attacks on non military targets; the killings of civilians; destruction of property; looting; and forced expulsion. Moreover, Palestinians allege that Israel subsequently adopted a series of laws concerning citizenship and nationality that effectively prevented Palestinian refugees from returning to their homes as well as a series of 'abandoned property' law to dispossess refugees of their property."[18]

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[16] Statement to *The Sunday Times*, in reference to Palestinian people at the time of the founding of the state of Israel, June 15, 1969.
[17] The number of Palestinian Villages depopulated and/or destroyed is a matter of debate. Khalidi in his definitive book "All that Remains" states that "efforts to quantify the destroyed villages range from 290- 472." (xvi)
[18] See Clinton (transcript); Shiblak *Palestinian Refugee Issue*; Khalidi *All That Remains*; Fishbauch; Aruri; Morris *The Birth*.

Israel argues that it did not cause, nor should it be held responsible for the Palestinian refugee problem. The departure of most Palestinians, Israel alleges, was willful and part of a deliberate strategy instituted by Arab political and military leaders. There were, among Palestinians, who may have wanted to declare a state, but there were others who controlled their political fate. The Arab League, Arab leaders and others promised Palestinian villagers both a return to their homes at a later date, and access to Jewish land and property once the Israelis were defeated. (Goldberg)

To support this view of history, Israelis cite numerous statements by Palestinian and Arab political leaders. For example, on September 6, 1948, the Beirut Daily Telegraph quoted Emil Ghory, then-Secretary of the Palestine Arab Higher Committee (AHC) as saying: *"The fact that there are these refugees is the direct consequence of the act of the Arab states in opposing partition and the Jewish state. The Arab states agreed upon this policy unanimously and they must share in the solution of the problem."*[19]

The Prime Minister of Syria in 1948, Khaled al-Azem, in his memoirs listed what he thought were the reasons for the Arab failure: "*Since 1948, it is we who have demanded the return of the refugees, while it is we who made them leave. We brought disaster upon a million Arab refugees by inviting them and bringing pressure on them to leave."* (Al-Azem)

[19] Same quote appeared in *The London Telegraph*, August 1948

On June 8, 1951, Habib Issa, The Secretary-General of the Arab League wrote in the New York Lebanese daily *al-Hoda* that in 1948, Azzam Pasha, then League secretary:

> Assured the Arab peoples that the occupation of Palestine and Tel Aviv would be as simple as a military promenade. He pointed out that they were already on the frontiers and that all the millions the Jews had spent on land and economic development would be easy booty, for it would be a simple matter to throw Jews into the Mediterranean.... Brotherly advice was given to the Arabs of Palestine to leave their land, homes and property and to stay temporarily in neighboring fraternal states, lest the guns of the invading Arab armies mow them down.

Mahmud Abbas ("Abu Mazen"), then - PLO spokesman, and currently its President, in a March 26, 1976 issue of *Falastineth-Thawra*, then the official journal of the Beirut-based PLO, wrote: *"The Arab armies entered Palestine to protect the Palestinians from the Zionist tyranny but, instead, they abandoned them, forced them to emigrate and to leave their homeland, and threw them into prisons similar to the ghettos in which the Jews used to live."*[20] (Mazen)

Irrespective of the competing narratives, what is indisputable is that hundreds of thousands of Palestinians became refugees, subjected to an horrific plight, requiring the intervention, protection and assistance of the international community.

V) LEGAL ISSUES

A) Legal Bases for the Rights of Palestinian Refugees

There are over hundreds of resolutions, proclamations and other declaratory examples of UN and multi-lateral recognition of, and action on behalf of, the rights of Palestinian refugees

[20] See also http://www.jewishfederations.org/page.aspx?id=121275

A primary basis for asserting such rights is UN General Assembly Resolution 194(III), adopted on Dec. 11 of 1948. Article 11 identifies three rights that Palestinian refugees are entitled to exercise under international law – *return, restitution* and *compensation.* In part, the Resolution states that *"refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that those choosing not to return should be compensated for their property."*

United Nations Security Council Resolution 242 (November 1967) which is still considered a 'blueprint' for resolving the Arab-Israel conflict, stipulates that a comprehensive peace settlement should necessarily include *"a just settlement of the refugee problem."*

Numerous resolutions are adopted each year by General Assembly asserting and re-iterating wide-ranging support for a multiplicity of issues affecting Palestinian refugees (e.g. treatment in occupied territory; violations of rights; situation in Gaza, financial assistance, etc.). [21]

The Framework for Peace in the Middle East (the *Camp David Accords* of September 1978) states that: *"representatives of Egypt, Israel, Jordan and the [Palestinian] self-governing authority will constitute a continuing committee to decide by agreement on the modalities of admission of persons displaced from the West Bank and Gaza in 1967."*

[21] See Research on breakdown of topics of Resolutions in UN Chapter

The *Gaza-Jericho Implementing Agreement* (signed in Cairo in May of 1994), mandated a Continuing Committee comprised of Israel, the Palestinian Authority, Egypt and Jordan, to consider how to deal with persons displaced in the 1967 war.

Legal experts, on behalf of Palestinian refugees, cite extensive international human rights laws and mechanisms to assert Palestinian claims in numerous arenas. For example, the following letter, asserting in extensive detail that Israel's domestic land confiscation laws violate international law, was sent on January 8, 2002 by *BADIL*, a Palestinian refugee advocacy agency, to Mr. Lorne W. Craner, Assistant Secretary of State for Democracy, Human Rights and Labor, U.S. Department of State:[22]

"Following is a list of the bodies of international law which are violated by Israel's domestic land confiscation laws which target Palestinian-owned land on a discriminatory basis and fail to ensure "due process" safeguards:

(i) Human Rights Law:

a. Universal Declaration of Human Rights (Article 17);

b. International Covenant on Economic, Social and Cultural Rights (Articles 1(2), 2(2), 11(1), 25);

c. International Covenant on the Elimination of All Forms of Racial

[22]Badil, "Letter to Assistant Secretary of State" January 8, 2002. The material contained in this letter is excerpted and adapted from an article by Gail J. Boling that appeared in the combined volumes #11 and #12 of the *Palestine Yearbook of International Law* (for years 2000/2001), co-published by the Birzeit University Institute of Law and Kluwer Law International. The article is titled "Israel's Use of 'Absentees' Property' Laws to Confiscate Private Property inside the Green Line from 1948 Displaced Palestinians: A Violation of U.N. General Assembly Resolution 194 and International Law."

Discrimination (Article 5(d)(ii));

d. Principles Concerning the Right to Restitution, Compensation and Rehabilitation for Victims of Gross Violations of Human Rights and Fundamental Freedoms (adopted by the Commission on Human Rights, Jan. 2000) (Articles 21, 22).

(ii) Law of Nations & State Succession:

a. Customary law doctrine of "acquired rights" (P.C.I.J., German Settlers advisory opinion, 1923);

b. International law of expropriation (P.C.I.J., Chorzow Factory (indemnity) case, 1928);

c. (Cairo) Declaration of Principles of International Law on Compensation to Refugees.

(iii) Humanitarian Law:

a. Hague Regulations (Articles 23(g), 25, 28, 46, 47, 50, 52, 56);

b. Fourth Geneva Convention (Articles 147)."

There is a plethora of universal principles, enunciated in scores of instruments, all of which human rights groups cite in espousing the case for Palestinian refugees. Additionally, there are many differing rights of refugees.

B) Right of Return

As discussed in Chapter 1, seminal international instruments enunciate general rights for all (e.g. Universal Declaration of Human Rights, International Covenant on Economic, Social and Cultural Rights, etc.). These same instruments enshrine numerous other rights, including the right of return.

The Palestinian right to return is expressed both as a moral claim to return to the homes from which they were displaced and by legal reference to a host of UN resolutions.

As noted above, UN General Assembly Resolution 194(III), adopted on Dec. 11 of 1948, declares in Article 11 that: *"… refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date."*

This resolution is central to the Palestinian's legal and political arguments for the right of return, in a number of crucial ways:

- The resolution clearly identifies the exact place to which refugees are entitled to return – i.e. "*their homes*";
- The resolution identifies the time frame for the return of refugees – i.e. *"at the earliest practical date";* and

- The resolution imposes an obligation on Israel to re-admit the refugees – i.e. refugees wishing to return to their homes *"should be permitted to do so."* (Rabah 17)

Security Council Resolution 237, adopted on June 14, 1967 called upon Israel "…*to facilitate the return of those who have fled the areas since the outbreak of hostilities."* This resolution referred to the Palestinians who fled as a result of the 1967 war.

General Assembly Resolution 3236 (1974) reaffirms *"the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return"*[23]

The Universal Declaration of Human Rights states: *"Everyone has the right to leave any country, including his own, and return to his country."*[24]

International Covenant on Civil and Political Rights states that "*no one shall be arbitrarily deprived of the right to enter his own country."*[25]

The "right of return" of refugees has also been cited by Palestinian legal experts as recognized in the Fourth Geneva Convention.[26]

---

[23] *Section XXIX, subsection 2*
[24] Article 13
[25] Article 12
[26] Article 49

The International Convention on the Elimination of All Forms of Racial Discrimination, adopted on December 21, 1965, states:

> State Parties undertake to prohibit and to eliminate racial discrimination on all its forms and to guarantee the right of everyone, without distinction as to race, color, or national or ethnic origin, to equality before the law, notably in the enjoyment of…the right to leave any country, including one's own, and to return to one's country. [27]

The right of return is also enunciated in the American Declaration of the Rights of Man (Article 8); The American Convention of Human Rights (Article 22.5); The African Charter on Human Rights and People's Rights (Article 12.2) the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 3.2, Protocol 4); and the Convention Concerning Indigenous and Tribal Peoples in Independent Countries (Article 16.1, 16.2 and 16.3). (Badil "Refugee Rights.")

On November 10, 1975, the General Assembly adopted Resolution 3376 (XXX) which established the Committee of the Inalienable Rights of the Palestinian People. In Article 4, the Committee was requested: "*to consider and recommend to the General Assembly a programme of implementation, designed to enable the Palestinian people to exercise the rights*…" including its "*inalienable rights in Palestine*" and " *their inalienable right to return to their homes and property from which they have been displaced and uprooted.*"

On the basis of the above legal arguments, Palestinians believe that international law and morality strongly support their claim to a right of return.

[27] Article 5 (d) (ii)

In addition to the above - noted international instruments, the Palestinian Authority has added an ideological interpretation on the right of return. "*The term 'refugee' does not refer to economic status – it is a legal status: financially successful refugees who have obtained citizenship in other countries are still refugees and still have, for instance, the right to return. Compensation is only one of the remedies to which refugees are entitled. Compensation is therefore necessary but not sufficient to resolve the issue."* (PLO Communications)

In contrast, from Israel's perspective, Israeli counter that a Palestinian right of return is incompatible with the security and survival of the State of Israel. Some legal experts argue that Palestinian refugees do not possess a right of return under international law. (Lapidoth; Matas 100-112) Notwithstanding, since 1948, the Israeli government has volunteered to repatriate some For example, in the summer of 1949, the government of David Ben Gurion agreed to absorb 100,000 Palestinian refugees – an offer rejected by the Arabs. (Alpher and Shikaki 7)

While acknowledging that there is a Palestinian refugee problem that must be solved, successive Israeli governments and Israelis of almost all political and ideological persuasions, see the Palestinian demand for a right of return as: first, a demographic threat; second, a security threat; and third, an existential threat to Israel's identity as a homeland and refuge for the Jewish people. Therefore, Israel has never accepted the principle of *collective* right of return but has considered accepting the right of return on an

individual basis, for a limited number of Palestinian refugees, based on family reunification. (Bard "Palestinian Refugees" 10)

Both parties have different interpretations of the right of return. Palestinians demand the unfettered return to what was then mandated Palestine while Israel sees that option as an existential threat to their very existence.

Notwithstanding, more than 100,000 Palestinian refugees have been allowed to return and resettle in Israel. Before 1967, Israel facilitated the return to, and resettlement in Israel, of 40,000 Palestinian refugees under its family reunification programme. Since 1967, another 70,000 refugees have been allowed back into Israel for family reunion. Therefore, over 110,000 Palestinian refugees have returned to Israel under this family reunification programme. ("Ministerial Report" 2)

C) Losses and Compensation

A primary legal and financial consideration for the Palestinians in any resolution of the refugee issue is compensation – for lost property; for their rehabilitation (i.e. integration or resettlement or return) and for reparations, in recognition of historical injustice and suffering.

The legal claim is based primarily on UN Resolution 194(III), Article 11 which states: *"compensation should be paid for the property of those choosing not to return and for loss or damage to property which under principles of international law or in equity, should be made good by the Governments or authorities responsible."*

On December 14,1950 the United Nations dealt with Palestinian refugees' rights to compensation. On that date, the General Assembly adopted Resolution A/RES 394 (V) on `Repatriation or Resettlement and Compensation' which, *inter alia:*

> *2. Directs the United Nations Conciliation Commission for Palestine to establish an office which, under the direction of the Commission, shall:*
>
> *(a) Make such arrangements as it may consider necessary for the assessment and payment of compensation in pursuance of paragraph 11 of General Assembly resolution 194 (III);the establishment of an office to deal with the assessment and payment of compensation due to Palestinian refugees.*

The UN Conciliation Commission for Palestine (UNCCP) also determined that Resolution 194 referred to both the property left behind by refugees who did not return to their homes and to repatriated refugees whose property had been looted or destroyed. (Fishbach, *Records* 84-85)

Since then, the parameters for restitution of property, compensation for lost opportunities and reparations for suffering have been expanded to include:

(1) refugees choosing not to return to the country from which they fled;
(2) returnees who lost, or suffered material damage to property;
(3) incomes derived from the use of refugee property;
(4) lost income streams, pensions, insurance, and deposits;
(5) collective goods, such as infrastructure and natural resources;
(6) non-material damages, such as psychological injuries.

Israel has benefited greatly from the Arab property that came under its control in 1948 and thereafter. The properties were either left behind; many were seized; some were bought; others were expropriated. According to the Institute for Palestinian Studies, some 418 Palestinian villages were "destroyed and depopulated" and now comprise part of Israel. (Khalidi *All that Remains* xxxii)

The Palestinian leadership has long advocated for full compensation, stressing that it be based on a calculation of individual losses; that each refugee claimant would be entitled to receive the value of material losses, at current rates; as well as compensation for non material losses and suffering.

Many countries within the international community, while agreeing to financially support the resettlement of refugees, believe that Israel must bear the responsibility to provide compensation for individual property losses. The Israeli government has been consistent in advocating for material, *collective* forms of compensation and has remained steadfast in its opposition to paying direct compensation to individual Palestinian refugees for their losses.

As has been demonstrated, Palestinians claim numerous violations of their human rights, under international law, and demand redress in a variety of ways, including the right of return and the right to compensation for losses and suffering.

VI) OPINIONS OF PALESTINIAN REFUGEES

The views and opinions Palestinian refugees themselves are central to considering any proposals for resolution of their current plight.

Polls indicate that the views and opinions of Palestinian refugees are firm on the right of return. In 2001, the Israel/Palestine Center for Research and Information (IPCRI) conducted 48 'town meetings' in nine refugee camps in the West Bank and Gaza. At the conclusion of the meetings, IPCRI conducted a public opinion poll, with a sample of 1830 Palestinian refugees, regarding their own future and the right of return.

Palestinian refugees will insist on their right of return regardless of where they are presently residing

Strongly agree	84.8 %
Agree	13.4 %

Palestinian refugees will refuse resettlement where they currently reside

Strongly agree	80.3 %
Agree	18.9 % (Israel/Palestinian Center 3-4)

In another survey conducted by the Center for Palestine Research and Studies (CPRS) in refugee camps in the West Bank and Gaza Strip, Palestinians were polled concerning their views of the future of the refugee camps in the West Bank and Gaza Strip. While not addressing the issue of permanent resettlement, the survey did discuss a potential 'transfer' to new housing projects elsewhere. Most supported remaining in the camps, with improvements in their living conditions, as follows: Remain in camps - 21.7%;

Remain with Improvements – 55.5%; Transfer Residents out - 18.7 %; others - 4.1 %. (CPRS Polls *Opinion Poll #17*)

In other surveys, Palestinian refugees reveal their strong views on issues relating to the right of return and compensation. (Israel/Palestinian Center 4-5)

If given the following choices, which will you choose?

Return without compensation	69.9 %
A package combining compensation, without return, settling in PA areas.	2.4 %
Resettlement	3.6 %
There will be no solution	23.7 %
Don't know	1.3%

If it is mandated that compensation be provided as an alternative to return, you will accept ;

Individual compensation for each refugee	3.3 %
Collective compensation for the Palestinian State	0.9 %
Will not accept any compensation	93.1 %
Don't know	2.8 %

Compensation is not an alternative to return

Strongly agree	81.5 %
Agree	17.2 %

The most comprehensive poll on the views of Palestinians was conducted by the *Palestine Center for Policy and Survey Research* in 2003 as three major surveys among Palestinian refugees in three areas: the West Bank and the Gaza Strip, (WBGS), Jordan and Lebanon. These PSR surveys sought to find out *"how refugees would behave once they have obtained that right (i.e. the right of return) and how they would react under various likely conditions and circumstances of the permanent settlement."* The West Bank/Gaza Strip refugee surveys were conducted in January 2003 and June 2003.

Under a scenario that their right of return has been secured, Palestinian refugees chose from among the following specific peace solutions and their refugee settlement options.

	WBGS%	**Jordan%**	**Lebanon%**	**Total (% of total Population in the three areas)**
Return to Israel and become (or not become) an Israeli citizen.	12	5	23	10
Stay in the Palestinian state (West Bank and Gaza Strip) and receive a fair compensation for the property taken over by Israel and for other losses and suffering.	38	27	19	31
Receive Palestinian citizenship and return to designated areas inside Israel that would be swapped later on with Palestinian areas as part of a territorial exchange and receive any deserved compensation.	37	10	21	23
Receive fair compensation for the property, losses, and suffering and stay in host country receiving its citizenship or Palestinian citizenship.	-	33	11	17
Receive fair compensation for the property, losses, and suffering and immigrate to a European country or the US, Australia, or Canada and obtain citizenship of that country or Palestinian citizenship.	1	2	9	2
6. Refuse all options	9	16	17	13
7. No opinion	2	8	0	5
TOTALS (W**ith a margin of error of 3%)**	99%	101%	100%	101%

Table 3. Refugees' First Choice For The Exercise Of The Right Of Return [28]

[28] Data from the *Palestine Center for Policy and Survey Research*. Sample size for the three refugees' surveys was 4506, with a margin of error of 3% .

Based on the opinion polls noted above, the Palestinian claim to a right of return is immutable. However, once assured that they do indeed possess that right of return, Palestinians in large numbers chose not to return to what was then mandatory Palestine. Based on the percentages listed in the above chart, the number of refugees wishing to move from Lebanon and Jordan to the Palestinian state in an exercise of the right of return would be 784,049. The number of those wishing to exercise the same right of return by returning to Israel would be 373,673.[29] This is significantly lower than the claimed right of return for 4.6 million registered Palestinian refugees.

[29] *Palestine Center for Policy and Survey Research*

CHAPTER 2 (CONTINUED)
MIDDLE EAST REFUGEES

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I) THE HISTORICAL NARRATIVE

Jews and Jewish communities have lived in the Middle East, North Africa and the Gulf region for more than 2,500 years. Jews were present in substantial numbers, in what are to-day 'Arab countries'.

COUNTRY/REGION	DATE OF JEWISH COMMUNITY
Iraq	6th century BCE
Lebanon	1st century BCE
Libya	3rd century BCE
Syria	1st century CE
Yemen	3rd century BCE
Morocco	1st century CE
Algeria	1st – 2nd century CE
Tunisia	200 CE

Table 4. Historical Jewish Presence in the Region [30]

Following the Muslim conquest of the region, the Jews were ruled by Muslims for years after the rise of Islam under the legal status of *dhimmi*. The term *dhimmi*, 'protected,' was a diminished status assigned to Christians and Jews, among others, who were considered 'people of the book' (as opposed to atheists or polytheists) and therefore extended some degree of legal protection, while relegated to second-class status. (Cohen, *Cresent* 52-53)

The most characteristic form of *dhimmi* law is illustrated by the Pact of Umar, a bilateral agreement whereby the 'people of the book' agree to a series of discriminatory restrictions in exchange for protection from the Muslim rulers. It is attributed to the

[30] (Goldschmidt; Lewis, *The Middle East*; Newby)

Second Caliph, Umar ibn al-Khattab (634-644 CE), who apparently was quite concerned with the protection of *dhimmis.* (Cohen, *Cresent* 55)

The most concrete law to which *dhimmis* were subjected was the need to pay a special tax known as '*jizya.'* The origins of this tax is contained in the Qur'an which states: *"Fight against those who have been given the scripture until they pay the due tax [jizya], willingly or unwillingly."*(*Sura* 9:29)

Restrictions under *dhimmi* law and the Pact of Umar prohibited Jews and other religious minorities from building or repairing non-Muslim houses of worship; public display of (Jewish) religion was forbidden; and the legal exclusion of Jews from holding public office. (Cohen, *Cresent* 65) Jews and Christians were nonetheless were allowed to have limited religious, educational, professional and business opportunities. (Yeor, *Islam and Dhimmitude*; Yeor, *The Dhimmi*; Deshem and Zenner; Stillman*, Jews of Arab Lands*) These practices were not uniform within the Arab world and there were even differences in individual countries, over the course of time.

Over the centuries, through a process of Arabization and Islamicization, these regions have become known as the 'Arab world.' Yet, non-Arab and non-Muslim minorities, among the indigenous inhabitants in those regions, remained as minorities in their places of birth. (Cohen and Udovitch; Cohen, *Crescent*; Lewis, *Jews of Islam*)

During the 18th and 19th century, North Africa was colonized by France, the United Kingdom, Spain and Italy. Jews fared well under secular, colonial 'European' rule. From as early as 1922 (Britain and Egypt) and into the 1960s (France and Algeria), all of the North African states gained independence from their colonial European rulers.

However, the displacement of Jews from Arab countries did not happen in a vacuum. It was the result of Arab nationalism, and a response to colonialism. These forces influenced to the repressive responses of Arab regimes and their peoples to the rise of a Jewish nationalist movement (Zionism) and the establishment of a Jewish homeland in the Land of Israel that could threaten their own security.

The consequences of the UN moving towards partition were acutely borne by Jews resident in Arab countries who were perceived as of as a fifth column. The result was clear and significant - the mass displacement of Jews from Syria, Trans-Jordan, Egypt, Lebanon, Yemen, Iran, Iraq, Algeria, Tunisia and Morocco.

II) DISPLACEMENT OF JEWS FROM ARAB COUNTRIES

From the estimated 856,000 Jews resident in North Africa, the Middle East and the Gulf region in 1948, less than 6,000 Jews remain to-day in 10 Arab countries.

Why did the overwhelming majority of the Jews in the Arab world leave their homes in their countries of birth? For some, the motivation was political Zionism: the rebuilding of an independent Jewish state for the Jewish people in their ancient homeland of Israel. For others, such as the Yemeni Jews who were flown to Israel in “Operation Magic Carpet,” the return to Zion on ‘the wings of eagles’ appeared as the marvelous fulfillment of biblical prophecy and an age-old Jewish religious longing.

The process of displacement began long before the founding of the State of Israel. In the twentieth century, Jews were subjected to a wide-spread pattern of persecution. Official decrees and legislation enacted by Arab regimes denied human and civil rights to Jews and other minorities; expropriated their property; stripped them of their citizenship; and other means of livelihood. Jews were often victims of murder; arbitrary arrest and detention; torture; and expulsions.

Upon the declaration of the State of Israel in 1948, the status of Jews in Arab countries changed dramatically as the Palestinians, as well as six Arab countries - Egypt, Jordan, Syria, Lebanon, Iraq and Saudi Arabia - declared war, or backed the war against Israel. This rejection by the Arab world of a Jewish state in the Middle East triggered reactions by Arab regimes and their peoples. For example, Jewish populations in Egypt and Iraq, numbering over 200,000 people, were suspected of dual loyalties and were placed in a precarious position when their states attacked Israel. In Iraq, 'Zionism' became a capital crime. Bombs in the Jewish quarter of Cairo, Egypt killed more than 70 Jews. The rights of Jews living in these countries were restricted.

Egypt and Iraq are only two illustrations of the persecution that was prevalent across the Arab world. By way of example, in Syria, as a result of anti-Jewish pogroms that erupted in Aleppo in 1947, 7,000 of the town's 10,000 Jews fled in terror. After the French left Algeria, the authorities issued a variety of anti-Jewish decrees, prompting nearly all of the 160,000 Jews to flee the country. After the 1947 United Nations General Assembly Resolution 181 (Partition Plan), Muslim rioters engaged in pogroms in Aden and Yemen,

which killed 82 Jews. Jews were either uprooted from their countries of residence or became subjugated, political hostages of the Arab-Israeli conflict. In numerous countries, Jews were expelled or had their citizenship revoked (e.g. Libya). (Bard, *Treatment*)

The treatment of Jews by Arab leaders and Muslim populations varied greatly from country to country. By way of example, in the 20th century, in some countries, Jews were forbidden to leave (e.g. Syria); in others, Jews were displaced en masse (e.g. Iraq); many Jews lived in relative peace under the protection of Muslim rulers (e.g. Tunisia, Morocco); while in other places, they were expelled (e.g. Egypt). However, the final result was the same – the mass displacement of some 856,000 Jews from their countries of birth in some 10 Arab countries.

As revealed in Table 5. (next page), in a region overwhelmingly hostile to Israel, the mass displacement of Jews from Arab countries coincided with major conflicts in the Middle East (e.g. 1948 War, 1956 War; 1967 War, etc.) Each time another conflict arose, there were major displacements as Jews in Arab countries fled for their lives. The cumulative result was that, over a twenty year period from 1948- 1968, approximately 91% of all Jews resident in Arab countries had been displaced.

	1948	1958[31]	1968[32]	1976[33]	2001[34]	2005[35]
Aden	8,000	800	0	0	0	0
Algeria	140,000	130,000	3,000	1,000	0	0
Egypt	75,000	40,000	2,500	400	100	100
Iraq	135,000	6,000	2,500	350	100	60[36]
Lebanon	5,000	6,000	3,000	400	100	~50[37]
Libya	38,000	3,750	500	40	0	0
Morocco	265,000	200,000	50,000	18,000	5,700	3,500
Syria	30,000	5,000	4,000	4,500	100	100
Tunisia	105,000	80,000	10,000	7,000	1,500	1,100
Yemen	55,000	3,500	500	500	200[38]	200
TOTAL	**856,000[39]**	**475,050**	**76,000**	**32,190**	**7,800**	**5,110**

Table 5. Displacement of Jews from Arab Countries 1948-2005

[31] *American Jewish Yearbook* (AJY) v.58 *American Jewish Committee*.
[32] AJY v.68; AJY v.71
[33] AJY v.78
[34] AJY v.101
[35] AJY v.105
[36] Saad Jawad Qindeel, head of the political bureau of the Supreme Council for the Islamic Revolution in Iraq, as reported in *The Jerusalem Post*: July 18, 2005.
[37] *Time Magazine*. February 27, 2007.
[38] AJY v.102
[39] (Roumani, *The Case* 2; *WOJAC'S Voice* Vol.1, No.1)

Little is heard about these Jewish refugees because they did not remain refugees for long. Of the hundreds of thousands of Jewish refugees displaced between 1948 and 1972, some two–thirds were resettled in Israel while others remained as refugees until arrangements were made for them to resettle elsewhere (e.g. Britain, France, North America, etc.). In virtually all cases, as Jews left their homes and their countries of birth, individual and communal properties were confiscated without compensation.

In reality, two populations of refugees - Palestinian Arabs as well as Jews from Arab countries - emerged as a result of the Arab-Israeli conflict. Then, as now, the international community's response to the plight of these refugees focused primarily on Palestinian Arabs and rarely recognized the Jewish refugee problem.

It should also be noted that Jewish refugees were precipitated during the conflict that was taking place in Palestine, before and after the UN Partition Plan. In the months before Israel declared statehood, twelve Jewish settlements and villages were overrun or had to be evacuated. Those included the Jewish Quarter of the Old City in Jerusalem and the four settlements of the Etzion Bloc. On November 29 1947, immediately after the adoption of the UN Partition Plan, a wave of attacks on Jews took place throughout the region. The most serious attacks took place in three main towns – Jerusalem, Haifa and on the borderline between Jaffa and Tel Aviv. Overall, it is estimate that this conflict precipitated between 40-50,000 Jewish refugees in Palestine/Israel. (Ben Aharon)

It should be noted that, during that period, Jordan and Egypt occupied different parts of the proposed Palestinian state. The occupying powers in the West Bank and Gaza had responsibility for the events that took place under their jurisdiction including in

Jerusalem, which was to be internationalized; the Etzion Bloc which was supposed to within the territory of the proposed Palestinian state.

III) ARAB RESPONSIBILITY FOR JEWISH REFUGEES

After Israel was established, Arab states did not recognize Israel. For many, notwithstanding four Armistice Agreements, (UN. Egypt-Israel; UN. Lebanon- Israel; UN. Hashemite Jordanian Kingdom; UN. Syria-Israel) a state of war continued to exist.

As noted above, Jews were suspected of having dual loyalty Arab countries began to treat their own Jewish populations as 'enemy nationals." Many regimes enacted discriminatory laws against Jews, denying them of their most basic human and civil rights.

The story of that victimization has been described many times. (Levin; Basri; Shulewitz, Stillman, *Modern Times*) It appears that the uprooting of ancient Jewish communities from some ten Muslim countries – Morocco, Algeria, Libya, Tunisia, Egypt, Lebanon, Syria, Iraq, Yemen, Aden - were not independent phenomenon. There is evidence that points to a shared pattern of conduct amongst a number of Arab regimes, that appear intended to coerce Jews to leave and go elsewhere, or to retain them as virtual political hostages in their struggle against the state of Israel. These are evidenced from:

(a) statements made by delegates of Arab countries at the U.N. during the debate on the partition resolution that represent a pattern of threats made against Jews in Arab countries;

(b) reports on multilateral meetings of the Arab League from which emerged indications of a coordinated strategy of repressive measures against Jews;

> (c) newspaper reports from that period; and
>
> (d) strikingly similar legislation and discriminatory decrees, enacted by numerous Arab governments, that violated the fundamental rights and freedoms of Jews resident in Arab countries.

From the sheer volume of such state-sanctioned discriminatory measures, replicated in so many Arab countries, and instituted in such a parallel fashion, one is drawn to the conclusion that such evidence suggests a pattern of collusion, against Jews by Arab governments.

By way of example, the following are examples of official statements that reveal the pattern of threats made against Jews in Arab countries:

During the Palestine Partition debate at the United Nations, the Palestinian delegate to the UN, Jamal al-Hussayni, (representing the Arab Higher Committee of Palestine to the UN General Assembly), made the following threat:

> It must be remembered that there are as many Jews in the Arab world as there are in Palestine whose positions... will become very precarious. Governments in general have always been unable to prevent mob excitement and violence. (UN. GA. "Ad Hoc Committee on the Palestinian Question")

In a key address before the Political Committee of the U.N. General Assembly on November 14, 1947, just fifteen days before that body voted on the partition plan for Palestine, Heykal Pasha, an Egyptian delegate, made the following statement:

> The United Nations…should not lose sight of the fact that the proposed solution might endanger a million Jews living in the Moslem countries [emphasis added]. Partition of Palestine might create in those countries an anti-Semitism even more difficult to root out than the anti-Semitism which the Allies were trying to eradicate

> in Germany ... If the United Nations decides to partition Palestine, it might be responsible for the massacre of a large number of Jews.
>
> A million Jews live in peace in Egypt [and other Muslim countries] and enjoy all rights of citizenship. They have no desire to immigrate to Palestine. However, if a Jewish State were established, nobody could prevent disorders. Riots would break out in Palestine, would spread through all the Arab states [emphasis added] and might lead to a war between two races. (UN. GA. "Ad Hoc Committee on the Palestinian Question")

Although Heykal Pasha spoke in his capacity as Egypt's representative to the U.N., his references to Jews "in other Muslim countries" and "all the Arab states," was reasonably understood not as a genuine expression of concern for Jewish well-being but rather as a threat as to what the future might hold for the one million Jews in Arab countries.

Shortly thereafter, similar dire projections appeared once again in a statement by Iraq's Foreign Minister Fadil Jamali delivered at that same United Nations meeting:

> The masses in the Arab world [emphasis added] cannot be restrained. The Arab-Jewish relationship in the Arab world will greatly deteriorate... Harmony prevails among Moslems, Christians and Jews [in Iraq]. But any injustice imposed upon the Arabs of Palestine will disturb the harmony among Jews and non-Jews in Iraq; it will breed inter-religious prejudice and hatred. (UN General Assembly "Second Session" 1391)

In fact, the assault on human rights was initiated by his own government, including a series of discriminatory decrees against Iraq's Jewish population .

Subsequently, there were a number of seminal multilateral meetings among Arab leaders and officials from which emerged additional indications of a coordinated strategy of repressive measures to be taken against Jews in Arab countries. By way of example, the *New York Times* revealed just such a plot of the Arab League.

Just two days after the State of Israel was proclaimed, a May 16, 1948 *New York Times* headline declared, *"Jews in Grave Danger in All Moslem Lands: Nine hundred Thousand in Africa and Asia Face Wrath of their Foes."* The article, authored by Mallory Browne, reported on the discriminatory measures recommended by the Arab League against the Jewish residents of Arab League member states.[40] The *Times* article reported on a:

> Text of a law drafted by the Political Committee of the Arab League which was intended to govern the legal status of Jewish residents of Arab League countries. It provides that beginning on an unspecified date all Jews except citizens of non-Arab states, would be considered 'members of the Jewish minority state of Palestine.' Their bank accounts would be frozen and used to finance resistance to 'Zionist ambitions in Palestine.' Jews believed to be active Zionists would be interned and their assets confiscated.[41]

Below is a photocopy of this document entitled: "*Text of Law Drafted by the Political Committee of the Arab League."* It was discovered affixed to a January 19, 1948 Memorandum submitted by the World Jewish Congress to the UN Economic and Social Council (ECOSOC) warning that, *"all Jews residing in the Near and Middle East face extreme and imminent danger."* This Memorandum was summarized in ECOSOC Document E/710, released by the Committee on Arrangements for Consultation with Non-Governmental Organizations, entitled: "Report on the Memoranda of the World Jewish Congress in Regard to the Situation of the Jewish Populations in Arab Countries.[42]

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[40] The Arab League was founded in 1945, consisting of seven states: Egypt, Iraq, Lebanon, Saudi Arabia, Syria, Jordan, and Yemen. Currently there are twenty two members.
[41] May 16, 1948
[42] February 24, 1948

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Text of Law drafted by Political Committee of Arab League.

1. Beginning with (date), all Jewish citizens of (name of country) will be considered as members of the Jewish minority State of Palestine and will have to register with the authorities of the region wherein they reside, giving their names, the exact number of members in their families, their addresses, the names of their banks and the amounts of their deposits in these banks. This formality is to be accomplished within seven days.

2. Beginning with (date), bank accounts of Jews will be frozen. These funds will be utilized in part or in full to finance the movement of resistance to Zionist ambitions in Palestine.

3. Beginning with (date), only Jews who are subjects of foreign countries will be considered as "neutrals". These will be compelled either to return to their countries, with a minimum of delay, or be considered as Arabs and obliged to accept active service with the Arab army.

4. Jews who accept active service in Arab armies or place themselves at the disposal of those armies, will be considered as "Arabs".

5. Every Jew whose activities reveal that he is an active Zionist will be considered as a political prisoner and will be interned in places specifically designated for that purpose by police authorities or by the Government. His financial resources, instead of being frozen, will be confiscated.

6. Any Jew who will be able to prove that his activities are anti-Zionist will be free to act as he likes, provided that he declares his readiness to join the Arab armies.

7. The foregoing (para. 6), does not mean that those Jews will not be submitted to paragraphs 1 and 2 of this law.

-:-:-:-:-:-:-:-:-

What is striking about this law, aside from its particular provisions, is that it is directed against Jews as Jews. It is discrimination against Jews, based on their religion. The anti-Zionist Jew, according to this law, suffers a lesser fate that a Jew who cannot prove to the satisfaction of the authorities that he or she is anti-Zionist. But even the Jew who is able to satisfy the authorities he/she is anti-Zionist still has to register; still has his/her bank accounts frozen; still has those accounts depleted to finance the war against Israel.

This law was prepared, and endorsed, by the Political Committee of the Arab League. According to Internal Regulations of the Committee of the League of Arab States, *"Each Member State of the League shall be represented in each Committee."* (Article 2) As such, each member state of the League would have agreed to this draft law.

The Arab League, in its Council Session on February 17, 1948, in Cairo, approved a plan for *"political, military, and economic measures to be taken in response to the Palestine crisis"* (Sessions) One report stated that*: The Council of the Arab League unanimously adopted the recommendations of its Political Committee concerning Palestine…"* ("Arab League." 378-380) confirming the collusion among Arab League member states to violate the rights of their Jewish populations.

Another indication that Arab countries were collaborating in the coerced displacement of Jews from their territories comes from reports of a Beirut meeting of senior diplomats from all the Arab States in late March 1949. By this time, the Arab states had already lost the first Arab-Israeli war. As reported in a Syrian newspaper, participants at this meeting concluded that: *"If Israel should oppose the return of the Arab refugees to their homes,*

the Arab governments will expel the Jews living in their countries." (*Al-Kifah*, March 28, 1949)[43] In fact, expulsions did take place in some countries.

The third trend that lends credence to the proposition that many Arab countries engaged in a coordinated pattern of shared practices to coerce Jews to leave was the plethora of legislation, decrees and other measures that were enacted by Arab regimes, violating the rights of its Jewish citizens. As described further in the Chapter, from the sheer volume of such state-sanctioned discriminatory decrees, replicated in so many Arab countries and instituted in such a parallel fashion, one is drawn to the conclusion that such actions were premeditated among the governments involved. The pattern was harassment, threatening and harming Jews through mob violence, from which the state offered no protection; freezing and confiscating Jewish assets; denying Jews employment; interning Jews; denationalizing and expelling Jews. These state-sanctioned measures, coupled often with violence and repression, made remaining in the land of their birth an untenable option for Jews.

The draft law of the Political Committee of the Arab League was a forecast of what was to happen to Jews in the region. It became a blueprint, in country after country, for the laws which were eventually enacted against Jews.

[43] Today in Lebanon, it exists as a weekly political magazine.

IV) COUNTRY REPORTS

The following country reports describe these unmistakable trends. The situations in Egypt, Iraq and Libya are described in some detail; a more cursory review is provided on seven other countries, including Algeria, Lebanon, Morocco, Syria, Tunisia and Yemen/Aden.

EGYPT[44]

History

Jews have lived in Egypt since Biblical times. Israelite tribes first moved to the Land of Goshen (the northeastern edge of the Nile Delta) during the reign of the Egyptian pharaoh Amenhotep IV (1375-1358 B.C).

At the outset of World War 1, Egypt was governed under the protectorate of the British. Soon thereafter, Egypt gained independence from Great Britain in 1922. Nationalist parties began to lobby for a boycott against the Jews in 1938. In July 1939, bombs were discovered in three Cairo synagogues (before they exploded) wrapped with warnings to the Jews not to support their coreligionists in Palestine. (Landshut 34)

Egypt at this stage was not the Egypt of the past. Colonial, secularist rule by Britain had been good for the Jews. When the British left, the situation began to deteriorate.

The next blow against the Jewish community in Egypt, due to increased tensions over mandated Palestine, came on the twenty-eighth anniversary of the Balfour Declaration.

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[44] Information for this section was derived from: Beinin; Bell; "Jews in Arab Countries"; Hunwick; Jabes; Kramer; Landau; Laskier, *Jews of Egypt*; Levin; and Patai, *Vanished* 142)

Nationalist elements called for a general strike on November 2, 1945. At 1:00 p.m., a riot broke out. Jewish businesses in Cairo were attacked and looted; the Amir Farouk Street synagogue was burned down, and twenty-seven Torah scrolls destroyed; there were 400 Jews injured during the riots, and many Jewish homes and stores were looted. (Levin 89)

In response to events in Palestine, on May 14, 1948, the Egyptian government headed by Mahmud Nuqrashi Pasha, declared a military alert and within a few weeks 1,300 people were arrested, 1,000 of which were Jews held on charges of having ties with 'Zionism.' (Levin 89)

Violence also erupted against the Jews of Egypt. In the early hours of June 20, 1948, the Jewish quarter of the old city of Cairo (Harat al-Yahud) was shaken by two successive explosions. The official estimate of Jewish casualties was 34 dead and 60 injured, 10 seriously. On August 1 1948, two violent explosions occurred within ten minutes of each other at the two big Jewish-owned department stores of Gettegno and Benzion. On September 22 yet another explosion occurred in the business center killing 19, and injuring 62. Exactly one month later an explosion took place on Muski Street yet again, killing 19 Jews and injuring 47. (Landshut 37-38)

Between 1949 and 1952, 25,000 to 30,000 Jews left Egypt. About 15,000 to 20,000 of these went to Israel. Many Jews who left at this time belonged to the lower and lower middle classes and had been hurt by the recent Egyptian political and economic laws. Although some members of the Jewish upper class emigrated at this time, moving mainly to Europe and the Americas, most of the middle and upper classes opted to remain in Egypt. (Stillman, *Jews of Arab Lands* 52)

The beginning of the final end for Jews in Egypt dates from 1954 when, with the assumption of power by Gamal Abd-al-Nasser, anti-Semitism became a cornerstone of Egyptian government policy. In the same year, arrests of Jews became frequent; two Jews were hanged for spying for Israel; anti-Jewish publications were issued; and emigration to Israel was all but halted. (Patai, *Vanished* 133)

As a result of the 1956 War, approximately 1,000 Jews were sent to prisons and detention camps. On November 23, 1956, a proclamation signed by the Minister of Religious Affairs, and read aloud in mosques throughout Egypt, declared that *"all Jews are Zionists and enemies of the state,"* and promised that they would be soon expelled [45]

Between November 22, 1956, and June 30, 1957, more than 22,200 Jews left Egypt. By 1957, the Jewish population of Egypt had fallen to 15,000. In 1967, after the Six-Day War, there was a renewed wave of persecution, and the community dropped to 2,500. By the 1970s, after the remaining Jews were given permission to leave the country, the community dwindled to a few families. (Levin; Praeger 108)

Jewish rights were finally restored in 1979 after President Anwar Sadat signed the Camp David Accords with Israel. Only then was the community allowed to establish ties with Israel and with world Jewry. Nearly all the estimated 200 Jews left in Egypt (from the original 75,000) are elderly and the community is on the verge of extinction.

Discriminatory Decrees and Violations of Human Rights in Egypt

(Intended merely as a sampling and not an exhaustive compilation)

[45] *New York World Telegram* November 26 and 29 1956;

The first Nationality Code was promulgated by Egypt on May 26, 1926. According to this Nationality Code, a person born in Egypt of a 'foreign' father, (who himself was also born in Egypt), was entitled to Egyptian nationality only if the foreign father *"belonged racially to the majority of the population of a country whose language is Arabic or whose religion is Islam*." (Article 10(4) of the Code qtd. de Wee 35)

The requirement to belong *"racially to the majority of the population of a country whose language is Arabic or whose religion is Islam"* operated for the most part against colonialists who came to Egypt, including Christians and Jews, a great proportion of whom, though Ottoman subjects, could not acquire Egyptian nationality. Later, during the fifties, having failed to become 'Egyptian', this provision served as the official pretext for expelling many Jews from Egypt.

On July 29, 1947, an amendment was introduced to the Egyptian Companies Law that made it mandatory for at least 75% of all employees of every company, to be Egyptian nationals. This resulted in the dismissal and loss of livelihood for many Jews since only 15% of them had been granted Egyptian citizenship. (Cohen 88)

In 1954, under the Proclamation of a State of Siege in Egypt, the Military Governor of Egypt was authorized, *"to order the arrest and apprehension of suspects and those who prejudice public order and security."* At least 900 Jews, without charges being laid against them, were detained, imprisoned or otherwise deprived of their liberty. ("Proclamation" February 26, 1960)

A mass departure of Jews was sparked when Egypt passed an amendment in 1956 to the original Egyptian Nationality Law of 1926. Article 1 of the Law of November 22, 1956,

stipulated that “Zionists” were barred from being Egyptian nationals. (Law No.391 80) Article 18 of the 1956 law asserted that “Egyptian nationality may be declared forfeited by order of the Ministry of Interior in the case of persons classified as Zionists.” Moreover, the label of “Zionist” was never defined, leaving Egyptian authorities free to interpret this term as broadly as they pleased.

A telling signal as to the dire future of Egyptian Jewry was the promulgation in 1957 of Army Order No. 4 relating to the administration of the property of the so-called people and associations (“Zionist” i.e. Jewish) subject to imprisonment or supervision. (*Egyptian Official Gazette*) Once again, the Law itself did not specify who was a “Zionist,” but was defined as *“not a religion but the spiritual and material bond between Zionists and Israel.* (*Revue egyptienne* 87)

A more precise definition is found in a subsequent amendment, published by the Egyptian Interior Minister in the Official Gazette on April 15, 1958. This regulation prescribes, in unambiguous terms, that all Jews (“Zionists”) between the ages of 10 and 65, leaving Egypt, are to be added to the list of persons who are prohibited from returning to Egypt. (“Egypt” E10)

A provision in both the 1956 and 1958 laws permitted the government to take away citizenship of any Egyptian (Jew) absent from United Arab Republic territory for more than six consecutive months. That this provision is aimed exclusively at Jews is shown by the fact that the lists of denaturalized persons published time and again by the Official Journal contains Jewish names only, despite the fact that there were many non-Jewish

Egyptians who stayed abroad for over six months. ("Confidential Memorandum." February 26, 1960)

Economic Discrimination in Egypt

(Intended as a sampling and not an exhaustive compilation)

Law No. 26 of 1952 obligated all corporations to employ certain prescribed percentages of "Egyptians." A great number of Jewish salaried employees lost their jobs, and could not obtain similar ones, because they did not belong to the category of Jews with Egyptian nationality. (Laskier, "Egyptian Jewry")

Militarily Proclamation No. 4 appeared under the heading of "Regime of Sequestrations." Between November 1st-20th 1956, official records reveal that by a series of sequestration orders issued under Military Proclamation No. 4, the property of many hundreds of Jews in Egypt was taken from their owners and turned over to Egyptian administrators. ("Confidential Memorandum" February 21, 1957)

A government decision, taken in 1959, required that all employees, foreign or Egyptian, to apply for a work card. It is significant that the card asked for, immediately after the person's name, his/her religion. (Laskier, "Egyptian Jewry")

The effects of these sequestration measures, enacted in 1956-1957, affected Egyptian Jews, stateless Jews as well as Jews of other nationalities (except British and French citizens). With the people listed in the published decrees already interned or placed under surveillance, in fact, the provision of this Proclamation No. 4 was carried into effect almost exclusively against Jews. ("Confidential Memorandum." February 26, 1960)

Of the published lists of 486 persons and firms whose properties were seized under Military Proclamation No. 4, at least 95 per cent of them are Jews. (Egyptian Official Gazette, No. 88)

In addition to the vast sequestration of property and other discriminatory treatment, Directive No. 189 issued under the authority of Military Proclamation No. 4, authorized the Director General of the Sequestering Agency to deduct from the assets belonging to interned persons, or persons under surveillance, or others, 10% of the value of the sequestered property, presumably to cover the costs of administration. Hence, without regard to the question of whether a property was legally sequestered, the Jews of Egypt were being taxed to pay for the machinery that was involved in the sequestration and withholding of their own properties ("Confidential Memorandum" February 21, 1957)

The Jews leaving Egypt were subjected to additional deprivations and inconveniences. A regulation was promulgated which prevented Jews leaving Egypt from taking with them travelers checks or other international exchange documents exceeding the value of 100 Pounds Sterling. Moreover, they received documents that were not freely negotiable abroad. The Bank of Egypt provided Jews leaving the country with instruments specifically drawn on Egyptian accounts in Britain and France, when Egyptian authorities knew well that those accounts were blocked in reciprocation for the Egyptian blocking of British and French assets in Egypt. (Levin 115)

IRAQ[46]

History

Iraq is the modern designation for the country carved out of ancient Babylonia, Assyria, and the southern part of Turkey after World War I.

It is also the place of the oldest Jewish Diaspora and the one with the longest continuous history, from 721 BCE to 1949 CE, a time span of 2,670 years.

By the 3rd century, Babylonia became the center of Jewish scholarship, as attested to by the Iraqi community's most influential contribution to Jewish scholarship, The Babylonian Talmud. Jews had prospered in what was then Babylonia for 1200 years before the Muslim conquest in 634 AD. Under Muslim rule, the situation of the Jewish community fluctuated. Some Jews held high positions in government or prospered in commerce and trade. At the same time, Jews were considered *'dhimmi'* and subjected to special taxes, and restrictions on their professional activity.

There were extended periods of time when Iraq's Jews lived in relative peace among their Muslim countrymen. Under British rule, which began in 1917, Jews fared well economically, but all of this progress ended when Iraq gained independence in 1932. Similar to what took place in Egypt, Jews were alleged to have dual loyalties and relations between the Jews and their Muslim regimes deteriorated.

In June 1941, the Mufti-inspired, pro-Nazi coup of Rashid Ali sparked rioting and a pogrom in Baghdad. Armed Iraqi mobs murdered 180 Jews and wounded almost 1,000.

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[46] Information for this section was derived from: Basri; Ben-Porat; Davis and Mezvinsky; Gat; Hillel; Jabes; Levin; Meir-Glitzenstein; Rejwan; Shiblak; and Woolfson.

Additional outbreaks of anti-Jewish rioting occurred between 1946-1949. After the establishment of Israel in 1948, Zionism became a capital crime.

In 1950, Iraqi Jews were permitted to leave the country within a year provided they forfeited their citizenship and registered their property, leaving it under the administration of a newly-established Ministry of Custodianship. From 1949 to 1951, 104,000 Jews were evacuated from Iraq to Israel in Operations Ezra and Nehemiah; another 20,000 were smuggled out through Iran. Thus a community that had reached a peak of some 150,000 in 1947 dwindled to a mere 6,000 after 1951. A year later, the property of Jews who emigrated was frozen and economic restrictions were placed on Jews who chose to remain in the country.

In 1952, Iraq's government barred Jews from emigrating. With the rise of competing Ba'ath factions in 1963, additional restrictions were placed on the remaining Iraqi Jews. The sale of property was forbidden and all Jews were forced to carry yellow identity cards. Persecutions continued, especially after the Six-Day War in 1967, when many of the remaining 3,000 Jews were arrested and dismissed from their jobs. Around that period, more repressive measures were imposed: Jewish property was expropriated; Jewish bank accounts were frozen; Jews were dismissed from public posts; businesses were shut; trading permits were cancelled; telephones were disconnected. Many Jews were placed under house arrest for long periods of time or restricted to the cities.

Persecution was at its worst at the end of 1968. Scores were jailed upon the allegation of an alleged local "spy ring" composed of Jewish businessmen. Fourteen men-eleven of

them Jews-were sentenced to death in staged trials. On January 27, 1969, all were hanged in the public squares of Baghdad. (Miller and Mylroie 34)

In response to international pressure, the Baghdad government quietly allowed most of the remaining Jews to emigrate in the early 1970's, even while leaving other restrictions in force. In 1973, most of Iraq's remaining Jews were too old to leave and they were pressured by the government to turn over title, without compensation, to more than $200 million worth of Jewish community property. (*New York Times*, February 18, 1973)

On July 28, 2003, The *New York Times* reported that there are only 28 Jews left in Baghdad. A once flourishing Iraqi Jewish community of 135,000 has thus been virtually extinguished.

Discriminatory Decrees and Violations of Human Rights

(Intended merely as a sampling and not an exhaustive compilation)

Beginning in 1948, Iraqi authorities enacted a number of legislative and other decrees against their Jewish citizens.

The first piece of legislation promulgated that violated the rights of Jews, was the 1948 amendment to the 1938 supplement (*Official Iraqi Gazette* 24 July 1938. 475 {English edition}) to the Penal Code of Baghdad, which detailed the provision regarding communism, anarchy and immorality in section 89A (1). The section generally prohibits the publication of anything that, "*incites the spread of hatred, abuse of the government or the integrity of the people."* This amendment, enacted in 1948, added "*Zionism*" to communism, anarchism and immorality, the propagation of which constituted an offense

punishable by seven years imprisonment and/or a fine. (*Official Iraqi Gazette.* 14 November 1948. 591 {English edition}).

There were discriminatory provisions that Jews were subjected to. There were reports that: *"In Iraq, no Jew is permitted to leave the country unless he deposits £5,000 ($20,000) with the Government to guarantee his return. No foreign Jew is allowed to enter Iraq, even in transit."* (*New York Times*, May 16, 1948)

Law No. 1 of 1950, entitled "*Supplement to Ordinance Canceling Iraqi Nationality,"* allowed any government an avenue to deprive Jews of their Iraqi nationality. Section 1 stipulated that *"the Council of Ministers may cancel the Iraqi nationality of the Iraqi Jew who willingly desires to leave Iraq...."* (*Official Iraqi Gazette.* March 9, 1950. n.p. {English edition}) The allowed any Council of Ministers of the day to make a determination as to whether any Jew *"desires to leave Iraq"* and thereby *"cancel"* the individual's Iraqi nationality.

Subsequently, a special law was passed which allowed the government to seize the assets of any Jew who *"forfeited their Iraqi nationality*" and was forced to leave. Under Law No. 5 of 1951, entitled *"A Law for the Supervision and Administration of the Property of Jews who have Forfeited Iraqi Nationality,"* Section 2(a) "freezes" Jewish property. (Official Iraqi Gazette. 10 March 1951. 17 {English edition})

There were a series of laws that expanded on the confiscation of assets and property of Jews who "*forfeited Iraqi nationality*." These included Law No. 12 of 1951. (*Official Iraqi Gazette*. 27 January 1952. 32 {English edition}); Law No. 64 of 1967 relating to ownership of shares in commercial companies; and Law No. 10 of 1968 relating to banking restrictions.

LIBYA[47]

History

The Jewish community of Libya traces its origin back some 2,500 years to the 3rd century B.C.

Around the time of the Italian occupation of Libya in 1911, there were about 21,000 Jews in the country, the majority of whom lived in Tripoli. (Roumani-Denn)

In the late 1930s, anti-Jewish laws were enforced, and Jews were subjected to repressive measures by the regime. Notwithstanding, by 1941, the Jews accounted for a quarter of the population of Tripoli and maintained 44 synagogues. In 1942, with the Germans occupying the Jewish quarter of Tripoli, times were extremely difficult for Jews in Libya. Libyan-Arab leadership embraced Nazi ideology and joined occupation forces to oppress Jews.

Conditions for Jews did not greatly improve following the liberation. Rising Arab nationalism and anti-Jewish fervor were the reasons behind a series of pogroms, the worst

[47] Information for this section was derived from: Bernet; De Felice; Goldberg; Rahmani; Roumani, *Libya*; Sachar; Shulewitz; and Stillman, *Arab Lands in Modern Times*.)

of which, in November of 1945, resulted in the massacre of more than 140 Jews in Tripoli and elsewhere and the destruction of five synagogues.

The establishment of the State of Israel led many Jews to leave the country. In June 1948, protesting the founding of the Jewish state, rioters murdered 12 Jews and destroyed 280 Jewish homes. Although emigration was illegal, more than 3,000 Jews managed to escape and fled to Israel. When the British legalized emigration in 1949, hostile demonstrations and riots against Jews brought about the departure of some 30,000 Jews who fled the country up to, and after, Libya was granted independence and membership in the Arab League in 1951.

After the Six-Day War in 1967, the Jewish population of 7,000 was again subjected to pogroms in which 18 were killed, and many more injured, sparking a near-total exodus that left fewer than 100 Jews in Libya. (Bard, *Libya*)

When Col. Qaddafi came to power in 1969, all Jewish property was confiscated and all debts to Jews cancelled. In 1999, the synagogue in Tripoli was 'renovated'; however, it has never reopened. ("2000 Annual Report")

Discriminatory Decrees and Violations of Human Rights

(Intended merely as a sampling and not an exhaustive compilation)

Article 1 of Law No. 62 of March 1957 provided, inter-alia, that persons or corporations were prohibited from entering directly or indirectly into contracts of any nature whatsoever with organizations or persons domiciled in Israel, with Israel citizens or their representatives. Provision of this article also enabled the Council of Ministers to register

residents in Libya who were relatives of persons resident in Israel. Libya *"publicly supported the Arab position of hostility to Israel. The local Jewish community is distrusted both as foreigners and as potential Israel sympathizers.... Libyan Jews are subjected to various restrictions although they are not actively persecuted and their synagogues continue to function."*(Gruen, "Background" 11)

On December 31, 1958, a decree was issued by the President of the Executive Council of Tripolitania that ordered the dissolution of the Jewish Community Council and the appointment of a Muslim commissioner nominated by the government. (UNHCR. Confidential memorandum. May 8, 1970.)

On May 24, 1961, a law was promulgated which provided that only Libyan citizens could own and transfer property. Conclusive proof of the possession of Libyan citizenship was required to be evidenced by a special permit that was reported to have been issued to only six Jews in all. (UNHCR. Confidential memorandum. May 8, 1970.)

On August 8, 1962, a Royal Decree proclaimed, inter-alia, that a Libyan national forfeited his nationality if he/she had had any contact with 'Zionism'. Forfeiture of Libyan nationality under this provision extending to any person who had visited Israel after the proclamation of Libyan independence, and any person deemed to have acted morally or materially in favor of Israeli interests. The retroactive effect of this provision enabled the authorities to deprive many Jews of Libyan nationality at will. (UNHCR. Confidential memorandum. May 8, 1970.)

With the first law No. 14 of February 7, 1970, the Libyan Government established that all property belonging to *"Israelis*" who had left Libyan territory *"in order to establish themselves definitely abroad"* would pass to the General Custodian. In spite of the precise wording of the law, the Libyan Government started to take possession of property belonging to Jews without bothering about the fact that these Jews could not be considered as "*Israelis*" and had not "*established themselves definitely abroad*." [48]

On July 21, 1970, the Government decreed a law to control *"the restitution of certain assets to the State."* The *"Law Relative to the Resolution of Certain Assets to the State*" declared that the General Custodian would administer liquid funds of the property of Jews as well as the companies and the company shares belonging to Jews.[49]

V) OTHER COUNTRY PROFILES

ALGERIA[50]

Jewish settlement in present-day Algeria can be traced back to the first centuries of the Common Era. In the 14th century, with the deterioration of conditions in Spain, many Spanish Jews relocated to Algeria. After the French occupation of the country in 1830, Jews gradually were granted French citizenship. In the mid-1930s, incited by events in Nazi Germany, Muslims rampaged in Constantine, killing 25 Jews and injuring many more.

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[48] Note to File, UNHCR Archives, and dated August 24, 1970. See also De Felice, *Jews in an Arab Land,* see full text of petitions by Jews seeking the recovery of their assets. 394-96.
[49] Ibid.
[50] Information for this section was derived from: Bernet; Laskier, Stillman, *Modern Times*.

Algeria's independence from in France 1962 was the key event in the final uprooting of the Jewish community. At that time, there were 60 Jewish communities across Algeria, each maintaining their own rabbis, synagogues and educational institutions. As a result of the desire of Algeria and Algerians to join in the wave of Pan-Arab nationalism that was sweeping North Africa, Jews no longer felt welcome after the French departure.

The *Algerian Nationality Code* of 1963 made this clear by granting Algerian nationality, as a right, only to those inhabitants whose fathers and paternal grandfathers had Muslim personal status in Algeria. (Sec.34 No.63-69 306)[51] In other words, although the National Liberation Front in Algeria was known for its slogan *"A Democratic Secular State*," it adhered to strictly religious criteria in granting nationality.

The Algerian government persecuted its Jewish population and deprived Jews of their economic rights. Unlike in other Arab countries, the Jews in Algeria had a way out because of their French citizenship. As a result, almost 130,000 Algerian Jews immigrated to France. Since 1948, 25,681 Algerian Jews have also immigrated to Israel. It is estimated that less than 100 Jews remain in Algeria to-day. (Singer)

LEBANON [52]

Jews have lived in Lebanon since ancient times. King Herod the Great, in the 1st century CE supported the Jewish community in Beirut. During the first half of the 20th century, the Jewish community expanded tremendously due to immigration from Greece, Turkey, and later from Syria and Iraq. There were reports of rioting and incitement around the

[51] Also cited in *Annualize de l'Afrique du Nord* 1973, 806-14.
[52] Information for this section was derived from: Levin; Patai, *Vanished*; Schulze.

time of the establishment of the State of Israel. The New York Times wrote: "*In Lebanon Jews have been forced to contribute financially to the fight against the United Nations partition resolution on Palestine. Acts of violence against Jews are openly admitted by the press, which accuses Jews of 'poisoning wells,' etc."* (May 16, 1948)

In the mid-50's, approximately 7,000 Jews lived in Beirut. Compared to Islamic countries, the Christian-Arab rule, which characterized the political structure of Lebanon, maintained a policy of relative tolerance towards its Jewish population. Nevertheless, being in such close physical proximity to the 'enemy state', Israel, Lebanese Jews felt insecure and decided to emigrate in 1967, leaving for France, Israel, Italy, England and South America.

In 1974, 1,800 Jews remained in Lebanon, the majority of whom concentrated in Beirut. Fighting in the 1975-76 Muslim-Christian civil war swirled around the Jewish Quarter in Beirut, damaging many Jewish homes, businesses and synagogues. Most of the remaining 1,800 Lebanese Jews emigrated in 1976, fearing the growing Syrian presence in Lebanon would curtail their freedom of emigration. To-day an estimated 150 Jews remain in Lebanon.

MOROCCO[53]

Jews first appeared in Morocco more than two millennia ago, traveling there in association with Phoenician traders. By 1948, this ancient Jewish community, the largest in North Africa, numbered 265,000. In June 1948, after the establishment of the State of

[53] Information for this section was derived from: Bernet; Laskier; Patai, *Vanished*; Serels; Zafrani.

Israel, bloody riots in Oujda and Djerada killed 44 Jews and wounded scores more. That same year, an unofficial economic boycott was instigated against Moroccan Jews.

The wave of mass immigration, which ultimately led more than 250,000 Jews to leave Morocco, was prompted by anti-Jewish measures carried out in response to the establishment of the State of Israel. For example, on June 4, 1949, riots broke out in northern Morocco killing and injuring dozens of Jews. Zionist activities in Morocco also played a strong role in encouraging people to come to Israel. Shortly afterwards, many Jews began to leave.

During the two-year period between 1955 and 1956 alone, over 70,000 Moroccan Jews arrived in Israel. In 1956, Jewish immigration to Israel was suspended and by 1959, Zionist activities were declared illegal in Morocco. During these years, more than 30,000 Jews left for France and the Americas. In 1963, when the ban on emigration to Israel was lifted, another 100,000 fled to Israel.

Today, the Jewish community of Morocco has dwindled to less than 7,000 Jews, two-thirds of whom live in Casablanca.

SYRIA[54]

Jews have lived in Syria since biblical times and the community's history is intertwined with the history of Jews in the ancient land of Israel. Jewish population increased significantly after the expulsion of the Jews from Spain in 1492. For generations, the main Jewish communities were found in Damascus and Aleppo.

[54] Information for this section was derived from: Friedman; Jabes; Landau; Levin; Shulewitz; Troper

In 1943, the Jewish community of Syria numbered over 30,000 people. This population was mainly distributed between Aleppo, where 17,000 Jews lived; and Damascus, which had a Jewish population of 11,000. In 1945, in an attempt to thwart efforts to establish a Jewish homeland, the Syrian government restricted emigration to mandatory Palestine, and Jewish property was burned and looted. Anti-Jewish pogroms erupted in Aleppo in 1947, precipitating the departure of 7,000 of the town's 10,000 Jews who fled in terror. The government then froze bank accounts and confiscated the property of Jews and the Jewish community.

Shortly after the founding of the State of Israel, it was reported that:

> In Syria a policy of economic discrimination is in effect against Jews. 'Virtually all' Jewish civil servants in the employ of the Syrian Government have been discharged. Freedom of movement has been 'practically abolished.' Special frontier posts have been established to control movements of Jews. (*New York Times*, May 16, 1948)

In 1949, banks were instructed to freeze the accounts of Jews and all their assets were expropriated. Over the course of subsequent years, the continuing pattern of political and economic strangulation ultimately caused all remaining 15,000 Jews to leave Syria, 10,000 of whom immigrated to the U.S.A. while another 5,000 went to Israel.

TUNISIA[55]

The first documented evidence of Jews living in what is today Tunisia dates back to 200 CE. After the Arab conquest of Tunisia in the 7th century, Jews lived under satisfactory conditions, despite discriminatory measures they endured as *dhimmis*.

In 1948, the Tunisian Jewish community had numbered 105,000, with 65,000 living in Tunis. After Tunisia gained independence in 1956, a series of Government enacted anti-Jewish decrees were promulgated. In 1958, Tunisia's Jewish Community Council was abolished by the government and ancient synagogues, cemeteries and Jewish quarters were destroyed for 'urban renewal.' The rise of Tunisian nationalism led to anti-Jewish legislation and in 1961 caused Jews to leave in great numbers. The increasingly unstable situation caused more than 40,000 Tunisian Jews to immigrate to Israel. By 1967, the country's Jewish population had shrunk to 20,000.

During the six-day war, Jews were attacked by rioting Arab mobs, and synagogues and shops were burned. The government denounced the violence and appealed to the Jewish population to stay, but did not bar them from leaving. Subsequently, 7,000 Jews immigrated to France. Even as late as 1982, there were attacks on Jews in the towns of Zarzis and Ben Guardane. Today an estimated 2,000 Jews remain in Tunisia.

For centuries, on the Jewish holiday of *Lag La'Omer*, Tunisian Jews have made an annual pilgrimage to El Ghriba synagogue, the most famous and revered Tunisian

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[55] Information for this section was derived from: Bernet; Roumani, *The Case*; Laskier; Stillman, *Modern Times*

synagogue in the village of Hara Sghira on Djerba. Even to-day, Jews from around the world – including Israel – travel to Tunisia, with the full approval of the Tunisian government, to continue this longstanding, annual tradition and commemoration.

YEMEN (and ADEN) [56]

Some historians claim that the Jews of Yemen can trace their ancestry to a time before the destruction of the First Temple (587 BCE). The first historical evidence of the existence of Jews in Yemen dates from the third century BCE.

Jews had begun to leave Yemen in the 1880s, when some 2,500 had made their way to Jerusalem and Jaffa. But it was after World War I, when Yemen became independent, that anti-Jewish feeling in that country made emigration imperative. Anti-Semitic laws, which had lain dormant for years were revived. By way of example, Jews were not permitted to walk on the main thoroughfare, or to ride horses, only donkeys, so they would be physically lower than Muslims. In court, a Jew's evidence was not accepted against that of a Muslim's.

In 1922, the government of Yemen reintroduced an ancient Islamic law requiring that Jewish orphans under age 12 to be forcibly converted to Islam. Jews began to leave Yemen. When a Jew decided to emigrate, he had to leave all his property behind. In spite of these repercussions, between 1923 and 1945 a total of 17,000 Yemenite Jews left and immigrated to Palestine.

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[56] Information for this section was derived from: Keren Hayesod; Patai, *Vanished*; Schechtman

After the Second World War, thousands of more Yemenite Jews wanted to come to Palestine, but the British Mandate's *White Paper* was still in force and those who left Yemen ended up in crowded slums in Aden.

In 1947, after the United Nations partition vote, Muslim rioters engaged in a bloody pogrom in Aden that killed 82 Jews and destroyed hundreds of Jewish homes. The Jewish community of Aden, numbering some 8,000 in 1948, was forced to flee. By 1959 over 3,000 arrived in Israel. Many fled to the U.S.A. and England. Today there are no Jews left in Aden.

Around the time of Israel's founding, Yemen's Jewish community was economically paralyzed, as most of the Jewish stores and businesses were destroyed. It was not until September 1948 that the British authorities in Aden finally allowed these refugees from Yemen to proceed to Israel. The perilous situation led to the emigration of virtually the entire Yemenite Jewish community - almost 50,000 - between June 1949 and September 1950 in Operation "Magic Carpet." A smaller migration was allowed to continue through 1962, when a civil war put an abrupt halt to any further Jewish exodus.

Yemen represents another example of the displacement of virtually an entire Jewish community. From a high of 63,000 people, it is estimated that less than 1,000 Jews remain in Yemen.

* * *

Jews who left Arab countries were not voluntary migrants, seeking to leave their home countries for economic reasons; nor did they leave solely for religious or ethnic reasons.

While Zionism did motivate some to settle in Israel, an estimated 260,000 (Gilbert, *Atlas* 48) people – or about 1/3 - of all Jewish refugees immigrated to other countries. Before they were displaced, they suffered from harassment and discrimination. As part of the persecution they suffered, their property was forfeited or confiscated. Jewish refugees displaced from Arab countries are victims of the Arab world's struggle against the Jews, Zionism and the establishment of the state of Israel. As former refugees, these Jewish refugees still have rights under international law.

VI) LEGAL AND POLITICAL BASIS FOR THE RIGHTS OF JEWISH REFUGEES

The following are the most seminal legal and political bases for the rights of Jewish refugees from Arab countries:

- **United Nations High Commissioner for Refugees**

On two occasions, in 1957 and again in 1967, the *United Nations High Commissioner for Refugees* (UNHCR) determined that Jews fleeing from Arab countries were refugees who fell within the mandate of the UNHCR:

> Another emergency problem is now arising: that of refugees from Egypt. There is no doubt in my mind that those refugees from Egypt who are not able, or not willing to avail themselves of the protection of the Government of their nationality fall under the mandate of my office.[57] (UNHCR, *Report of the UNREF*)
>
> I refer to our recent discussion concerning Jews from Middle Eastern and North African countries in consequence of recent events. I am now able to inform you that such persons may be considered prima facie within the mandate of this Office. (UNHCR, *Letter from Dr. E. Jahn*)

[57] Mr. Auguste Lindt, United Nations High Commissioner for Refugees

It is interesting to note that Jews were only formally recognized as refugees on two occasions, by the UN High Commissioner for Refugees. By comparison, as will be delineated later, the United Nations Security Council and General Assembly adopted 172 resolutions, recognizing rights for Palestinian refugees. The reasons for this discrepancy will be addressed in the concluding Chapter.

A) UN Resolutions

On November 22nd, 1967, the UN Security Council unanimously adopted, Resolution 242, laying down the principles for a peaceful settlement in the Middle East. Resolution 242 stipulates that a comprehensive peace settlement should necessarily include *"a just settlement of the refugee problem."* No distinction is made between Arab refugees and Jewish refugees.

Moreover, Justice Arthur Goldberg, the United States' Chief Delegate to the United Nations, who was instrumental in drafting the unanimously adopted U.N. Resolution 242, has noted that: "*This language presumably refers both to Arab and Jewish refugees, for about an equal number of each abandoned their homes as a result of the several wars…."* (Goldberg)

B) Multilateral Initiatives

One of the most ambitious attempts to advance the Middle East Peace Process – including refugees – was launched jointly by the United States and the Soviet Union in 1991. Labeled the "Madrid" process, the initiative was based in part on United Nations Security Council Resolution 242 of 1967 and its principle of direct negotiations between the parties

concerned. For the first time since the creation of the State of Israel, Arab, Israeli and Palestinian leaders engaged in a series of bilateral negotiations premised on the concept of land for peace between Israel and its neighbors -- Jordan, Syria and Lebanon -- and the Palestinians.

Thereafter, in Moscow in January 1992, multilateral negotiations took place with Foreign ministers and delegates from 36 countries -- including representatives from the Middle East, Europe, Japan, China and Canada. Five Working Groups were established to deal with primary areas of concern: 1) Arms control and regional security; 2) Regional economic development; 3) Refugees; 4) Water resources; and the 5) Environment. (*Introduction to the Refugee* 1-6)

At the founding meeting of the Multilateral Working Group on Refugees**,** then-U.S. secretary of state James Baker made no distinction between Palestinian refugees and Jewish refugees in articulating the mandate of the Refugee Working Group as follows: *"The refugee group will consider practical ways of improving the lot of people throughout the region who have been displaced from their homes."* [58]

Since 1992, there have been eight meetings of the Working Group on Refugees in: Moscow;[59] Ottawa;[60] Ottawa;[61] Oslo;[62] Tunis;[63] Cairo;[64] Antalya;[65] and Geneva.[66] In

[58] Remarks by Secretary of State James A. Baker, III before the Organizational Meeting for Multilateral Negotiations on the Middle East, House of Unions, Moscow, January 28, 1992 as distributed by Canada's Department of Foreign Affairs and International Trade/GMD/GXD, Document No. 7354, 4
[59] January 1992
[60] May 1992
[61] November, 1992

recent years, there have been no meetings of the Multilateral Working Group on Refugees. (*Introduction to the Refugee* 2)

The *"Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict,"* was intended to provide:

> Clear phases, timelines, target dates, and benchmarks aiming at progress through reciprocal steps by the two parties in the political, security, economic, humanitarian, and institution-building fields, under the auspices of the Quartet. The destination is a final and comprehensive settlement of the Israel-Palestinian conflict by 2005, as presented in President Bush's speech of 24 June, and welcomed by the EU, Russia and the UN in the 16 July and 17 September Quartet Ministerial statements. (UN, *Performance-Based*)

The Roadmap currently being advanced by the Quartet (the U.N., EU, U.S., and Russia) also refers, in Phase III, to an *"agreed, just, fair and realistic solution to the refugee issue,"* language applicable both to Palestinian and Jewish refugees.

C) Bilateral Arab-Israeli Agreements

Israeli agreements with her Arab neighbors allow for a case to be made that Egypt, Jordan and the Palestinians have affirmed that a comprehensive solution to the Middle East conflict will require a "just settlement" of the "refugee problem" that left open the possibility to include recognition of the rights and claims of all Middle East refugees – Palestinians as well as Jews.

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[62] May 1993
[63] October 1993
[64] May 1994
[65] December 1994
[66] December 1995

- ***Israel – Egypt Agreements***

The *Camp David Framework for Peace in the Middle East* of 1978 (the "Camp David Accords") includes a commitment by Egypt and Israel[67] to *"work with each other and with other interested parties to establish agreed procedures for a prompt, just and permanent resolution of the implementation of the refugee problem."* (Laqueur and Rubin 222)

Article 8 of the *Israel – Egypt Peace Treaty* of 1979 provides that the "*Parties agree to establish a claims commission for the mutual settlement of all financial claims."* (Laqueur and Rubin 227) Presumably, this would allow for such claims to include those of former Jewish refugees displaced from Egypt.

- ***Israel – Jordan Peace Treaty***

Several aspects of the 1994 *Israel-Jordan Peace Treaty* are worth noting. Article 8 of the *Peace Treaty*, entitled "*Refugees and Displaced Persons*" recognizes, in paragraph 1, "*the massive human problems caused to both Parties by the conflict in the Middle East."* Reference to massive human problems in a broad manner suggests that the plight of all victims of "*the conflict in the Middle East,"* includes Jewish displaced from Arab countries. (Laqueur and Rubin 477)

While the Parties commit themselves to alleviate problems on the bilateral level, they also affirm, in paragraph 2, that problems *"cannot be fully resolved on the bilateral level"* and

[67] paragraph A(1)(f)

therefore commit themselves to seek solutions in accordance with international law *'in negotiations, in a framework to be agreed, bilateral or otherwise, in conjunction with and at the same time as the permanent status negotiations…'*

To the extent that individual claims by Jewish refugees may exist against Jordan (in particular for property damaged or expropriated during the 1948-1967 period), Article 24 of the *Israel-Jordan Peace Treaty* notes that the parties agreed to establish a claims commission for the mutual settlement of all financial claims although this commission was never set up in practice.

- ***Israeli-Palestinian Agreements***

Almost every reference to the refugee issue in Israeli-Palestinian agreements, talks about "refugees," without qualifying which refugee community is at issue, including the *Declaration of Principles of 13 September 1993* {Article V (3)}, and the *Interim Agreement of September 1995* {Articles XXXI (5)}, both of which refer to "refugees" as a subject for permanent status negotiations, without qualifications.

- ***Recognition by Political Leaders***

In the last 30 year, there have been public statements pronounced by political leaders that have recognized rights for Jewish Refugees. Former U.S. President Bill Clinton made the following assertion after the rights of Jews displaced from Arab countries were discussed at 'Camp David II' in July, 2000:

> There will have to be some sort of international fund set up for the refugees. There is, I think, some interest, interestingly enough, on both sides, in also having a fund which compensates the Israelis who were made refugees by the war, which occurred after the birth of the State of Israel. Israel is full of people, Jewish

> people, who lived in predominantly Arab countries who came to Israel because they were made refugees in their own land. (Clinton)

Former U.S. President Jimmy Carter, after successfully brokering the Camp David Accords and the Egyptian-Israeli Peace Treaty, stated in a press conference on October 27, 1977: "*Palestinians have rights… obviously there are Jewish refugees…they have the same rights as others do."*

Canadian Prime Minister Paul Martin stated, in a June 3rd, 2005 interview with the Canadian Jewish News, which he later reaffirmed in a July 14, 2005 letter to the Canada Israel Committee:

> A refugee is a refugee and that the situation of Jewish refugees from Arab lands must be recognized. All refugees deserve our consideration as they have lost both physical property and historical connections. I did not imply that the claims of Jewish refugees are less legitimate or merit less attention than those of Palestinian refugees.

In perhaps the most noteworthy recent development, the US House of Representatives, on April 1, 2008, unanimously adopted *H.Res.185* which, for the first time, recognizes the rights of Jewish refugees from Arab countries.

In a rare display of bi-partisanship, Congressmen representing both political parties, joined in co-sponsoring this landmark Resolution on Middle East refugees that underscores the fact that Jews living in Arab countries suffered human rights violations, were uprooted from their homes, and were made refugees. The Resolution declares that *"it would be inappropriate and unjust for the United States to recognize rights for Palestinian refugees without recognizing equal rights for former Jewish, Christian, and other refugees from Arab countries."*

Congressional resolution *H.Res.185* affirms that all victims of the Arab-Israeli conflict must be treated with equality, including Jewish, Christian and other refugees from countries in the Middle East and urges the President to instruct US officials participating in Middle East discussions, to ensure: *"That any explicit reference to Palestinian refugees is matched by a similar explicit reference to Jewish and other refugees, as a matter of law and equity."* The Resolution is the strongest declaration adopted by the U.S. Congress, on the rights of Jewish and others refugees from Arab countries.

There is no statute of limitations on the rights of refugees. Consequently, even though they are no longer refugees, Jews displaced from Arab countries still retain rights under international law. They suffered the mass violations of their human rights; the loss of their homes and livelihoods. Even though they may have rebuilt their lives in Israel or elsewhere, they still have right to redress for their past plight.

CHAPTER 2 (CONTINUED)
MIDDLE EAST REFUGEES

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I) INTRODUCTION

In addressing the respective narratives of Palestinian refugees and Jewish refugees from Arab countries, the question arises as to whether the legitimacy of one group of refugees is in any way comparable to, or dependent upon, the legitimacy of the other group of refugees? Is there, in fact, any 'linkage' between the issue of Palestinian refugees and former Jewish refugees from Arab countries?

In reality, the historical narrative of Jews displaced from flee Arab countries are neither identical to, nor symmetrical with, the historical narrative of Palestinian refugees.

There is no comparable history, geography nor demography that could allow for any just comparison between the respective plights of Palestinian refugees and former Jewish refugees from Arab countries. Moreover, there are more significant distinctions than similarities between the two.

II) DISTINCTIONS: PALESTINIAN AND JEWISH REFUGEES

1) History

Historical claim to the land of Israel/Palestine is central to both group's positions. However, their histories differ.

Jews have maintained their historic, religious and familial ties to *'eretz yisrael,'* the Jewish homeland, for more than 2,500 years. Notwithstanding all the wars and dispersion, there has never been a time during this period that Jews have not lived in this region.

In testimony before the Anglo-American Committee in 1946, Palestinians claimed a connection to Palestine of some 1,000 years, dating back to the conquest of Muhammad's followers in the 7th century. ("Report of the Anglo-American Committee")

2) State -Stateless

A seminal difference is the status of these Palestinian and Jewish refugees as nationals.

Jewish refugees were long-time nationals of the states from which they fled (e.g. Iraq, Egypt, etc.), having lived in North Africa, the Middle East and the Gulf region for thousands of years. They were denied protection by their state apparatus even though they were not parties to civil strife. Fearing for their safety, many Jews concluded that their situation was no longer tenable and they began to leave.

By way of comparison, Palestinian refugees who fled after the founding of the State of Israel were never nationals of the State of Israel. Israel did not breach a duty of protection it owed to its nationals, a situation that was exacerbated due to the fact that Palestinians were parties to civil strife.

3) War-time / Peace time

A third distinction relates to the extent to which being caught in an area of armed conflict contributed to creating refugee populations.

Palestinian refugees are war refugees. Civilians are inevitably among the first casualties of armed conflict and armies on the move. In the face of an advancing army, Palestinians fled scenes of actual or impending armed combat in fear of their lives.

Jewish refugees from Arab countries were fleeing states that were not under attack. While there was a conflict going on the in Middle East, there were no wars going on in the vast majority of Arab countries where Jews were living. While many Jews were fleeing for their lives, they were not fleeing war but actual or feared violence and persecution.

4) Geographic and Cultural Dislocation

Another contrast between the experience of Jewish and Palestinian refugees relates to differences in geographic and cultural dislocation experienced by the two groups. Most Jewish refugees traveled hundreds — and some traveled thousands of miles - to a tiny country whose inhabitants spoke a different language.

Most Arab refugees never left Palestine at all. They traveled a few miles to the other side of the truce line, or hundreds of miles to neighboring countries, remaining inside the vast Arab nation that they were part of linguistically, culturally and ethnically.

5) Response of the United Nations to Middle East Refugees

The response of the international community in 1948 to the plight of Palestinian refugees as a result of the Arab Israeli conflict was immediate, aggressive, and commendable in light of the human tragedy that was unfolding. There was no symmetry in the world's response to the plight of Jewish refugees from Arab countries.

The focus and action of the United Nations was singularly focused on Palestinian refugees. For example:

- Since 1947, a total of 172 **resolutions** specific to the plight of Palestinian refugees have been adopted by the United Nations. During that same period, there are no resolutions adopted by the United Nations to the plight of Jewish refugees.[68]

- Numerous existing UN **agencies** were mandated, and others created, to provide protection and relief to Palestinian refugees. No such wide-ranging assistance from UN agencies was forthcoming for Jewish refugees from Arab countries.

[68] See further, Chapter 4 on the United Nations

- On the financial level, since 1947, **funding** upwards of tens of billions of dollars are being spent each year by the UN and member states to provide a variety of relief and assistance programs to Palestinian refugees. No money was forthcoming from the UN and its member states to address the plight and flight of Jews from Arab countries. Some 600,000 fled to Israel which defrayed the costs of their absorption and resettlement. Roughly 260,000 went to other countries in Europe and North America (Gilbert, *Atlas* 48) where the Jewish communal agencies often assisted in their resettlement.

6) UNHCR - UNRWA

A sixth distinction relates to the international agencies that were responsible for responding to the needs of the respective refugee populations. Two primary UN agencies were involved - the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Relief and Work Agency for Palestine Refugees in the New East (UNRWA).

Jewish refugees from Arab countries fell under the mandate of the Office of the High Commissioner for Refugees. They were only one refugee group, among many, since 1948, that the UNHCR has been mandated to assist.

Palestinian refugees fall under the mandate of the United Nations Relief and Work Agency for Palestine Refugees in the New East (UNRWA). Palestinians were, and continue to be, the only refugee group served by UNRWA. Moreover, numerous other UN agencies, in a variety of different purviews, have been mandated to assist Palestinian refugees, many having done so since 1947.[69]

7) Safe Haven

The contrast as to how, and where, the respective refugee groups found safe haven is significant.

Even though under attack from six Arab armies, with scant resources, the newly-established State of Israel opened her doors to over 600,000 Jews from Arab countries, granted them citizenship and tried to absorb Jewish refugees into Israeli society in the middle of a continuing conflict. Other Jews from Arab countries made their way elsewhere (e.g. Europe, North America; etc.) and obtained citizenship in countries that would accept them. To-day, none remain refugees.

By contrast, the Arab world, with the sole exception of Jordan, did not welcome displaced Palestinian refugees. They were placed in refugee camps in Jordan, Syria, Lebanon, the West Bank (occupied by Jordan in 1948) and the Gaza Strip (occupied by

[69] See further in this paper, Chapter 5 (Section C) on comparisons and contrasts between UNRWA and UNHCR

Egypt in 1948). To- day, they and their descendents, remain charges of the international community, suffering daily the tragedy of remaining stateless and unsettled.

III) ISSUES TO BE ADDRESSED

There are innumerable issues that must be addressed and resolved in order to achieve the spirit and intent of UN Resolution 242 which called for a "*just settlement of the refugee problem."*

The respective political positions of both Israel and the Palestinians have been consistent and virtually unwavering. On some issues, the respective positions are remarkably close and resolvable. On others, the respective positions are so far apart so as to defy any hope of resolution.

The seminal issues underlying this complex 'refugee' problem - both matters of principle and implementation – include:

A admission of 'wrongdoing';

B the right of return;

C resettlement;

D compensation; and

E economic development.

The specifics that are detailed below have been gleaned from authoritative sources (which have been cited and footnoted) and from confidential memoranda and personal consultations with the principals and their interlocutors (whose sources have not been identified nor footnoted).

A) Admission of Wrongdoing

In past negotiations, both Palestinian and Israeli negotiators demanded from the other side, an 'admission of wrongdoing' or an 'expression of regret' for their suffering.

The **Palestinians** are demanding that Israel acknowledge its responsibility for the displacement and continuing suffering of Palestinian refugees. Such an admission would, according to Palestinian interlocutors, establish principles of justice and redress the "injustice" of 1948 (i.e. their displacement during the Arab Israeli war that year). It would also provide Palestinians with a legal basis upon which to claim compensation and reparations.

Israel denies sole responsibility, and has not accepted in fact, nor in principle, singular culpability for creating the refugee problem. Israel sees Palestinian attempts to force it to admit responsibility for the plight of Palestinian refugees as an attempt to raise doubts about the legitimacy of the creation of the State of Israel.

However, the Israelis have recently acceded to the Palestinian demand that Israel acknowledge the suffering of Palestinians, as witnessed by two recent statements:

Israel's Prime Minister Ehud Olmert in a speech to the Knesset, on Oct. 8, 2007, stated: "*We understand the hardship of the Palestinians and feel a deep empathy to the distress that many of them experienced as a result of our conflict."* (Israel Prime Minister's Office) There was no concomitant statement, by any Arab leader, acknowledging the suffering of Jewish refugees.

Nearly one year later, the Prime Minister switched his message, mentioning the suffering of both Palestinian and Jewish refugees. On September 15, 2008, before a meeting of the *Knesset Foreign Affairs and Defense Committee,* Prime Minister Olmert referred to both Palestinians and Jews when he said, *"I join in expressing sorrow for what happened to the Palestinians and also for what happened to the Jews who were expelled from Arab states."* [70]

Jewish refugees demand recognition of their plight in, and flight from, Arab countries as well as an acknowledgement of their suffering. Arab leaders have never accepted responsibility for the displacement of their Jewish populations. Jewish refugees are trying to generate a measure of awareness of their existence as a victim population, an awareness that even they recognize will always be dwarfed by the attention given to the ongoing plight of Palestinian refugees.

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[70] As reported by the *Associated Press*; *BBC*; *Ha'aretz;* and in ("Chronological Review")

B) Right of Return

As noted earlier, there are several fundamental distinctions between Palestinian refugees and Jewish refugees on the issue of the right of return.

a) Palestinians demand the right of return to their former homes in what was then Mandated Palestine. Israel adamantly rejects this proposal; and

b) Israel does not demand the right of return for Jews displaced from Arab countries, although a few Arab countries still allow Jews to enter and exit their countries – Morocco, Tunisia, Egypt, among others.

The basic Palestinian position, at least until the mid-1970s, regarded the right of return as one item on the general agenda of liberating the whole of Palestine, which would have automatically allowed for the return of all refugees. In June of 1974, the Palestinian National Council reaffirmed that the right of return is at the forefront of Palestinian rights. (Palestinian National Council, Article 3)

Most notably and frequently, Palestinians cite the following legal bases to support their claim of a right of return:

General Assembly Resolution 194(III) declares inter alia that: "… *refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so*

at the earliest practicable date." Interestingly, all Arab members of the UN at the time – Egypt, Iraq, Lebanon, Saudi Arabia, Syria and Yemen – voted against the resolution, as did Israel. The U.S. supported the resolution. GA Resolution 194 is cited by in the Palestinian Constitution, underscoring the right of return:

> Palestinians who left Palestine as a result of the 1948 war, and who were denied return thereto shall have the right to return to the Palestinian state and bear its nationality. It is a permanent, inalienable, and irrevocable right. The state of Palestine shall strive to apply the legitimate right of return of the Palestinian refugees to their homes, and to obtain compensation, through negotiations, political, and legal channels in accordance with the 1948 United Nations General Assembly Resolution 194 and the principles of international law. ("Third Arabic Draft" Article (13))

Resolution 194 (III) is central to the Palestinian's political arguments in a number of crucial ways:

1) The resolution clearly identifies the exact place to which refugees are entitled to return – i.e. *"their homes";*

2) The resolution affirms that return must be guided by individual choice – i.e. the unconditional right of the refugees to make a free choice (which) should be fully respected;

3) The resolution identifies the time frame for the return of refugees – i.e. *"at the earliest practical date";* and

4) The resolution imposes an obligation on Israel to re-admit the refugees – i.e. refugees wishing to return to their homes *"should be permitted to do so*."

- **Security Council Resolution 237**, (Article 1) called upon Israel "…*to facilitate the return of those who have fled the areas since the outbreak of hostilities."* This resolution referred to the most recent refugees, including the Palestinians who fled as a result of the 1967 war.

- **General Assembly Resolution 3236 (**Article 2) (1974) reaffirms "*the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return."*

- By the late 1970s, annual **UN General Assembly Resolutions** continued to reaffirm "*the enjoyment by the Palestine Arab refugees of their right to return to their homes and property."*

- The right of return of refugees has also been alluded to in the **Fourth Geneva Convention** which states**:**

"Article 49: *Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power*

or to that of any other country, occupied or not, are prohibited, regardless of their motive.

Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons do demand….. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased." (Convention (IV) Article 49)

In 1975, the UN General Assembly established the Committee of the Inalienable Rights of the Palestinian People, which and expressed its grave concern that no progress has been achieved towards:

(a) The exercise by the Palestinian people of its inalienable rights in Palestine, including the right to self-determination without external interference and the right to national independence and sovereignty;

(b) The exercise by Palestinians of their inalienable right to return to their homes and property from which they have been displaced and uprooted; "*the inalienable rights of the Palestinian people to self determination could be exercised only in Palestine."* (UN GA Res. A/RES/3376)

There are, however, international legal experts who claim that there is no Palestinian right of return under UN Resolution 194. Prominent among those who argue against a Palestinian 'right of return is Professor Ruth Lapidot at Hebrew University who writes:

> The paragraph does not recognize any "right," but recommends that the refugees "should" be "permitted" to return… Moreover, that permission is subject to two conditions - that the refugee wishes to return, and that he wishes to live at peace with his neighbors. The violence that erupted in September 2000 forecloses any hope for a peaceful co-existence between Israelis and masses of returning refugees…. Under the 1948 resolution, the return should take place only "at the earliest practicable date." The use of the term "should" with regard to the permission to return underlines that this is only a recommendation - it is hortatory. (Watson 281) One should also remember that under the UN Charter the General Assembly is not authorized to adopt binding resolutions, except in budgetary matters and with regard to its own internal rules and regulations…Finally, the reference to principles of international law or equity refers only to compensation for property and does not seem to refer to permission to return.[71]

On a legal level, the right of redress claimed for Jewish refugees from Arab countries is not a right of return to the countries from which they came. On a practical level, for the most part, Jews do not wish to return to their former residences in Arab countries so the 'return' or an 'exchange of populations' is not a comparable analogy. Moreover, it is illogical to think that Jews, who were subjected to mass violations of human rights, would return to those very countries where they were subjected to such persecution. As noted in the last Chapter there is discriminatory legislation on the books in numerous Arab countries that would ensure that any returning Jew could only return with diminished rights and as a second class citizen.

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[71] See Lapidoth's "Legal Apects," which is based on a more comprehensive study, "Israel and the Palestinians: Some Legal Issues," that originally appeared in *Die Friedens-Warte*. (*Journal of International Peace and Organization*), 76:2-3 (2001): 211-240

However, advocating a correct legal interpretation isn't likely to sway either party off their positions on the right of return. Like every other claim, the right of return will have to be dealt with through negotiations, and not merely through legal arguments.

C) Resettlement

The **1951 UNHCR Convention Relating to the Status of Refugees** states that a refugee must be treated by Contracting States *"without discrimination as to race, religion or country of origin* (Article 3) and with "*treatment at least as favorable as that accorded to their nationals with respect to freedom to practice their religion…*" (Article 4)

International practice is to offer refugees as many choices as possible, based on the situation "on the ground", including:

- stay where they are and expedite permanent status
- return to their 'homeland' – which in this case could be either Israel or a newly created state of Palestine;
- resettle in a 3rd country, like the US, Canada, Australia and other countries who have offered to resettle some Palestinian refugees.

Successive Israeli governments have advocated for refugee resettlement, whether in current countries of refuge or in third countries. Palestinian officials have strongly opposed any resettlement plans, other than an absolute "right of return" to Israel. (Roumani, *The Case* 52)

The only Arab country that allowed Palestinians to resettle and acquire citizenship was Jordan. In other countries where Palestinians have found refuge, e.g. Syria, Lebanon, Gulf region states, etc. – Palestinians retain their refugee status and are not permitted by their host Governments to acquire citizenship.

Irrespective of positions, resettlement of Palestinian refugees – approximately 1.3 million of whom continue to live in refugee camps - will require significant efforts and financial resources.

No such efforts, nor financial resources, are now required for 850,000 plus Jews displaced from Arab countries.

D) Economic Development

There is evidence that Israel benefited from the Arab property that came under its control in 1948 and thereafter. (Fishbach, *Records*) Israel's refusal to agree to compensate

Palestinian refugees was based on a practical argument: Israel had to absorb over 600,000 Jews who were forced to flee from Arab countries. Israel rehabilitated and supported these Jewish refugees, without any Arab compensation for their resettlement, or for their lost properties.

Zionist ideology dictates that any Jew who decides to return to their Jewish homeland, Israel, will be supported by the State. Immediately before and after its founding, Israel was a developing country with limited resources in the 1950s and 1960s, absorbed hundreds of thousands of penniless Jewish refugees.

The cost of the absorption of Jews from Arab countries was solely borne by Israel, which has expended approximately $12 billion dollars for this purpose, without assistance from UNRWA or the UNHCR. (Goldberg, *Tribunal* 4)

Palestinian have a continuing need for financial support from the international community. In addition to compensation for lost properties, there will be a need for a massive infusion of international funding for the rehabilitation and economic development of Palestinian refugees, throughout Arab states in the region.

It has been estimated that over $100 billion will be needed over the course of the next 10-20 years for housing, roads and other transportation needs, water, sewage systems and

treatment centers, electricity grids, medical services, schools and upper education, social services, etc.

The following breakdown has proposed in international discussions: $40 billion for the Palestinians; $40 billion for Jordan; $10 billion for Lebanon; and $10 billion for Syria. No such international funds are being projected for Israel.

CHAPTER 3

REFUGEE LOSSES AND COMPENSATION

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II) **JEWISH REFUGEES** **109**

III) **FINANCIAL LOSSES: COMPARISONS AND CONTRASTS** **113**

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I) Palestinian Refugees

There is significant documentation that details the claimed material losses of Palestinian refugees. They include the records of the UN Conciliation Commission for Palestine; maps of the Palestine Exploration Fund and of the Survey of Palestine; aerial photography; the Tabu (land registry); records of the Israeli Custodian of Absentees' Property and of the Israel Lands Administration.

Determining the value of property, businesses, financial holdings, and movable assets (e.g. furniture) will, under any circumstance, be susceptible to a wide range of estimates. Palestinians demand that compensation for both lost property, and reparations for suffering, be included in any resolution of the refugee issue.

Here are but a few of the estimates of losses suffered by Palestinian refugees:

1) In terms of abandoned land, the Weitz-Danin-Lifshits Committee, established by Israel in 1948, reported that 2,008,114 *dunums*[72] of rural and urban land had been 'abandoned'; (Fishbach, *Records* 44) In 1951, the Global Estimate of the UN Conciliation Committee for Palestine indicated 19,083,921 dunums of abandoned land, valued at $404,546,448. In 1964, the UNCCP revised its estimates to 6.057,032 dunums worth $824,780,808. (Fishbach, *Records* 121)

2) Estimates as to the value of Palestinian lost property, movable and

[72] One *dunum* equals 1,000 sq. m.

immovable, plus the cost of lost career opportunities and psychological damage incurred, totals some $147 billion in 1984 prices. The figures total $92 billion if confined to material losses only. (Zureik 79)

3) In 1994, Rashid Khalidi suggested that reparations might total some $40 billion (if based on per capita payments of around $20,000), or several times this amount, if based on the current value of both material and non-material losses. (Khalidi, *Solution* 24)

4) A 1995 Israeli estimate, prepared by Major General (res.) Shlomo Gazit of the Jaffee Center for Strategic Studies, projected a need for $7 – 10 billion in compensation, or roughly $10,000 per family. (Gazit 21-22)

5) The Harvard-based Joint Working Group on Israeli-Palestinian Relations, in a 1998 paper written by Joseph Alpher and Khalil Shikaki, suggested that individual compensation to Palestinians might total $15-20 billion. (Alpher and Shikaki 14)

6) A study conducted in 2001 calculates the current value, in US dollars, of lost Palestinian assets. Full compensation for material losses was projected at 743 million pounds sterling, in 1948 prices. Factoring in inflation, and converting the amount into US dollars brings the total to $20.9 billion. If you include compensation for human capital losses, that raises the total to $33.2 billion.

> Factoring in a modest growth rate of 4%; and if one includes compensation for psychological damage and pain, the total would be $281 billion in compensation. (Kubursi 223)

One of the most credible estimates for assets left behind by Palestinians fleeing the 1948 war was prepared by John Measham Berncastle, who undertook the task in the early 1950s under the aegis of the United Nations Conciliation Commission for Palestine (UNCCP). He was a British land value estimator who had worked in Palestine since 1935. His estimate was 120 million Palestinian pounds of which about 100 million was for land and buildings and 20 million for movable property. Other estimates would add some 4-5 million Palestinian pounds for Arab bank accounts blocked by the Israeli government. (Fishbach, *Records* 98)

This total of 125 million Palestinian pounds would have amounted to $350 million in 1948. This is equal to some $650 per 1948-1949 refugee. This number is comparable to per capita assets for Poland, the Baltic states, and southeast European countries during the late 1930s ranged from $550 to $700. (Zabludoff, *Disappeared*).

To this must be added the assets and losses for an additional 100,000 Palestinians who fled in the aftermath of the 1967 war and the 40,000 Internally Displaced Persons (IDP). At $700 per capita, that would amount to another $100 million in lost Palestinian assets.

Thus the total of assets lost by Palestinians is some $450 million. In 2007, using the U.S. Consumer Price Index to allow for grow, this would amount to $3.9 billion. (Zabludoff 2)

Many hurdles remain in determining, assessing, valuing and compensating for lost property and other assets. Other questions include the provision of a package of compensation for direct losses; as well as non material losses; and the sources of funding, whether Israeli, Arab or multinational. (Shiblak, *Palestinian*)

II) Jewish Refugees

In virtually all cases, as Jews left their country of origin, individual and communal properties were confiscated without compensation provided to rightful owners. There were a variety of lost properties and assets.

i) **Personal** (e.g. homes, businesses, land, pensions, benefits); and

ii)**Assets belonging to the community or collective** (e.g. schools, synagogues, hospitals and cemeteries).

With respect to losses suffered by Jews displaced from Arab countries, there are few definitive studies, and fewer records from that era. However, any analysis of losses must include individual assets and properties as well as communal properties. As with Palestinian refugees, compensation for violations of human rights, suffering and psychological damage to Jewish refugees should also be considered and factored in.

The *World Organization of Jews from Arab Countries' (WOJAC)* estimated that Jews and Jewish communities displaced from Arab countries left behind *"assets valued today at more than $300 billion"* in 2007 prices. According to Prof. Heskel M. Haddad, President of WOJAC, the New York-based organization has decades-old property deeds of Jews from Arab countries on a total area of 100,000 sq.km., which is five times the size of the State of Israel. Most of the properties are located in Iraq, Egypt and Morocco. (Lefkovits)

There are also other estimates of losses for particular countries. For example:

IRAQ

The case of Iraq's Jews is particularly noteworthy in light of its long history and the vast economic holdings that were confiscated from them. It is difficult to estimate exactly how much was lost: conservative estimates put the figure at $1.2 billion at to-day's USD (Levin 48); other estimates go as high as $20 billion lost. (Millman) The range is as follows:

- According to Yusuf Al-Kabir, a respected member of the Jewish community in Iraq, Jews in Iraq had possessed assets of £90,000,000 (UK). (Gat 94,149) [73]

- According to S.P. Sasson of the Sephardic Association of Tel Aviv, Jews owned £176,150,000 (UK) in land, homes and communal property in Iraq. (Schechtman 105-106)[74]

[73] (Histadrut Archives 14/393), "Summary Report" July 12, 1950, qtd. in Fishbach, Records 410 fn 59

- In 1950, the Israeli government estimated that the Jews of Iraq had assets of near £600,000,000 (UK).[75]

- Ezra Danin, Director of the Foreign Ministry's Middle East Department under Golda Meir in 1951, once estimated at the assets of Iraqi Jews as being $60,000,000 (USD) in land and $5,000,000 (USD) in gold and jewels.[76]

- The Israeli Ministry of Foreign Affairs, citing an internal Iraqi estimate said Jews had 8-9 million Iraqi Dinars equating to £8-9 million (UK).[77]

- The Beirut newspaper *Bayrut* cited figures on January 31, 1951 contained in the Baghdad paper *al-Sha'b*, that Jews in Iraq had £2,000,000 (UK) in land.[78]

SYRIA

- In 1952 the American Embassy at Damascus reported that the president of the remaining Jewish community claimed all Jewish property in Syria that faced restrictions since 1947 was valued at £S15-25,000,000 ($US1-£S3.75).[79]

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[74] *Jewish Chronicle*, June 23, 1950 (qtd. in Fishbach, Records 167,410 fn 60)
[75] ISA (130) 179/1, Kollek to Ehrlich – Feb. 1950 (qtd. in Fishbach, *Records* 169,410 fn 67)
[76] ISA (130) 2387,4/1 Danin to Minister of Finance – June 20, 1951 (qtd. in Fishbach, *Records* 169,410 fn 68)
[77] ISA (130) 2563/2 Middle Eastern Department to Minister of Foreign Affairs – August 14, 1951 (qtd. in Fishbach, *Records* 169,410 fn 69)
[78] ISA (130) 2463/8 Research Department to Bendor – May 15, 1952 (qtd. in Fishbach, *Records* 169,410 fn 70)
[79] Levin qtd. in Fishbach, *Records* 171,410 fn 81

EGYPT

- One estimate said that the Jews that were displaced from Egypt left behind assets worth £24,200,000 (Schechtman 203-205)

- Another estimate put the value of Jewish communal-owned property in Egypt; e.g. hospitals, synagogues, religious schools, cemeteries; etc. as well as individual claims at "$550 million in 2007 dollars." (Zabludoff 2)

LIBYA

- In 1973, the Jews of Libya Association valued the losses of the Libyan Jewish community at £110,000,000-120,000,000. ("Letter" January 10, 1973)

There are no UN, or other precise figures on assets lost by the Jewish refugees from the Middle East and North Africa. The most recent, and comprehensive study was conducted by Sidney Zabludoff, an international economist who worked at the CIA, White House, and Treasury Department. From his analysis of all records, the minimal amount required to compensate Jewish refugees for all their losses would be $700 million at period prices. In 2007 prices, this amount would total $6 billion. (Zabludoff, *Rhetoric* 2)

III) Financial Losses: Comparisons and Contrasts

Both groups of refugees – Palestinians and Jews - are eligible for, and have asserted their rights to compensation. The Palestinian claim is based primarily on UN Resolution 194(III), which states: *"compensation should be paid for the property of those choosing not to return and for loss or damage to property."* No similar UN resolution recognized these same rights for Jewish refugees from Arab countries, notwithstanding the fact that restitution of property and compensation for lost opportunities are primary components of the rights of refugees.

Subsequently, annual UN resolutions on the Middle East refer to the Palestinians' right to compensation. There are no such resolutions with respect to property rights of Jews displaced from Arab countries.

Of note is the fact is that Israel has already paid substantial sums to Palestinian refugees through their contributions to UNRWA. From 1950-1974, Israel contributed $5,015,220 which is only surpassed by Egypt ($5,393,000) and Saudi Arabia ($5,483,656). By contrast, Israel has provided 47% more than both Jordan ($3,396,332) and Kuwait ($3,382,860). (Roumani, *The Case* 56)

More recent figures reveal this ironic disparity more clearly. From 1950-1983, the Arab states together contributed a total of 136.7 million (7%) of UNRWA's budget, while the

United States alone gave $1,067.4 million (43%). Israel's total contribution for that time was $11.2 million. This is more than the sum contributed by the vast majority of Arab countries except for Saudi Arabia ($59.8 million); Libya ($17.9 million); and Kuwait ($16.3 million). (Ministerial 4)

No Arab state has made comparable contributions, directly or indirectly, to provide protection and support services for displaced Jewish refugees from Arab countries.

Another important distinction lies in the fact that while both Palestinian and Jewish refugees suffered individual losses – homes, businesses, assets; etc.- Jews alone lost extensive communal assets in some ten Arab countries – synagogues, hospitals, schools, social clubs, libraries, ritual buildings, cemeteries, etc.

Zabludoff's assessment concludes that Jewish refugees from Arab countries suffered significantly greater losses ($6 billion) that Palestinian refugees ($3.6 billion). (Zabludoff 2) If true, as they still remain estimates, this disparity could be attributable to a number of factors;

1) Jews had higher per capita assets than others, as most Jews lived in urban areas and held a large share of the professional jobs. The same demographic structure existed in virtually all countries of the Middle East and North Africa. For example, while Jews made up only three percent (3%) of the Iraqi population in 1948, they accounted for 20 percent of the population of Baghdad. The Palestinian population, as a whole, was more rural dwelling. (Zabludoff 2)

2) Calculations for Jews refugees include both communal and individual assets while the Palestinians' figure includes only lost individual assets.

IV) CLOSING COMMENT

In the past, there have been modest attempts, on both sides, to deal with losses and the issue of compensation. For example, in 1948, Israel agreed to provide modest compensation to individual Palestinians. Through to 1975, the Israeli government paid out more than 23 million Israeli pounds to more than 11,000 Palestinian claimants. (Bard *Myths* 11)

Additionally, between 1953-1959, under a process initiated by the UNCCP, Israel returned more than 90% of blocked Palestinian bank accounts – including safety deposit boxes, with the remaining accounts unblocked during the early 1960s. (Fishbach, *Records* 198-209)

There also were a few cases where Jewish property was restored. Many years ago, Egypt did pay some compensation claims for nationalized Jewish property, mainly to Jews who had British or French citizenship. An undisclosed sum was paid in 2007 to a French-Egyptian-Jewish family for a hotel in Alexandria that the Nasser regime seized in 1952. In the case of Algeria, refugees who fled to France after independence in 1962 - including Jews - received resettlement support. (Zabludoff 3)

At present, there is little evidence to suggest that Israel will agree to pay direct compensation for all individual Palestinian claims of losses. Similarly, it is unlikely that the 10 Arab countries involved would agree to pay direct compensation – for all individual and communal Jewish claims of losses.

CHAPTER 4

THE UNITED NATIONS AND MIDDLE EAST REFUGEES

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I) MANDATE

A) Historical Overview

The status and fate of Palestine became a concern for the international community towards the end of the First World War with the disintegration of the Turkish Ottoman Empire. Palestine was among the several former Ottoman Muslim territories that were placed under the administration of Great Britain under the Mandates System adopted by the League of Nations. ("Covenant" Art.22)

When the United Nations was founded on October 24, 1945, the territory of Palestine was still being administered by Great Britain under the 1922 League of Nations mandate. By 1947, faced with escalating violence, and in frustration, Great Britain turned the problem over to the United Nations.

At the first special session of the General Assembly, which began on April 28, 1947, a special Committee on Palestine was established. Five Arab countries—Egypt, Iraq, Lebanon, Saudi Arabia and Syria—tried to include on its agenda an item that would address *"the termination of the Mandate over Palestine and the declaration of its independence."* The Jewish case was presented by the Jewish Agency for Palestine, while the Arab Higher Committee spoke for the Palestinian Arabs. (UN. "The Origins" 115)

At this special session in 1947, the Assembly established the United Nations Special Committee on Palestine (UNSCOP), made up of 11 Member States, to investigate all questions relevant to the problem of Palestine and to recommend solutions to be considered by the General Assembly at its next session, then scheduled for September, 1947. During the course of its investigations, Jewish organizations cooperated with UNSCOP while the Palestinian leadership in the Arab Higher Committee decided not to participate. (UN. "The Origins" 2)

After looking at various recommendations proffered by UNSCOP, the UN proposed, through UN Resolution 181 of 1947, the partitioning of Palestine into two independent States, one Arab and the other Jewish. One of the two states envisaged in the Partition Plan, Israel, proclaimed its independence in 1948. The Palestinians did not. They, along with other Arab countries, rejected the UN Partition Plan and attacked the newly proclaimed State of Israel. (UN. "Palestine Problem.")

This conflict precipitated an upheaval in the region, affecting both Arabs and Jews. All parties must assume some of the responsibility: for the subsequent mass displacement of Palestinians from what is to-day Israel and Jews in Arab countries; and for the resultant unresolved issues surrounding the rights of both Palestinian and Jewish refugees.

B) Criteria to Determine Treatment of Middle East Refugees

As noted previously, both Palestinian and Jewish refugees were determined to be *bona fide* refugees by agencies of the United Nations, the former covered by UNRWA and the latter by the UNHCR. There is no Statute of Limitations on the rights of refugees. Therefore, under international law, both refugee populations still retain rights, albeit each according to different internationally accepted definitions and statutes. Both refugee populations still maintain legitimate claims to right and redress.

As far as the United Nations was concerned, the symmetry ends there. There was no equity in the UN's response, nor any comparable international action, to alleviate the respective plights of Palestinian refugees displaced from Palestine/Israel and Jewish refugees from Arab countries.

The following three criteria were used to determine the nature and extent of any differing response, by the United Nations, to the plight of both Palestinian and Jewish refugees.

United Nations Resolutions

Resolutions of the United Nations, either binding or non-binding, reflect the views of the international community in a variety of important ways:

1) They reveal the priorities and preoccupations of the UN at that point in history;

2) They reflect the thinking of the majority of nations on the seminal issues of the day; and

3) They become the consensus – indeed the policy – of the international community on the priority concerns, as advanced through the United Nations.

Comparing the number of resolutions adopted by the United Nations (since its founding in 1946) on Palestinian refugees and Jewish refugees would illuminate any differing priority, and concern, that the international community attached to the respective plights of Palestinian and Jewish refugees.

United Nations Agencies

If UN resolutions reflect policies and priorities, then the involvement of UN agencies reflect the implementation and follow up on these concerns.

The adoption of UN resolutions provide legitimacy, and a mandate for action, particularly in response to international events. It is then that the relevant UN agency or agencies are called upon to implement the will of the international community.

Therefore, comparing and contrasting the involvement of UN agencies would reveal whether there were any differing UN responses to the respective plights of Palestinian and Jewish refugees.

United Nations Resources

If UN resolutions reflect priorities and policies; and the involvement of UN agencies reflect the UN's mandate for follow up; then the provision of financial assistance to UN agencies are the means with which the UN agency can implement the will of the international community. With due respect to all the lofty principles and ideals enunciated in innumerable UN resolutions, without the provision of financial resources, no UN agency will have the means to act.

Therefore, comparing and contrasting the financial resources provided to UN agencies would reveal whether there was any differential treatment in the allocations of UN resources to respond to the needs of both Palestinian and Jewish refugees.

These three critical criteria: UN Resolutions (policy); Agencies (UN involvement); and UN Resources (implementation) will now be used to assess the response of the United Nations to the two Middle East refugee populations.

II) SECURITY COUNCIL

The **United Nations Security Council** (**UNSC**) is one of the principal organs of the United Nations. The UNSC is charged with the maintenance of international peace and security. Its powers, outlined in the United Nations Charter, include the establishment of

peacekeeping operations; the implementation of international sanctions, and the authorization of military action. (UN. Security Council. "Powers")

In addition to the Security Council's five permanent members – the United States, the Russian Federation, the United Kingdom, France and China – ten non-permanent members from Regional Groups are elected by the General Assembly for staggering, two-year terms. (Berg-Andersson)

Its powers are exercised through UN Security Council Resolutions and they are significant. For example, under Chapter Six of the UN Charter: "Pacific Settlement of Disputes," the Security Council *"may investigate any dispute or any situation which might lead to international friction or give rise to a dispute*." The Council may *"recommend appropriate procedures or methods of adjustment"* if it determines that the situation might endanger international peace and security. These recommendations are not binding on UN members.

However, under Chapter Seven, the Council has broader power to decide what measures are to be taken in situations involving *"threats to the peace, breaches of the peace, or acts of aggression*." In such situations, the Council is not limited to recommendations but may take action, including the use of armed force *"to maintain or restore international peace and security."* This was the basis for UN armed action in Iraq and Kuwait in 1991. Decisions taken under Chapter Seven, such as economic sanctions, are binding on UN members.

The Security Council is the most powerful UN entity dealing with every major world crisis – from politics to peacekeeping; from wars to the environment. It is instructive to note how much of the Security Council's time was devoted to dealing with the various issues that arose as a result of the Middle East conflict.

Since its inception, the Security Council has been seminally involved in Middle East Affairs. From 1946 – 2009 inclusive, the total number of Security Council resolutions on the Middle East in general, and on Palestinian and Jewish refugees in particular, is as follows:[80]

UN BODY	RESOLUTIONS ON MIDDLE EAST	RESOLUTIONS ON PALES. REFUGEES	RESOLUTIONS ON JEWISH REFUGEES
SECURITY COUNCIL	**288**	**9**	**0**

Table 6. UN SC Resolutions on Middle East Refugees

UN Security Council resolutions on the Middle East have dealt with the following topics: (UN. "UNISPAL")

1) **Palestine Refugees - 9 resolutions** – including the seminal UN resolution 242 calling for a *"just settlement"* to the problem of refugees;

2) **Jerusalem – 9 resolutions –** including situation reports on the status of the Holy City;

[80] Analysis derived from United Nations Information System on the Question of Palestine, General Assembly Resolutions, 1-27. See Appendix A: *Security Council Resolutions on the Middle East*

3) **Occupied Territories - 18 resolutions -** including situation reports and updates on settlements;

4) **Human Rights – 4 resolutions** – including matters relating to displaced persons and the protection of civilians, particularly women and children;

5) **PLO/ Palestine Question - 7 resolutions** – including the problem of security; two state solution; the "Road Map"; and the efforts of the Quartet;

6) **UN Mediator - 52 resolutions** – including situation reports on Palestine and the Middle East (including Hostilities and Observer reports); Calls for Cease-Fire, Armistice and/or Truce; Issues of Water; Disengagement; and the developing of a UN Force;

7) **Lebanon - 102 resolutions** – including situation reports on Lebanon (e.g. war, hijackings and assassinations); the United Nations Interim Force in Lebanon (UNIFIL); and events in Beirut;

8) **Golan -3 resolutions** – including situation updates and Lake Tiberius;

9) **UN Business Related to the Middle East -17 resolutions -**including applications for PLO-UN Membership; Reports, tributes and eulogies of officials and/or VIPs; emergency Sessions; reports on attacks and other criminal matters; Holy Places; and

reports on expulsions of Palestinian officials;

10) **Peace Keeping / Observers** – **62 resolutions** – including matters relating to the United Nations Disengagement Observer Force (UNDOF); and

11) **International Law / Terrorism - 5 resolutions** – including matters relating to hostilities; the attack on Iraq nuclear installation; the attack on PLO Headquarters; hostage-taking; and non-proliferation.

The primary preoccupation of the Security Council, by far, among all the other Middle East problem areas, was Lebanon. Out of a total of 288 resolutions, 102 of them dealt with the numerous crises in Lebanon. Well behind were "peacekeeping/observers – 62 Resolutions; and UN Mediators 52 Resolutions. Well back is the issue of Palestinian refugees with 9 Resolutions, not a predominant number, but still dealt with by the UNSC. During this same period, there was not one resolution specifically on Jewish refugees from Arab countries.

III) GENERAL ASSEMBLY

The UN General Assembly (UNGA), established in 1945 under the Charter of the United Nations, also occupies a central position as the chief deliberative, policymaking and representative organ of the United Nations. Comprising all 192 Members of the United

Nations, it provides a unique forum for multilateral discussion of any and all international issues.

It also plays a significant role in the process of standard-setting and the codification of international law. While the Assembly is empowered to make only non-binding recommendation to States, it has, nonetheless, initiated actions - political, economic, humanitarian, social and legal - which have affected the lives of millions of people throughout the world. (UN. General Assembly, "Charter" Ch.3 Art.7)

In comparison the UN Security Council, the General Assembly, focused much greater attention on the issue of Palestinian refugees. In fact, there were more General Assembly resolutions on Palestinian refugees - some 20 % - than on any other Middle East issue.

UN BODY	RESOLUTIONS ON MIDDLE EAST	RESOLUTIONS ON PALES. REFUGEES	RESOLUTIONS ON JEWISH REFUGEES
GENERAL ASSEMBLY	**800**	**163**	**0**

Table 7. UN GA Resolutions on Middle East Refugees

UN General Assembly Resolutions dealt with the following topics: (UN. "UNISPAL")[81]

1) **<u>Palestine Refugees</u>** (**163**) –The following topics were addressed in these Resolutions:

- Assistance to the Palestine refugees
- Palestinian refugees – displaced persons
- UNRWA-related refugee matters including reports and activities

[81] See Appendix B: *General Assembly Resolutions on the Middle East*

- UNRWA Funding and/or Operations
- Refugees' Property
- Palestinian refugee children
- Displaced Persons

2) <u>PLO/ Palestine Question</u> (121) – The following topics were addressed in these Resolutions:

- Assistance to the Palestine people
- Peaceful settlement
- Problem of Security
- Two State Solution
- "Road Map"
- Quartet Efforts

3) <u>Jerusalem</u> (22) – The following topics were addressed in these Resolutions:

- Situation reports on the city
- International Regime
- Excavations & Holy Places
- Financing

4) <u>Occupied Territories</u> (76) – The following topics were addressed in these Resolutions:

- Sovereignty over natural resources
- Situation reports/updates
- Economic development
- Israeli practices
- 'Separation Wall'
- Military action in Gaza
- Matters regarding settlements
- Deportation of Mayor

5) <u>Human Rights</u> (113) – The following topics were addressed in these Resolutions:

- Right of self-determination
- Matters relating to displaced persons

- Israeli practices
- Human rights cases
- Commemorations
- Voting issues

6) <u>Lebanon</u> (16) – The following topics were addressed in these Resolutions:

- Matters related to reconstruction & development
- Situation in Lebanon

7) <u>Middle East Situation/UNEF</u> (149) – The following topics were addressed in these Resolutions:

- Emergency Sessions
- UNEF financing
- Definition of *aggression*
- Nuclear weapons and weapon-free zones
- Cooperation and Committees

8) <u>Golan</u> (18) – The following topics were addressed in these Resolutions:

- Situation updates
- Special Committee to Investigate Israeli Practices

9) <u>General & Other UN Business Related to the Middle East</u> (38) – The following topics were addressed in these Resolutions::

- Administrative issues
- Applications for UN Membership
- "Uniting for Peace"
- Special projects

10) <u>Peace Keeping / Observers</u> (62) – The following topics were addressed in these Resolutions:

- Matters relating to the United Nations Disengagement Observer Force (UNDOF)
- UNDOF, UNEF II/Financing

11) <u>International Law / Terrorism</u> (22) – The following topics were addressed in these Resolutions:

- Measures to prevent international terrorism
- Discrimination
- Mediterranean security

In total, there have been 1089 General Assembly and Security Council resolutions dealing with virtually every aspect of the Middle East and the Arab Israeli conflict. Among those numbers – there were a total of 172 resolutions on Palestinian refugees - just under 16% of all resolutions. (UN. "UNISPAL")[82]

UN BODY	RESOLUTIONS ON MIDDLE EAST	RESOLUTIONS ON PALESTINIAN REFUGEES	RESOLUTIONS ON JEWISH REFUGEES
TOTALS	1088	172	0

Table 8. Total UN SC & GA Resolutions on Middle East Refugees

In reviewing all of these Security Council and the General Assembly Resolutions, it has been determined that there were no UN Resolutions ever adopted – by either body – specifically addressing the issue of Jewish refugees, nor any resolutions on other topics that even mention Jewish refugees from Arab countries.

The United Nations cannot claim ignorance about the problems Jews faced by Jews resident in, and fleeing from, Arab countries. The fact that there is not one recorded UN

[82] United Nations Information System on the Question of Palestine, General Assembly Resolutions, 1-27. As of December 2009

Security Council or General Assembly resolution on Jewish refugees is not due to a lack of trying.

On numerous occasions, governmental and non-governmental officials alerted the United Nations, its leadership and affiliated agencies to the problem of Jewish refugees and sought its intervention. The following is not a comprehensive listing of all such representations, but are provided merely as examples of the types of representations that were made to the UN and by whom.

On March 2, 1955, *The International League for the Rights of Man,* a non-Jewish organization, issued a press release stating that "*The Egyptian Government will suffer in world opinion for their vindictive judgment in hanging two Jews accused of 'Zionist espionage',…the explanation for such severity is to be found not in the trial record but in politics."*

On November 27th and 30th, 1956, then-Israeli Minister of Foreign Affairs Golda Meir wrote two letters to the UN Secretary General "*regarding the action taken by the Egyptian Government against the Jewish Community in Egypt."* (UN. General Assembly. "Eleventh" Agenda Item 66)

On December 21, 1956, Henry Cabot Lodge, Jr., the U.S. Representative to the U.N., stated that he shares "*concern about reports of the plight of Jews in Egypt."* The US made a statement expressing its concern from the rostrum of the UN General Assembly in order to put the US on record as *"abhorring such practices as have been alleged."* (Matas 166)

On January 11th, 1957, Philip Klutznick, on behalf of the Coordinating Board of Jewish Organizations, wrote to UN Secretary General Dag Hammarskjold, urging him to use his, "*good offices to induce the Government of Egypt to desist from the prosecution of a policy… to bring total ruin to the old-established Jewish community of Egypt."* (Klutznick *Coordinating Board*)

Arab delegates to the UN also spoke of Jews from Arab countries, but only to reaffirm their Government's view that Jews were being well treated in their respective countries and that it was Israel that was guilty of misconduct. For example:

On Wednesday, 13 November 1974, at the 29th Session of the UN General Assembly, Israel's Ambassador to the UN Mr. Tekoah expressed concern about Jews remaining in Syria. In response Mr. KELANI (Syrian Arab Republic), in referring to Ambassador Tekoah's statement, responded that: (Official translation from Arabic*): "He has also not forgotten to speak of the Jews in Syria. In the Syrian Arab Republic the Jews are treated*

as Syrian citizens, and his interference in this connexion should be rejected in form and substance" (UN. General Plenary A/PV.2283)

In deliberations on Palestine, the Ambassadors of both Italy and Iraq spoke of Jews in Arab countries. Held in New York on Monday, January 19, 1976, the following speeches were recorded:

> Mr. VINCI (Italy): The access to independence and sovereignty of a number of countries in the area was followed by the creation of the State of Israel, which met strong opposition and counteraction from the neighboring States, old and new. What accompanied or came after this event was, on one side, a voluntary migration of Jews from nearly all parts of the world towards Israel and, on the other side, non-voluntary movements of populations; a flow of Arabs from the newly formed State of Israel towards neighboring countries and another one later towards Israel of Jewish refugees from the Arab countries in the Middle East and North Africa. (U.N. Security Council. S/PV.1876)
>
> Mr. AL-SHAIKHLY (Iraq): Nothing was more galling to the Zionists and more damaging to their cause than the refusal of the Jews in Arab lands to be "redeemed" by the Zionists. Furthermore, the Zionists had to find an excuse for their refusal to allow the return of the Palestinian refugees. They had to force into effect a so-called exchange of population. (UN. Security Council. S/PV.1876)

Mr. SALLAM (Yemen Arab Republic). "*The Yemen Arab Republic has more than once declared that it would welcome the return of its Yemeni Jewish brothers who left Yemen during 1947-1948 to join the herds of Jews to be sacrificed by intransigent international Zionism on the altar of the 'big lie', the Zionist empire."* (UN. Security Council. S/PV.1876)

On October 10, 1977, then-Israeli Minister of Foreign Affairs Moshe Dayan addressed the 32nd Session of the UN General Assembly and spoke forcefully on the discriminatory

treatment of Jews in Arab countries. This was following up by a statement from Mordechai Ben Porat, Israeli Cabinet Minister, to the General Assembly on Dec. 13, 1977 wherein he spoke as a Jewish refugees from Iraq. He spoke of his first hand experience – "*I know the trials and tribulations of persecution and humiliation, of deprivation of human rights, property and belongings, and finally of expulsion."* [83]

On December 3rd, 1979, then-Israeli Ambassador Yehuda Blum delivered a speech to the UN during which he described the "*dramatic worsening in the attitude of (and treatment by) Syrian authorities towards its Jewish community."* [84]

In a letter dated November 17, 1980 to the UN Secretary General, Yehuda Z. Blum, the Permanent Representative of Israel to the United Nations, "raised the issue of Jews from Arab countries and the letter and its enclosure were be circulated as an official document of the General Assembly. The enclosure included Section F. *Abandoned Jewish Land and Property in Arab Countries.* (UN. General Assembly. "Thirty-fifty session" Items 26 and 91)

On October 28, 1987, Israeli Ambassador David Ramin, in speaking in the Special Political Committee on UNRWA's Report asserted: *"There were no deliberations in the*

[83] Israeli Government's response to draft resolutions A, B, C, D and F as recorded in documents a/SPC/32/SR21, paragraph 18; SR22, paragraphs 4 and 22; and SR24, paragraph 5.
[84] American Jewish Committee Archives, WOJAC files, Document # 61, page 7.

United Nations about the plight of Jewish refugees. No relief agencies were established by the Organization to help in their rehabilitation. (WOJAC. "From the Roster")

Most recently, on Dec. 2, 2003 Ambassador Dan Gillerman, Israel's Permanent Representative to the United Nations, in reference to Agenda Item 37: The Situation in the Middle East, spoke *of "the systematic persecution of Jews in Arab countries."* In his closing remarks, he asserted that: *"No comprehensive Middle East peace settlement can be reached without recognition of, and redress for, the legitimate rights Jews displaced from Arab countries."* (UN. General Assembly. "Question" A/58/PV66).

The numerous other formal and informal representations could not prompt the United Nations to specifically address, by resolution, the plight and flight of Jews from Arab countries.

There are some, particularly among the diplomatic community, who contend that there are a number of seminal UN resolutions on the Middle East that could pertain to - and indeed may have been intended to address - the issue of Jewish refugees.

The following is a synopsis of the most pertinent UN resolutions on the Middle East that had a significant impact on both Palestinians and Jews:

UN Resolution 181: The resolution of the General Assembly to partition Palestine, identified as was adopted by the General Assembly on Nov. 29, 1947.

The Resolution recommended:

> To the United Kingdom, as the Mandatory Power, and to all other Members of the United Nations the adoption and implementation, with regard to the future government of Palestine, of the Plan of Partition with Economic Union ... requesting the Security Council to 'undertake the necessary measures as provided in the plan for its implementation' …

Palestine was to be divided into an un-named "Jewish State" and an un-named "Arab State." Great Britain was to withdraw its presence by August 1, 1948; however, making available by February 1, 1948 to the Jewish State, an area including a seaport to facilitate *"substantial immigration."* During the transitional period, beginning in November 1947, the United Nations would progressively take over the administration in the entire territory, to be exercised through a Commission, and power handed over to the two States on the day of independence, not later than October 1, 1948. The two States were to be linked in an economic union. (UN. "The Origins")

The resolution was not without controversy as many Arab and Muslim states voted against the Partition Plan including: Afghanistan, Egypt, Iran, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria, Turkey, Yemen. (Others voting against were Cuba, Greece and India). The Arab States declared that they would not consider themselves bound by the

General Assembly recommendation since they considered that it was contrary to the United Nations Charter. (UN. "The Origins")

UN Resolution 194 (III): On December 11th, 1948, the General Assembly adopted resolution 194 (III) that was destined to be one of the cornerstones of the Middle East peace negotiations. It consists of 15 paragraphs, one of which, as noted earlier, deals with the subject of refugees. In part, paragraph 11 states that *"refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that those choosing not to return should be compensated for their property."* Resolution 194 (III) also provided for the establishment of a three-member United Nations Conciliation Commission for Palestine (UNCCP), that was instructed to assist the parties in achieving a final settlement on all outstanding questions and to facilitate the refugees' repatriation, resettlement and economic and social rehabilitation.

All Arab members of the UN at the time – Egypt, Iraq, Lebanon, Saudi Arabia, Syria and Yemen – voted against the resolution (as did Israel). To-day, many Arab states and Palestinian official cite Resolution 194 as the legal basis for a Palestinian right of return.

UN Resolution 302 (IV): On December 8th, 1949, the UN General Assembly adopted Resolution 302 (IV) that established the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) as a *'temporary specialized Agency'*.

UNRWA's mandate, which is to provide relief, educational, health and social services to Palestinian refugees, has been renewed every three years since 1949.

UN Resolution 237 (1967)**:** After hostilities broke out in 1967 between Israel and Egypt, Jordan and Syria, and a subsequent cease-fire was secured, the UN Security Council adopted Resolution 237 on June 14th, 1967. This Resolution:

> Calls upon the Government of Israel to ensure the safety, welfare and security of the inhabitants of the areas where military operations have taken place and to facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities.

The Resolution also:

> Recommends to the Governments concerned (i.e. not only Israel) the scrupulous respect of the humanitarian principles governing the treatment of prisoners of war and the protection of civilian persons in time of war contained in the Geneva Conventions of 12 August 1949.

The Geneva Convention defines protected persons as *"those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals."* (Article 4)

This definition clearly could apply to both Palestinians in Israel and Jews in Arab countries, many of whom were never granted citizenship in the countries where they lived.

It was clear that, after this latest Middle East conflict in 1967, the predominant concern of the UN was for the safety of Palestinian refugees. However, UN Resolution 237 can appropriately be cited as the first acknowledgement, by the United Nations, of the plight of Jews in Arab countries.

Then-UN Secretary-General U Thant sent his special representative, Nils-Goran Gussing, to the region. In outlining Mr. Gussing's mandate, the Secretary General stated expressly that the provisions of UN Resolution 237:

> Might properly be interpreted as having application to the treatment, at the time of the recent war and as a result of that war, of both Arab and Jewish persons in the States which are directly concerned because of their participation in that war. (UN. General Assembly A/6797)

No mention of Jewish refugees but a reference to "Jewish persons," civilians who may require protection in time of war.

In an important precedent, Mr. Gussing, who went to the Middle East to determine Israel's compliance with Security Council resolution 237, also sought to address the plight of Jews in Arab countries.

On August 17, 1967, Mr. Gussing sent letters to the Governments of Syria and Egypt, requesting a written report on *"the treatment and protection of Jewish persons"* in those countries. He stressed that it would be "*particularly helpful*" to know :

> How the personal and property rights of such persons had been affected by the recent (1967) war, how many of them might have been, and continued to be, confined and for what reason, and whether they were free to leave the country in which they are resident.

He sent a similar letter to Israel about the status of Arabs in occupied areas. (UN. General Assembly A/6797 Art.214)

On September 15, 1967, Mr. Gussing submitted his report to the UN that included a section on "The Question of the Treatment of Minorities." Mr. Gussing reported to the UN General Assembly on his August 29, 1967 visit to Damascus where he discussed the problem of Syrian Jewry with Government officials *"at some length*." He was told that the Syrian Government *"welcomed the chance*" to assure the Special Representative that the Jewish minority in Syria were treated in exactly the same way as other citizens. (UN. General Assembly A/6797 Art.221)

With respect to Egypt, Mr. Gussing reported that he had been rebuffed by government officials in his efforts to determine the condition of Jews in Egypt since the six day June war. He further reported that the Egyptian Government *" expressed the firm opinion that the Security Council resolution (237) did not apply to the Jewish minority"* in Egypt. Nonetheless, Mr. Gussing reported on *"persistent allegations that 500-600 Jews had been kept in detention since the beginning of the war..."* In his remarks to the General

Assembly, Mr. Gussing also referred to reports that, *"the property of the Jews in Cairo had been confiscated."* (UN. General Assembly A/6797 Art.218)

Therefore, the United Nations was aware of allegations of the violations of the rights of Jews from Egypt and Syria. However, whatever concern for Jewish refugees that might have been evidenced as a result of resolution 237 was short-lived.

One year later, in 1968, the U.N. passed resolution 259, which recalled *"its resolution 237 (1967) of 14 June 1967,"* albeit with a significant change in language. Now the UN was only concerned with: "*the safety, welfare and security of the inhabitants of the Arab territories under military occupation by Israel."*

The Resolution makes no mention of the treatment of minorities in Arab countries. It also redirects UN attention solely to the treatment of the inhabitants of the Arab territories occupied by Israel, as it: "*Requests the Secretary-General urgently to dispatch a Special Representative to the Arab territories under military occupation by Israel following the hostilities of 5 June 1967, and to report on the implementation of resolution 237 (1967)"*

No reference, as in the original Resolution 237, to civilians – Jewish or otherwise - caught up in the ravages of war. The concern for Jewish civilians, which had been part of Mr. Gussings' mandate on the implementation of Resolution 237, had now dissipated.

***

The second UN resolution that many contend applies to Jewish refugees is:

UN Resolution 242 (1967):

On November 22nd, 1967, the UN Security Council unanimously adopted, Resolution 242, laying down the principles for a peaceful settlement in the Middle East:

> Withdrawal of Israel armed forces from territories occupied in the recent conflict" and "termination of all claims or states of belligerency and respect for an acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force.

Resolution 242, still considered by many as a primary blueprint for resolving the Arab-Israel conflict, stipulates that a comprehensive peace settlement should necessarily include *"a just settlement of the refugee problem."* (Art.2 (b))

Prior to the adoption of Resolution 242, on Thursday, November 16, 1967, the United Kingdom submitted their draft of Resolution 242 [S/8247] to the UN Security Council. The UK version of 242 was not exclusive, and called for a just settlement of *"the refugee problem."* Just four days after the United Kingdom's submission, the Soviet Union's U.N. delegation submitted their own draft of 242 to the Security Council. The Soviet's version of Resolution 242 [S/8253] restricted the *"just settlement"* only to *"Palestinian refugees."* (Para. 3 (c))

On Wednesday, November 22, 1967, the Security Council gathered for its 1382nd meeting in New York. At that time, the United Kingdom's draft of Resolution 242 was voted on and unanimously approved. (UN. Security Council. S/PV.1382; Para. 67) Immediately after the UK's version of 242 was adopted, the Soviet delegation advised the Security Council, that *"it will not insist, at the present stage of our consideration of the situation in the Near East, on a vote on the draft Resolution submitted by the Soviet Union*" which would have limited 242 to Palestinian refugees only. Even so, Ambassador Kuznetsov of the Soviet Union later stated: *"The Soviet Government would have preferred the Security Council to adopt the Soviet draft Resolution…"* (UN. Security Council. S/PV.1382; Para. 117)

Thus the attempt by the Soviets to restrict the *"just settlement of the refugee problem"* merely to "*Palestinian refugees"* was not successful. The adoption, by the UN Security Council of the UK's inclusive version signaled a desire for Resolution 242 to include a *just solution* for all – including Jewish refugees - arising from the Middle East conflict.

Justice Arthur J. Goldberg, the US Ambassador to the United Nations who was instrumental in drafting the unanimously adopted Resolution, (Goldberg. "Transcript" 1-10) told the *New York Times* that the Soviet version of Resolution 242 was *"not even-handed*." (November 21, 1967 B9) He later pointed out that, in referring to the final version of Resolution 242 that was adopted:

> A notable omission in 242 is any reference to Palestinians, a Palestinian state on the West Bank, or the PLO. The Resolution addresses the objective of

> 'achieving a just settlement of the refugee problem.' This language presumably refers both to Arab and Jewish refugees, for about an equal number of each abandoned their homes as a result of the several wars…(Goldberg "Resolution 242")

Therefore, both of these two Security Council Resolutions – 237 and 242 – seem to allude to the issue of Jewish refugees – although never specifically mentioning Jewish refugees *per se.* To his credit, UN Secretary General U Thant was resolute in raising the issue of Jews in Arab countries. During his Introduction to the 1969 Annual Report of the Secretary General, U Thant included the following remarks:

> I share the widely held concern for the plight of another, smaller group of helpless persons. Although I have no direct means of knowing exactly the conditions of life of the small Jewish minorities in certain Arab states, it is clear that, in some cases at least, these minorities would be better off elsewhere and the countries in which they now live would also be better off, given the prevailing circumstances if the departure of those who wish to leave could be sanctioned and arranged, since their continued presence is a source of both internal and international tension. I hope very much, therefore, that it may soon be possible to find sensible ways of solving this largely humanitarian problem. (*UN Monthly Chronicle*. Vol.VI., No.9 83-84)

On a second occasion, in a different venue, the Secretary General again tried to draw attention to the plight of "*small Jewish minorities in some Arab states."* In a June 18, 1970 address delivered by the Secretary General to the Royal Commonwealth Society in London, U Thant stated the following:

> A continuing source of concern, especially since 1967, has been the situation of the small Jewish minorities in some Arab states. After the 1967 war, I approached the Government of the United Arab Republic (Egypt) concerning the Jewish community in the UAR of whom some were imprisoned and other were unable to get exit permits. Eventually, some 1,400 of them were released and, with the help of the Government of Spain, enabled to leave the UAR. My approaches to the Government of Iraq on the question of the Jewish minority in that country has

> been less successful, but my concern continues and I still hope for results. (*UN Monthly Chronicle*, Vol.VII, No.7 128)

It appears that this particular Secretary General, U Thant, tried to exert his leadership in support of the plight of Jews in Arab countries. Yet, the international body he headed, the United Nations, as a whole, never directly addressed the rights of Jewish refugees from Arab countries. Among those rights, the United Nations has discussed at great length, is the issue of 'refugee properties'. There is some basis in international law for this right.

Under the *Geneva Convention for the Protection of Civilians in Times of War*, those fleeing armed conflict can take a reasonable amount with them:

> All protected persons who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, unless their departure is contrary to the national interests of the State... Those persons permitted to leave may provide themselves with the necessary funds for their journey and take with them a reasonable amount of their effects and articles of personal use. (Article 35.)

Though non-nationals fleeing armed combat are allowed to take with them necessary funds and reasonable personal effects, there is nothing in the Geneva Conventions about the transfer of assets, equivalent to that found in the United Nations Convention Relating to the Status of Refugees or the Statute of the Office of the High Commissioner for Refugees. (Article 36.) The Geneva Convention does say: *"Restrictive measures affecting their property (the property of protected persons) shall be cancelled, in accordance with the law of the Detaining Power, as soon as possible after the close of hostilities."* (Article 46.)

As hostilities in the Middle East continue to this day, the obligation under this provision has yet to be implemented. That has not stopped the call to secure compensation and/or reparations for Palestinian refugees. Beginning in 1948, the issue has been addressed at virtually every annual meeting of the General Assembly. These resolutions have progressively expanded the focus of 'refugee properties,' as witnessed by the following chronology:

UN Resolution 194(III): Adopted in 1948, this first resolution referring to "property," in paragraph 11, states that: *"…. compensation should be paid for the property of those choosing not to return and for loss of or damage to property that, under principles of international law or in equity, should be made good by the Governments or authorities responsible."*

UN Resolution 394 (V): On December 14, 1950, the UN General Assembly "*noted with concern*" that *"the repatriation, resettlement, economic and social rehabilitation of the refugees and the payment of compensation have not been effected."* By this resolution, the Assembly:

> Directs the United Nations Conciliation Commission for Palestine to make such arrangements as it may consider necessary for the assessment and payment (emphasis added) of compensation in pursuance of paragraph 11 of General Assembly resolution 194 (III).

UN Resolution 1725 (XVI): Adopted in 1961, this resolution, for the first time, calls upon the United Nations Conciliation Commission:

(b) ."..to intensify its work on the identification and evaluation of Arab refugee's immovable properties in Palestine as at 15 May 1948, and

(c) Requests the Secretary-General to make available to the Commission such additional staff and administrative facilities as may be required;

UN Resolution 36/146 (A-H): It was at the 1981 meetings of the General Assembly that, for the first time, the issue of "Revenues Derived from Palestinian Refugee Properties" was included as a separate section within a UN resolution, in part requesting that:

> *(C) 1...the Secretary-General to take all appropriate steps... for the protection and administration of Arab property, assets and property rights in Israel, and to establish a fund for the receipt of income derived therefrom, on behalf of their rightful owners;….*

Finally, in 1992, the Government of Israel intervened to seek to draw attention to the property rights of Jews displaced from Arab countries. In a June 30, 1992 letter that the Israeli Ambassador to the UN wrote to the UN Secretary General about General *Assembly concerning Resolution 46/46 Article H. The Ambassador contends that:*

> The sponsors of this Resolution have not suggested at any time that similar steps be taken regarding the confiscated Jewish property in Arab countries…The property left behind by these Jewish refugees (estimated to be worth billions of dollars) was expropriated by the Governments of the Arab countries in which they lived. There can be no difference in law, justice or equity between the claims of Arab and Jewish property owners. ("Letter" Israel (222.06))

There was no action taken as a result of this intervention.

UN Resolution 51/129: Beginning in 1996, the issue of "Palestinian Refugees' Properties and their Revenues" became the subject of a separate resolution that has been adopted annually by the General Assembly. Selected articles from this resolution, among other provisions include:

> *"1. Reaffirms that the Palestine Arab refugees are entitled to their property and to the income derived therefrom, in conformity with the principles of justice and equity."*
>
> *"2. Requests the Secretary-General to take all appropriate steps... for the protection of Arab property, assets and property rights in Israel and to preserve and modernize the existing records…"*
>
> *"4. Calls upon all the parties concerned to provide the Secretary-General with any pertinent information in their possession concerning Arab property, assets and property rights in Israel that would assist him in the implementation of the present resolution..."*

With reference to Jewish "refugee properties," the UN, by resolution or otherwise, never affirmed that "*compensation should be paid... by the governments or authorities responsible*," as asserted for Palestinian refugees in UN Resolution 194; never called for *"assessment and payment of compensation" for Jewish property losses*," as asserted for Palestinian refugees in UN Resolution 394; did not call for an "*identification and*

evaluation of ...refugee's immovable properties" in Arab countries, as asserted for Palestinian refugees in UN Resolution 1725; did not ask…"*the Secretary-General to take all appropriate steps... for the protection and administration of...property, assets and property rights*," as asserted for Palestinian refugees in UN Resolution 36/146; nor reaffirm that Jewish refugees, *"be entitled to their property and to the income derived therefrom, in conformity with the principles of justice and equity,"* (as asserted for Palestinian refugees in UN Resolution 51/129.

Currently, in a continuing pattern, there are four UN resolutions adopted annually by huge majorities, reinforcing rights and redress only for Palestinian refugees. They are entitled:

1) "Assistance to Palestinian Refugees"

2) "Persons displaced as a result of the June 1967 and subsequent hostilities"

3) "Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East" and

4) "Palestine refugees' properties and their revenues"

The following is an analysis of Resolutions on Palestinian refugees that were adopted by the United Nations in 2005, 2006, 2007, 2008 and 2009:

UN GENERAL ASSEMBLY RESOLUTIONS 2005				
References	Sixtieth Session Agenda Item 30	Sixtieth Session Agenda Item 30	Sixtieth Session Agenda Item 30	Sixtieth Session Agenda Item 30
Resolution Number	**A/RES/60/100**	**A/RES/60/101**	**A/RES/60/102**	**A/RES/60/103**
Adopted Date:	8 December 2005	8 December 2005	8 December 2005	8 December 2005
Adopted by	General Assembly	General Assembly	General Assembly	General Assembly
Distributed Date	16 January 2006	16 January 2006	16 January 2006	16 January 2006
On Report of	Special Political and Decolonization Committee (Fourth Committee) (A/60/476Committee)	Special Political and Decolonization Committee (Fourth Committee) (A/60/476Committee)	Resolution adopted by the General Assembly [on the report of the Special Political and Decolonization Committee (Fourth Committee) (A/60/476)]	Special Political and Decolonization Committee (Fourth Committee) (A/60/476Committee)
Title	Assistance to Palestinian Refugees	Persons displaced as a result of the June 1967 and subsequent hostilities	Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East	Palestine refugees' properties and their revenues
Annually Renewed/New	Renewed annually	Renewed annually	Renewed annually	Renewed annually
Content	Affirming the imperative of resolving the problem of the Palestine refugees for the achievement of justice and for the achievement of lasting peace in the region; Notes with regret that repatriation or compensation of the refugees...has not yet been effected	Reaffirms the right of all persons displaced as a result of the June 1967 and subsequent hostilities to return to their homes or former places of residence	Aware of the continuing needs of the Palestine refugees throughout the Occupied Palestinian Territory and in the other fields of operation, namely Jordan, Lebanon and the Syrian Arab Republic	Palestine refugees are entitled to their property and to the income derived therefrom, in conformity with the principles of equity and justice

Table 9. "Analysis of Resolutions on Palestinian refugees that were adopted by the UN GA in 2005"

UN GENERAL ASSEMBLY RESOLUTIONS 2006				
References	Sixty-First Session Agenda Item 31	Sixty-first Session Agenda Item 31	Sixty-first Session Agenda Item 31	Sixty-First Session Agenda Item 31
Resolution Number	**A/RES/61/112**	**A/RES/61/113**	**A/RES/61/114**	**A/RES/61/115**
Adopted Date:	14 December 2006	14 December 2006	14 December 2006	14 December 2006
Adopted by	General Assembly	General Assembly	General Assembly	General Assembly
Distributed Date	15 January 2007	15 January 2007	15 January 2007	15 January 2007
On Report of	Special Political and Decolonization Committee (Fourth Committee)	Special Political and Decolonization Committee (Fourth Committee) (A/61/407)]	Special Political and Decolonization Committee (Fourth Committee) (A/61/407)]	Special Political and Decolonization Committee(Fourth Committee) (A/61/407)
Title	Assistance to Palestine refugees	Persons displaced as a result of the June 1967 war and subsequent hostilities	Operations of the UNRWA	Palestine refugees' properties and their revenues
Annually Renewed/New	Renewed annually	Renewed annually	Renewed annually	Renewed annually
Content	Affirming the imperative of resolving the problem of the Palestine refugees for the achievement of justice and for the achievement of lasting peace in the region; Notes with regret that repatriation or compensation of the refugees has not yet been effected	Reaffirms the right of all persons displaced as a result of the June 1967 and subsequent hostilities to return to their homes or former places of residence	Aware of the continuing needs of the Palestine refugees throughout the Occupied Palestinian Territory and in the other fields of operation, namely Jordan, Lebanon and the Syrian Arab Republic	Reaffirms that the Palestine refugees are entitled to their property and to the income derived therefrom, in conformity with the principles of equity and justice

Table 10. "Analysis of Resolutions on Palestinian refugees that were adopted by the UN GA in 2006"

UN GENERAL ASSEMBLY RESOLUTIONS 2007				
References	Sixty-second session Agenda item 32	Sixty-second session Agenda item 32	Sixty-second session Agenda item 32	Sixty-second session Agenda item 32
Resolution Number	**A/RES/62/102**	**A/RES/62/103**	**A/RES/62/104**	**A/RES/62/105**
Adopted Date:	17 December 2007	17 December 2007	17 December 2007	17 December 2007
Adopted by	General Assembly	General Assembly	General Assembly	General Assembly
Distributed Date	10 January 2008	10 January 2008	10 January 2008	10 January 2008
On Report of	Resolution adopted by the General Assembly [on the report of the Special Political and Decolonization Committee (Fourth Committee) (A/62/404)]	Resolution adopted by the General Assembly [on the report of the Special Political and Decolonization Committee (Fourth Committee) (A/62/404)]	Resolution adopted by the General Assembly [on the report of the Special Political and Decolonization Committee (Fourth Committee) (A/62/404)]	Resolution adopted by the General Assembly [on the report of the Special Political and Decolonization Committee (Fourth Committee) (A/62/404)]
Title	Assistance to Palestine refugees	Persons displaced as a result of the June 1967 and subsequent hostilities	Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East	Palestine refugees' properties and their revenues
Annually Renewed/New	Renewed annually	Renewed annually	Renewed annually	Renewed annually
Content	Affirming the imperative of resolving the problem of the Palestine refugees for the achievement of justice and for the achievement of lasting peace in the region; Notes with regret that repatriation or compensation of the refugees...has not yet been effected	Reaffirms the right of all persons displaced as a result of the June 1967 and subsequent hostilities to return to their homes or former places of residence in the territories occupied by Israel since 1967	Aware of the continuing needs of the Palestine refugees throughout the Occupied Palestinian Territory and in the other fields of operation, namely Jordan, Lebanon and the Syrian Arab Republic	Recalling that the Universal Declaration of Human Rights and the principles of international law uphold the principle that no one shall be arbitrarily deprived of his or her property / [Noting] the Land Office had a file of Arab owners and documents defining the location, area and other particulars of Arab property

Table 11. "Analysis of Resolutions on Palestinian refugees that were adopted by the UN GA in 2007"

UN GENERAL ASSEMBLY RESOLUTIONS 2008				
References	Sixty-third session Agenda item 35	Sixty-third session Agenda item 35	Sixty-third session Agenda item 35	Sixty-third session Agenda item 35
Resolution Number	**A/RES/63/91**	**A/RES/63/92**	**A/RES/63/93**	**A/RES/63/94**
Adopted Date:	5 December 2008	5 December 2008	5 December 2008	5 December 2008
Adopted by	General Assembly	General Assembly	General Assembly	General Assembly
Distributed Date	5 March 2009	5 March 2009	5 March 2009	5 March 2009
On Report of	Resolution adopted by the General Assembly [on the report of the Special Political and Decolonization Committee (Fourth Committee) (A/62/400)]	Resolution adopted by the General Assembly [on the report of the Special Political and Decolonization Committee (Fourth Committee) (A/62/400)]	Resolution adopted by the General Assembly [on the report of the Special Political and Decolonization Committee (Fourth Committee) (A/62/400)]	Resolution adopted by the General Assembly [on the report of the Special Political and Decolonization Committee (Fourth Committee) (A/62/400)]
Title	Assistance to Palestine refugees	Persons displaced as a result of the June 1967 and subsequent hostilities	Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East	Palestine refugees' properties and their revenues
Annually Renewed/New	Renewed annually	Renewed annually	Renewed annually	Renewed annually
Content	Affirming the imperative of resolving the problem of the Palestine refugees for the achievement of justice and for the achievement of lasting peace in the region; Notes with regret that repatriation or compensation of the refugees...has not yet been effected	Reaffirms the right of all persons displaced as a result of the June 1967 and subsequent hostilities to return to their homes or former places of residence in the territories occupied by Israel since 1967	Aware of the continuing needs of the Palestine refugees throughout the Occupied Palestinian Territory and in the other fields of operation, namely Jordan, Lebanon and the Syrian Arab Republic	Recalling that the Universal Declaration of Human Rights and the principles of international law uphold the principle that no one shall be arbitrarily deprived of his or her property / [Noting] the Land Office had a file of Arab owners and documents defining the location, area and other particulars of Arab property

Table 12. "Analysis of Resolutions on Palestinian refugees that were adopted by the UN GA in 2008"

UN GENERAL ASSEMBLY RESOLUTIONS 2009				
References	Sixty-fourth session Agenda item 31	Sixty-fourth session Agenda item 31	Sixty-fourth session Agenda item 31	Sixty-fourth session Agenda item 31
Resolution Number	**A/RES/64/87**	**A/RES/64/89**	**A/RES/64/88**	**A/RES/64/90**
Adopted Date:	19 January 2010	19 January 2010	19 January 2010	19 January 2010
Adopted by	General Assembly	General Assembly	General Assembly	General Assembly
Distributed Date	10 December 2009	10 December 2009	10 December 2009	10 December 2009
On Report of	Resolution adopted by the General Assembly [on the report of the Special Political and Decolonization Committee (Fourth Committee) (A/64/405)]	Resolution adopted by the General Assembly [on the report of the Special Political and Decolonization Committee (Fourth Committee) (A/64/405)]	Resolution adopted by the General Assembly [on the report of the Special Political and Decolonization Committee (Fourth Committee) (A/64/405)]	Resolution adopted by the General Assembly [on the report of the Special Political and Decolonization Committee (Fourth Committee) (A/64/405)]
Title	Assistance to Palestine refugees	Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East	Persons displaced as a result of the June 1967 and subsequent hostilities	Palestine refugees' properties and their revenues
Annually Renewed/New	Renewed annually	Renewed annually	Renewed annually	Renewed annually
Content	Affirming the imperative of resolving the problem of the Palestine refugees for the achievement of justice and for the achievement of lasting peace in the region...	Aware of the continuing needs of the Palestine refugees throughout the Occupied Palestinian Territory and in the other fields of operation, namely Jordan, Lebanon and the Syrian Arab Republic...	Reaffirms the right of all persons displaced as a result of the June 1967 and subsequent hostilities to return to their homes or former places of residence in the territories occupied by Israel since 1967	Recalling that the Universal Declaration of Human Rights and the principles of international law uphold the principle that no one shall be arbitrarily deprived of his or her property / [Noting] the Land Office had a file of Arab owners and documents defining the location, area and other particulars of Arab property

Table 13. "Analysis of Resolutions on Palestinian refugees that were adopted by the UN GA in 2009"

IV) THE UN ECONOMIC AND SOCIAL COUNCIL

A) Introduction

The Economic and Social Council (ECOSOC) was established under Chapter 10 of the United Nations Charter as the principal organ to coordinate economic, social, and related work of 14 UN specialized agencies, functional commissions and five regional commissions.

ECOSOC's mandate is delineated in the UN Charter, Article 62 which states, in part:

1) The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly to the Members of the United Nations, and to the specialized agencies concerned.

2) It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.

Based on this mandate, ECOSOC serves as the central forum for discussing international economic and social issues and is responsible for:

- *promoting higher standards of living, full employment, and economic and social progress;*

- *identifying solutions to international economic, social and health problems;*
- *facilitating international cultural and educational cooperation; and*
- *encouraging universal respect for human rights and fundamental freedoms*. (UNECOSOC. "Background")

The Council's purview extends to over 70 per cent of the human and financial resources of the entire UN system. (UNECOSOC. "Background")

The Council's 54 member Governments are elected by the General Assembly for overlapping three-year terms. Seats on the Council are allotted based on geographical representation. The Council holds a four-week substantive session each July, alternating between New York and Geneva. (UNECOSOC. "Background")

B) ECOSOC AND PALESTINIANS

Since 1974, ECOSOC has adopted 122 resolutions on numerous issues affecting the Arab Israeli conflict. An analysis of each of these resolutions on Middle East affairs, and a breakdown by topic, reveals the following:

Issues affecting Women	34 Resolutions
Living Conditions in Occupied Territory	22 Resolutions
Human Rights – Palestinian People	21 Resolutions
Assistance to Palestinian People	15 Resolutions

Israeli Settlements	9 Resolutions
Lebanon	9 Resolutions
All others	12 Resolutions

It is interesting to note that none of these Resolutions utilize the term “Palestinian refugees;” rather, the term “Palestinian people” is utilized. There are no references in any of these Resolutions to “Jewish refugees,” Jews or Jewish people resident in Arab countries.

There is reference in some of these resolutions to Palestinian people who have right to protection under the Fourth Geneva Convention which deals with the ‘treatment of civilians’ in times of war. This same standard of protection should apply to the treatment of Jewish civilians during the numerous Middle East wars, yet this concern is not referred to in any ECOSOC Resolution.

C) ECOSOC AND JEWS IN ARAB COUNTRIES

In carrying out its mandate, ECOSOC consults with academics, business sector representatives and more than 3,200 non-governmental organizations who have consultative status with the ECOSOC. The Department of Economic and Social Affairs, NGO Branch works to strengthen and enhance dialogue between NGOs and the United

Nations to enable NGOs to participate in the economic and social development activities of the organization.

In that context, over the last 60 plus years, there have been a number of Jewish organizations that possessed UN NGO status, and had the right to attend and participate in ECOSOC deliberations (e.g. World Jewish Congress; B'nai B'rith International; World Union for Progressive Judaism, etc.). Over many years, and on numerous occasions, these organizations and others have attempted to place the issue of Jews in Arab countries on the ECOSOC agenda.

Immediately before and after the creation of the state of Israel, the World Jewish Congress tried to raise awareness, and generate action by ECOSOC, to the threat facing Jews in many Arab countries. The WJC initiative was the most serious and sustained effort to have ECOSOC address the plight of Jews displaced from Arab countries.

As noted earlier in Chapter 2 Section B on Jewish refugees, in 1947, the World Jewish Congress revealed that the Arab League, through its Political Committee, prepared a Draft Law that, in effect, called for state sanctioned discrimination against Jews in all of its member states. This law had already been approved by **Egypt, Saudi Arabia and Iraq**, and would *"transform Jews into hostages with whom the State will deal as it pleases."* ("Copy of the Text of Law" WJC)

As a result of this startling revelation, on January 19, 1948, the World Jewish Congress submitted a Memorandum to the Acting President of the U.N. Economic and Social Council, warning ECOSOC that *"all Jews residing in the Near and Middle East face extreme and imminent danger."* The memorandum referred to the above-noted Text of Law Drafted by Political Committee of [the] Arab League which recommended discriminatory treatment against Jewish residents in all Arab League countries. The Memorandum went on to report on recent incidents of violence and other anti-Jewish measures in a variety of Arab and Muslim countries, including Syria, Pakistan, Iran, Bahrain and Aden. Due to the *"extreme urgency"* of this matter, the WJC requested that this matter be placed on *"the agenda of the forthcoming session"* of the U.N. Economic and Social Council, and that it (ECOSOC):"

> Should immediately undertake a study of the situation in all the territories involved in order to make appropriate recommendations to the respective states for the prevention of discrimination against, and possible destruction of, the Jewish communities living in those lands. (UNECOSOC. Doc.E/C.2/75)

A summary of this Memorandum was prepared by ECOSOC and circulated among its UN members(UNECOSOC. Doc. E/C.2/75). Coming, as it did, from the World Jewish Congress, an NGO, it was referred to the Committee for Arrangements for Consultation with Non-Governmental Organizations (NGO Committee). On Feb. 13, 1948, the NGO Committee considered the Memorandum and decided to grant the WJC a Hearing, which took place on Feb. 16, 1948.

Appearing at that Hearing on behalf of the WJC was Rabbi Maurice L. Perlsweig who gave oral testimony and tabled a second Memorandum, detailing the deteriorating situation for Jews in many Arab countries. The World Jewish Congress urged that the Council exercise its powers, under Article 62 of the Charter, to appoint a Committee of Three to:

> Investigate the situation for Jews in Arab countries in order to ascertain what measures, if any, the Governments concerned took to prevent attacks on the Jews in their countries; the nature and extent of the losses of life, rights and property suffered by these Jewish communities; what actions the Governments concerned have taken, or propose to take, to repair the wrongs suffered by the victims and to compensate them for their losses; and whether the Governments have taken, or propose to take, adequate measures for the protection of Jewish residents in their territories against further attacks. ("Report on the Activities" 1-2)

After deliberations, the NGO Committee decided to transmit to the full Council, without recommendations, a summary document (UNECOSOC. Committee on Arrangements E/710) of both the Jan. 19, 1948 and the Feb. 16, 1948 Memoranda from the WJC.

Thereafter, the WJC sent a Feb. 26, 1948 letter to the President of ECOSOC, Dr. Charles H. Malik, (representing Lebanon) accompanied by a third Memorandum which provided up-to-date information to substantiate its statement that, "*the very survival of the Jewish communities in certain Arab and Muslim countries was in serious danger unless preventative action is taken without delay."* The Memorandum cited cases of serious violence, economic discrimination and *"anti-Jewish excesses"* which had occurred in Syria, Lebanon, Iraq, Egypt and Bahrain. The WJC urged the Council "*to take up the*

situation of these Jewish populations as a matter of immediate international concern." ("Report on the Activities" 1-2)

The Economic and Social Council began its session on March 5, 1948 and Item 37 on the agenda, were the Reports of the NOG Committee, appearing as Document E/706, containing a number of recommendations to the Council on Committee matters; and Document E/710 containing the summary of the two WJC Memoranda, containing no recommendations to the Council.

At the March 5, 1948 meeting, Document E/706 was disposed of and it was expected that Document E/710 was to be considered next. However, Dr. Malik, who at the beginning of the session said the agenda item consisted of two documents, now announced that the Council had disposed of all questions referred to it by the NGO Committee where recommendations were contained and that if the Council did not wish to discuss anything else, he would proceed to the next item on the agenda which dealt with quite another matter. None of the delegates present raised any objection and the Council proceeded in a manner proposed by Dr. Malik. (UNECOSOC. Transcript. March 11, 1948.)

The WJC deemed it unacceptable that Document E/710 was dropped through a maneuver on the part of the ECOSOC President and took this question up with officials of ECOSOC, the UN Legal Division and leading Council delegates.

Dr. Malik maintained that he acted in accordance with the rules of the Council. Since the NGO Committee made no recommendations, the matter could be discussed in the Council only if members of the Council so requested. However, as no one had asked for the floor, the matter could not be discussed. Dr. Malik reiterated that he mentioned Document E/710 at the beginning and was not required to refer to it again. ("Report on the Activities" 3)

The World Jewish Congress sent a wire to the Chairman of the NGO Committee with copies to all members of the Council, protesting against the action taken by the President, Dr. Malik, and requesting that the matter be put on the agenda again.

On March 11, 1948, when the Council was ready to resume its deliberations, Mr. Katz-Suchy (Poland) rose on a *"point of order concerning the consideration of Item 37 of the Agenda."* He asked why no action had been taken by the Council on the Report of the NGO Committee - Document E/710, detailing the WJC reports of the human rights violations perpetrated against Jews resident in Arab countries. He claimed that:

> He had been informed that agreement had been reached among the five major Powers not to discuss document E/710 as that would prolong the deliberations of the Council. He had agreed on the assumption that some other organ of the Council would be instructed to act upon the document, or that consideration would be postponed until the seventh session (i.e. the next ECOSOC meeting). According to the summary record, nothing of the sort had happened and he would therefore ask the Council to take a decision now. (UNECOSOC Transcript. March 11, 1948 484)

The President, Dr. Malik, ruled that the discussion of an item of the Agenda which had already been disposed of could only be re-opened by a decision of the Council itself.

Mr. Arutiunian, the delegate from the Union of Soviet Socialist Republics, declared that "*he, as a representative of one of the five Major Powers, knew nothing of any such agreement as has been mentioned by the representative of Poland.* (UNECOSOC Transcript. March 11, 1948 485)

Mr. Mendes France, the delegate from France denied any participation in such an agreement. He did admit that discussions had taken place as to options – postponing the ECOSOC debate; referring the matter to the UN Human Rights Commission; or even the Security Council. He stressed that *"he had not been aware of any agreement among the five Great Powers to withdraw the question from the agenda"* (UNECOSOC Transcript. March 11, 1948 485)

He was joined in voicing concern by Mr. Kaminsky, delegate of the Byelorussian Soviet Socialist Republic, who declared that *"he could not condone a practice whereby items on the agenda were allowed to disappear from the agenda. It is imperative that a decision should be taken upon Document E/710."* (UNECOSOC Transcript. March 11, 1948 485)

A lengthy discussion ensued on procedure, during which time delegates from France, the US and even Mr. Katz-Suchy of Poland – the first to allege irregularities – backtracked and agreed that:

> No procedural accusation could be made against the President. The Council had simply overlooked the document in question, and the concern of the Polish delegation was to make sure that such a thing could not happen in the future. He would therefore like to review the whole question from a procedural point of view. (UNECOSOC Transcript. March 11, 1948 486)

So the WJC concern, and call for ECOSOC action on the "*imminent danger*" facing Jews in Arab countries had reverted to an issue of ECOSOC procedure that should *"not happen in the future."*

It was decided that ECOSOC would not undertake a discussion on the substance of Document E/710 at that time. The following draft resolution was then proposed by the French delegate: "*The Economic and Social Council transmits to the Council NGO Committee the summary record of its discussions of 11 March 1448 with the request that the Committee submit to the Council at its next session whatever recommendations it may deem useful.* The draft resolution was adopted by a vote of 15 – 1 with two abstentions. (UNECOSOC Transcript. March 11, 1948 487)

The lone dissenting vote was cast by the representative of Lebanon – Dr. Malik, who stated that the resolution "*was tantamount to prejudging the issue."* (UNECOSOC Transcript. March 11, 1948 488)

As requested by the Council, the NGO Committee met on June 21 and 22, 1948 and reviewed and reconsidered Document E/710, the summary of the World Jewish Congress

Memoranda that alluded to *"The extreme and imminent danger to Jews residing in the near and Middle East."*

After discussion, the NGO Committee prepared a draft Resolution for the consideration of ECOSOC that, inter alia, made the following assertions:

- *"Decides that it (ECOSOC) has, at the present time, no competence to judge and hence to recommend any useful action on the statement by the World Jewish Congress;*
- *Recognizes however, that the unsettled conditions in Palestine may affect the observance of fundamental rights in Palestine and in some other areas; and*
- *Expresses the hope that Governments and Authorities concerned will not cease to exert whatever efforts are necessary to safeguard the fundamental human rights of individuals and groups of different faiths."* (UNECOSOC. "Report" {E/940} 3)

Six months of WJC efforts had been expended to urge ECOSOC to recognize that Jews were in danger in many Arab and Moslem countries and to act to ensure their protection. The results:

(1) While ECOSOC would claim '*no competence to judge,*" it would not even agree to send emissaries to investigate any allegations;

(2) Jews and Jewish communities were not even specifically referred to but it was rather the plural - *"groups of different faiths"*- that drew the concern of ECOSOC; and lastly,

(3) Arab and Muslim countries were not even referred to as the site of documented violations of rights of Jews. ECOSOC would be concerned about observance of fundamental rights in *"Palestine and in some other areas."*

The NGO Committee *"concluded that it should not make specific recommendations regarding the substance of the consultation (WJC Memorandum) unless specifically requested by the Council."* (UNECOSOC. "Report" {E/940} 4) The NGO Committee apparently did not recall that, by its resolution of March 11, 1948, ECOSOC had indeed asked the NGO Committee to "*submit to the Council, at its next session, whatever recommendations it may deem useful."* (UNECOSOC Resolution No. 133)

D) CONCLUDING COMMENTS

This WJC call for action, and ECOSOC's response, is an interesting case study on the response of one prominent UN Council to the plight of Jewish refugees from Arab countries. It came during a crucial time period in the evolution of the Middle East conflict - right after the UN General Assembly Resolution on the Future Government of Palestine (Partition Resolution) on Novembers 29, 1947; and just before the State of Israel's Proclamation of Independence on May. 14, 1948.

It was a time of heightened tensions – for Arabs and Jews in Palestine as well as in Muslim countries in North Africa, the Middle East and the Gulf region. Both sides were preparing for war. Jewish populations in some ten Arab countries were at risk and their mass displacement had begun.

Many nations were involved in dealing with Jews fleeing from Arab countries. Resources for protection and/or absorption, rehabilitation, or transit services were secured and provided by among other countries, Belgium, the Netherlands, France, Britain, Switzerland, Italy, Greece, Israel, Canada and the United States.

Clearly, the issue of Middle East refugees was an international concern at that time. The WJC deliberated on how best to bring this issue of Jewish refugees from Arab countries to the attention of the UN and its agencies. The WJC representations contained compelling evidence. The discovery of the Draft Text of Law of the Political Committee of the Arab League revealed that Arab countries intended to use their Jewish populations as virtual hostages in their struggle against the State of Israel. Yet, other than one article in the *New York Times*, the issue did not draw any significant attention, nor did it resonate with the UN.

The issue of Jewish refugees from Arab countries was an extremely sensitive, politically contentious issue. Many delegations did not want any UN entity to address this issue. As a result, ECOSOC never formally did during that early period.

To-day, representations continue to be made to ECOSOC by Jewish NGOs, the most active of which has been the World Union for Progressive Judaism (WUPJ). Interventions have generally taken the form of statements made at Council sessions; written submissions circulated to Council members; letters to the Council President and/or other officials; etc. These efforts have not resulted in any resolutions or other ECOSOC action.

V) THE UNITED NATIONS HUMAN RIGHTS COUNCIL (UNHRC)

A) Introduction

The **United Nations Human Rights Council** (UNHRC) is an inter-governmental body that was established by the UN General Assembly. (UN GA Res. 60/251)

The UNHRC's main purpose is to address situations around the world where human rights are violated. The UNHRC has no authority except to make recommendations to the General Assembly. The UNHRC is the successor to the **United Nations Commission on Human Rights** which was established in 1946 as a subsidiary of the UN General Assembly. It was the key United Nations intergovernmental body responsible for human rights until it was replaced by the Human Rights Council in 2006. (UN. "The Human Rights Council")

The United Nations focus on human rights is longstanding. The UN General Assembly adopted the *Universal Declaration of Human Rights* (UDHR) on December 10, 1948 in order to establish *'a common standard of achievement for all peoples and nations"* (UDHR Preamble). The Declaration, for the first time in human history, set out basic civil, political, economic, social and cultural rights that all human beings are entitled to.

The Universal Declaration, together with the subsequently adopted International Covenant on Civil and Political Rights, its two Optional Protocols, and the International Covenant on Economic, Social and Cultural Rights, form the "International Bill of Human Rights." (UNOHCHR. "Fact Sheet No. 2")

At the World Conference on Human Rights in 1993, the United Nations created the Office of the High Commissioner for the Promotion and Protection of Human Rights. (UN GA. Res. 48/141) The mission of the **Office of the High Commissioner for Human Rights (OHCHR)** is to work for the protection of human rights for all peoples.

"In carrying out its mission OHCHR will:

- *Give priority to addressing the most pressing human rights violations, both acute and chronic, particularly those that put life in imminent peril;*
- *Focus attention on those who are at risk and vulnerable on multiple fronts;*
- *Pay equal attention to the realization of civil, cultural, economic, political, and social rights, including the right to development; and*
- *Measure the impact of its work through the substantive benefit that is accrued, through it, to individuals around the world."*

Operationally, the OHCHR works with governments, legislatures, courts, national institutions, regional and international organizations, and the United Nations system to protect human rights in accordance with international norms.

The OHCHR employs some 850 staff based in Geneva and New York and in 11 country offices and seven regional offices around the world. (UNOHCHR "Who We Are")[85] The Office of the High Commissioner is funded from the UN's regular budget and from voluntary contributions from member states, intergovernmental organizations, foundations and individuals, totaling some $200 million in fiscal year 2008-2009. (UNOHCHR. "Funding and Budget")

B) The UN Human Rights Council And Middle East Refugees

The conflict in the Middle East has been on the UN human rights agenda since 1968. During these 41 years, there have been 132 recorded resolutions on the plight of Palestinians, alleging violations of their human rights, and calling for compensation. The breakdown of these resolutions adopted by the UNHRC is as follows:

[85] Figures as of April 2007

1.	Human Rights Violations/Occupied Territories	51
2.	Israeli Settlements	17
3.	Golan Heights	15
4.	HR Commissions of Inquiry/Reports	9
5.	South Lebanon	7
6.	Palestinian Right to Self Determination	7
7.	Gaza Incursion	5
8.	Assault on Beit Hanoun	5
9.	Mid-East Situation	4
10.	Mid East Peace Process	3
11.	Religious and Cultural Right	2
12.	Palestine Question	2
13.	Jenin	2
14.	Assassination of Hamas Leader	1
15.	Right to Food for Palestinians	1
16.	Institution Building for Palestinians	1
TOTAL UN HUMAN RIGHTS RESOLUTIONS		132

Table 14. UN Human Rights Commission/Council Resolutions – By Topic – 1968-2009

During this same period, there were no resolutions on the alleged violations of human rights, nor on the right to compensation, for hundreds of thousands of Jews who were being displaced from some ten Arab countries. As was the case with the UN General Assembly, the Security Council and ECOSOC, the lack of any attention paid to Jewish refugees by the UNHRC was not due to a lack of trying.

The issue of the human rights violations of Jews in Arab countries was brought to the attention of the Human Rights Council, and its predecessor the Human Rights Commission. On numerous occasions, representatives of the government of Israel and accredited non-governmental organizations made representations to the UN Human Rights Commission on the plight of Jewish refugees from Arab countries. The following is a sample listing, by no means comprehensive, is provided as an illustration of the nature, and substance, of such representations.

April, 1957: Statement on the plight of Egyptian Jews made by the Consultative Council of Jewish Organizations on Item 11 of the Agenda of the 13th Session of the Commission of Human Rights (CHR). ("UNHRC "Statement")

February 23, 1968: In a formal statement, the World Jewish Congress expressed an expectation of "balanced" treatment at the CHR: *"The need for urgent action to assist the Arab refugees was obvious; the same need existed in the case of the Jewish minorities."* The WJC requested *"for those who were unable to continue in their present situation to be allowed to leave."* (UNHRC "Sub-Commission")

On 27 February 1968, the CHR adopted its first resolution on the Arab-Israeli conflict, Resolution 6 (XXIV) entitled: "Question of human rights in the territories occupied as a result of hostilities in the Middle East." (UNHCR "Question ")

This resolution is particularly noteworthy because it affirms the right of return for those who have left "*their own country*" as a result of the hostilities that broke out in the region in 1967. In part, this resolution states:

> Recalling resolution 237 (1967), adopted by the Security Council on 14 June 1967, in which the Council considered that essential and inalienable human rights should be respected even during the vicissitudes of war and called upon the Government of Israel, inter alia, to facilitate the return of those inhabitants who had fled the areas of military operations since the outbreak of hostilities…
>
> 1) Affirms the right of all inhabitants who have left since the outbreak of hostilities in the Middle East to return and that the Government concerned should take the necessary measures in order to facilitate the return of those inhabitants to their own country without delay… (UNHCR "Question ")

As described previously, Israel argued at the time that the Secretary-General's report, requested in Security Council Resolution 237, included a reference to Jewish minorities in Arab countries. Indeed the Secretary General agreed and spoke up on the issue. However, the Council reversed itself at the next meeting, the 25th session in 1969, Resolution 259, which refers to *"its resolution 237 (1967) of 14 June 1967,"* restricting the reporting to Israeli actions only, and to territories controlled by Israel.[86]

While affirming "the *right of all the inhabitants who have left since the outbreak of hostilities in the Middle East to return and that the Government concerned should … to facilitate the return of those inhabitants to their own country without delay;* it could be inferred that the UNHRC used generic language that could, conceivably, be applicable to

[86] See previous Chapter 4 on the United Nations

both Palestinians and Jews. However, in utilizing the language of Resolution 259 adopted by the Security Council, the UNHRC, by its title, restricts the applicability of its Resolution 6 (XXIV) only to the "*Question of human rights in the territories occupied as a result of hostilities in the Middle East."* The adoption of this resolution, with 13 in favor, one against (Israel), and 16 abstentions[87], ensured that, henceforth, the UNHRC's singular focus would be on Palestinians in the Occupied Territories.

In a session of the Human Rights Commission held on February 27, 1969, Israeli Ambassador Zeltner raised the issue of the public lynching in Baghdad that had occurred on January 27, 1969. Nine Jews were accused of espionage and were hanged in a central square. Zeltner detailed the Iraqi government's program of discrimination and the mass violations of the human rights of Iraqi Jews and stated: *"The only hope left to the Jews of Iraq is to be authorized to emigrate.* (UNHRC. {Doc.E/CN.4/SR.1009})

Zeltner also stated that *"the situation is no better in the United Arab Republic. Between 1948 and June 1967 the number of Jews fell from 80,000 to 2,500."* After listing Egyptian oppressive measures, he concluded, *"Here again, the only solution for the Jews is to obtain authorization to emigrate."* Regarding Syria, he said that the 2,500 to 3,000 Jews who remained "lived in terror" (UNHRC. {Doc. E/CN.4/SR.1009})

[87] For: India, Iran, Lebanon, Mauritania, Morocco, Nigeria, Pakistan, Poland, Ukrainian SSR, USSR, United Arab Republic [Egypt], Tanzania, Yugoslavia. Abstaining: Chile, Congo, Finland, France, Greece, Guatemala, Italy, Jamaica, New Zealand, Peru, Philippines, United Kingdom, USA, Uruguay, and Venezuela.

In response, representatives of the Arab states tried to deflect the debate with a variety of counter-arguments. The Iraqi representative, Ambassador Afnan, accused Israel of trying to distract the Commission's attention from Israel's *"crimes."* She asserted that the Commission was not competent to examine a question that was a matter only for the Iraqi government. The Egyptian representative, Ambassador Khallaf, contended that the entire debate was procedurally out of order. He said, *"in light of the Commission's decision to confine its attention to the question of the violations of human rights in the territories occupied by Israel, the whole of the statement made by the representative of Israel at the previous meeting was out of order.* (UNHRC. {Doc. E/CN.4/SR.1010})

Moroccan ambassador Kettani, supporting the Egyptian position, said that the Israeli statement "*was quite alien to the agenda"* and inappropriate *"as if the State of Israel was competent to speak on behalf of all Jews throughout the world.* (UNHRC {Doc.E/CN.4/SR.1011}) The Soviet Union also described the Baghdad lynching as *"a purely internal matter."* (UNHRC {Doc. E/CN.4/SR.1011}) The United States representative, Dr. Rita Hauser, stated that the US government:

> Had been deeply shocked, for humanitarian reasons, by the recent execution in Iraq of more than twenty persons, including Jews, Moslems and Christians, on charges of espionage. Of course, any Government could administer justice to its nationals in accordance with its domestic legislation, but it was impossible to remain indifferent to the spectacle of mass public executions which were contrary to human dignity. (UNHRC {Doc. E/CN.4/SR.1011})

Similar Israeli arguments and Arab counter-arguments occurred in 1970 at the next meeting of the Human Rights Commission. Some comments are worthy of note:

The US representative, Dr. Rita Hauser, stated that *"Article 13 (2)*[88] *of the Universal Declaration of Human Rights applied directly both to the Palestinian refugees, to who General Assembly resolution 194 (III) had been specifically directed and to other inhabitants of Middle Eastern countries."* The Saudi representative replied that Hauser *"had invoked article 13(2) of the Universal Declaration of Human Rights, regarding the right to leave any country and to return. The Arab Jews were quite happy in their own countries and did not wish to go to Israel."* (UNHRC {Doc. E/CN.4/SR.1080})

Morocco advanced a new argument, claiming that Jews left Arab countries for economic reasons, not as a result of "racial discrimination":

> It had been said that many Jews had left Arab states because discriminatory pressure had been exerted on them. Although many Jews had indeed left those countries, the explanation given for their departure was wrong. Such emigration formed part of a general world pattern, as did the movement of population from the developing countries to the developed countries for the purpose of seeking better working conditions and greater economic well-being. Of the 250,000 Jews that had left North Africa, 150,000 had not gone to Israel but to France, in the hope of finding better employment opportunities in the former metropolitan country. That movement could certainly not be attributed to racial discrimination. (UNHRC {Doc. E/CN.4/SR.1081})

By 1971, the Israeli delegation was frustrated with the debate, and announced: ."..

because of the injustice done to persecuted Jews in Arab countries, especially Iraq, Syria

[88] Article 13 (2) reads: "Everyone has the right to leave any country, including his own, and to return to his country."

and Libya, [and] by the Commission's refusal to concern itself with their condition, the delegation would not intervene again in the present proceedings." (UNHRC {Doc. E/CN.4/SR.1118})

Many of the subsequent references to Jewish refugees from Arab countries were made by NGOs, particularly by David Littman, representing the World Union for Progressive Judaism. Some of Littman's interventions, since 1986, include:

Feb*. 12, 1986; March 3, 1986; March 7, 1986; and March 13, 1986:* Statements on human rights and mass exodus of Jews from Arab countries made by the World Union for Progressive Judaism (WUPJ) under item 12 (b) of the Minutes of the 42nd Session of the Human Rights Commission. (UNHRC {Doc. E/CN.4/1986/SR.48/ADD.1})

On 21 March 1986: The WUJJ asserted that: "*There had been two exoduses or brutal exchanges of population, but while some compensation had been obtained in the case of the Palestinians, nothing whatsoever had been done on behalf of the Jews from Arab countries"* The WUPJ asked the Commission to give serious consideration to that question and appoint a Rapporteur to make inquiries." (UNHRC {Doc. E/CN.4/1986/SR.48/ADD.1})

March 27, 1986: A statement was circulated in accordance with Economic and Social Council resolution 1296 (XLIV) on the plight of Jews from Lebanon. (UNHRC {Doc. E/CN.4/1986/NGO/52}) This statement was submitted on March 13, 1986 by the WUPJ to the 42nd Session of the Human Rights Commission.

March 30, 1988: A report submitted by the WUPJ, in relation to Agenda item 38 at the 44th Session of the Commission of Human Rights, stated that: *"Of more than 900,000 Jews living in 10 Arab countries 40 years previously, scarcely 20,000 remained. Those were the forgotten refugees of the Arab-Israeli conflict."* (UNHRC {Doc. E/CN.4/1988/SR.28/Add.1})

April 4, 2001: The following quote was included in the statement made by the WUPJ to the UN HRC:

> In 1948, after the proclamation of the independence of Israel, there had been a massive expulsion of Jews – and Christians – from Arab countries, whereby they had been forced to abandon their homes and possessions. Contrary to the case of the Arab refugees from Palestine, no international aid was received by the Jewish refugees. It had been pointed out that the statement in Security Council resolution 242 that a just and lasting solution of the Israeli-Arab conflict should include 'a just settlement of the refugee problem' applied equally to the claims of Jews from Arab countries. (UNHRC {Doc. E/CN.4/2001/SR.38})

July 29, 2002: The most comprehensive treatment by the WUPJ of Jewish refugees from Arab countries was their July 10, 2002 written statement to the Sub-Commission on the Promotion and Protection of Human Rights. The statement was circulated in accordance

with Economic and Social Council resolution 1996/31 on the promotion and protection of human rights at the 54th Session of the Commission of Human Rights. (UNECOSOC "Economic")

Entitled, "Jewish Refugees from Arab Countries – The Forgotten Millions," the statement contended that:

> The dire hardships endured by the great majority of the Jewish refugees from Arab countries have never been considered by the United Nations, nor has the loss of their inestimable property and heritage dating back three thousand years. The time has come for this great injustice to be taken into consideration in the context of a just and equitable global solution to the ongoing Middle East tragedy.

March 27, 2003, Mr. Littman drew the Commission's attention to a written statement by his organization entitled "Historical Background to the Forgotten Jewish Refugees: A Tragic Exchange of Populations which Addressed the Neglected Issue of the Modern Exodus of Jews from Arab Countries." (UNECOSOC {E/CN.4/2002/200})

August 8, 2003, at the Fifty-fifth session of the Commission on Human Rights Ms. Rosen, representing the World Jewish Congress and speaking also on behalf of the International Association of Jewish Lawyers and Jurists, said that the two organizations:

> Welcomed the Sub-Commission's decision to study certain rights of refugees and wished to draw its attention to the long-neglected case of nearly 1 million Jewish refugees from Arab lands. She stressed that the organizations she represented did not intend to deny the sufferings of Arab refugees from Palestine, but an understanding of the facts of the situation of the Jewish

> refugees was a precondition for creating a durable peace between Jews and Arabs." (UNECOSOC {E/CN.4/2003/NGO/220})

August 12, 2003: The WUPJ submitted a written statement, which is included the summary of the proceedings of the Commission on Human Rights, stating that:

> The modern Jewish exodus from Middle Eastern countries since the 1940s currently had a progeny of 3 million, 2.5 million of whom made up almost half of Israel's Jewish population. Only 5,000 Jews remained in the entire Arab world from the forgotten millions. The dire hardships suffered by those ancient Jewish communities had never been examined by the United Nations, nor had the loss of their inestimable historical heritage and private property. The issue of the restitution of their property should be considered by the Sub-Commission. (UNECOSOC {E/CN.4/2003/NGO/226})

March 19, 2008: In an historic first**,** appearing in Geneva at the *United Nations Human Rights Council* was a Jewish refugee from an Arab country, Regina Bublil-Waldman, who fled Libya in 1967. (Lungen) Appearing under the auspices of UN Watch, Mrs. Bublil-Waldman spoke for three minutes, during a time period allocated for statements from representatives of non-governmental organizations. No response was forthcoming from the Council or any of its members as a result of her testimony.

C) Concluding Comments

The CHR is still considered to be the UN's standard-setting body for human rights. The Human Rights Council has become a widely scrutinized, political battlefield where national interests are pursued in the name of universal principles.

This UN body, the Human Rights Commission/Council, in all of its 132 relevant resolutions, has demonstrated a predominant focus on Palestinians and has avoided dealing with Jews in Arab countries, also victims of the Middle East conflict.

Ironically, Israel was being attacked for the mass violations of the rights of Palestinians by regimes and dictators from countries where human rights did not exist and were an anathema to their populations.

Freedom House, an independent think tank, publishes a freedom index that measures political rights and civil liberties around the world. Of the 195 countries studied around the world in 2009, using 'freedom of the press' as the criteria, only 70 countries or 36% were categorized as "free" while 125 countries of 64% were considered "partly free" or "not free." (Freedom House)

The percentage is slightly different for the members of the Commission on Human Rights. According to the Freedom House Index, of the 46 members of the UN Human Rights Council, the rating for "freedom of the press" would be the following: Only 14 countries, or 30%, could be categorized as free. That means that 70% - 32 members – have restrictions on human rights in their own countries – in this case freedom of the press. This figure is above the world average of 64% of countries who are similarly categorized as "partly free" and "not free."

The human rights records of its members notwithstanding, all the above-noted representations, did not prompt the UN Human Rights Council, nor its predecessor, the

Human Rights Commission, to ever adopt a resolution; nor formally acknowledge; nor even establish a fact-finding mission; to address the reported plight Jews in Arab countries.

VI) OTHER UN AGENCIES[89]

There are at least 10 identifiable UN Commissions, Rapporteurs, Committees, Divisions, Forums, Offices, Departments and Programmes that have been specifically created, or charged, with addressing issues affecting Palestinian refugees. These include:

1) United Nations Conciliation Commission for Palestine (UNCCP): Established in December of 1948, the UNCCP was given the mandate to assist the governments and authorities concerned to achieve a final settlement of the Palestine question; to provide protection; and to promote a durable solution for Palestine refugees. (UN. GA. Res.194) The UNCCP also compiled documentation and completed an assessment of individual refugee property losses covering some 1.5 million holdings.

The UNCCP commenced functioning on January 24, 1949 and struggled to fulfill its mandate. (Fishbach, *Records* 85) The Arab States and the Palestinians demanded the right of return for Palestinian refugees while Israel refused to accept full repatriation. By 1952, the UNCCP had ceased all refugee protective functions and confined its operations to collecting records and documenting refugee property in Israel – operations that that have continued to the present day. (Akram, *Reinterpreting* 169) The UNCCP continues to file one or two page annual reports. (Badil 1)

[89] Derived, in part, from a list on *The United Nations & the Question of Palestine,* found on the following website: www.lib.berkeley.edu/doemoff/govinfo/intl/gov_palestine.html Dec. 24, 2009

2) UNRWA, the United Nations Relief and Works Agency for Palestine Refugees in the Near East, was created in to provide assistance, protection and advocacy for some 4.6 million registered Palestine refugees in Jordan, Lebanon, Syria and the occupied Palestinian territories. (UN GA Res.302)

3) Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied Since 1967. Established by the Office of the UN High Commissioner for Human Rights in 1993, the Special Rapporteur still provides comprehensive Reports each year.

4) Committee on the Inalienable Rights of the Palestinian People. In 1974, the UN General Assembly adopted A/RES/3376 (XXX) which:

> 2. Expresses its grave concern that no progress has been achieved towards:
>
> (a) The exercise by the Palestinian people of its inalienable rights in Palestine, including the right to self-determination without external interference and the right to national independence and sovereignty;
>
> (b) The exercise by Palestinians of their inalienable right to return to their homes and property from which they have been displaced and uprooted;

The Committee was mandated to recommend to the General Assembly a program of implementation designed to enable the Palestinian people to exercise their inalienable rights including, as noted above, to self determination, and to return to their homes and property.

5) Division for Palestinian Rights. In 1977, the UN established the Division of the UN Secretariat on the Palestinian Question providing support for the UN General

Assembly Committee on the Inalienable Rights of the Palestinian People. (GA Res. 32/40 {A+B}) The Division assists in planning and organizing international meetings, preparing studies and publications relating to the issue of Palestinian and Palestinian refugees and organizing the annual commemoration at the United Nations, of the International Day of Solidarity with the Palestinian People on November 29.

6) UNDP Programme of Assistance to the Palestinian People. In December 1978, the UN General Assembly called on United Nations Development Programme (UNDP) to provide assistance to the Palestinian people. (GA Res. A/RES/33/147) By this date, infrastructure in the West Bank and the Gaza Strip had been allowed to deteriorate, including schools, health facilities, housing, roads, and water and sanitation systems. In response to the UN resolution, the UNDP launched the Programme of Assistance to the Palestinian People (PAPP). A Programme office was established, initially in New York and subsequently in East Jerusalem. A donor campaign was organized, and field operations commenced in August 1980.[90]

7) UN Economic and Social Commission for Western Asia (ESCWA). Since 1984, the ESCWA has adopted 25 resolution on Economic and social conditions of the Palestinian Arab people in the occupied Palestinian territories. Statistical Abstracts for the ESCWA Region are prepared as well as a searchable database of rehabilitation and economic and social reconstruction in Palestine.[91]

8) United Nations Office for the Coordination of Humanitarian Affairs (OCHA). In December 1991, the General Assembly adopted Resolution 46/182, designed to

[90] For documents and information related to PAPP see: www.unesco.org/delegates/palestine/m-menu.html
[91] For documents and information related to ESCWA see: www.escwa.un.org

strengthen the United Nations response to both complex emergencies and natural disasters while improving the overall effectiveness of humanitarian operations in the field. The resolution created the high level position of Emergency Relief Coordinator (ERC). Soon after, the Secretary-General established the Department of Humanitarian Affairs (DHA). In 1998, as part of the Secretary-General's programme of reform, DHA was reorganized into the Office for the Coordination of Humanitarian Affairs, OCHA. [92] The OCHA maintains an office in the Occupied Palestinian Territory.

9) Office of the Special Coordinator of the Middle East Peace Process. The UN Special Coordinator (UNSCO) was appointed in June 1994 following the signing of the Oslo Accord. The aim was to coordinate the involvement of the United Nations during the transition process, and to strengthen UN inter-agency cooperation to respond to the needs of the Palestinian people.[93] UNSCO was not established specifically to address the Palestinian refugee issue, but relates, through its mandate, to Palestinian refugees in the West Bank and Gaza Strip as residents of the occupied territories. (Badil 2)

In 1999, UNSCO became the Office of the Special Coordinator for the Middle East Peace Process. The Special Coordinator was mandated to represent the Secretary-General in discussions relating to the peace process and also served as the personal representative of the Secretary-General to the PLO and the Palestinian Authority. (UNSCO)

10) Also in 1994, the Arab International Forum on Rehabilitation and Development in the Occupied Palestinian Territory was established. The forum is sponsored by the United Nations Economic and Social Commission for Western Asia (ESCWA), the Arab League

[92] For documents and information related to OCHA see: ochaonline.un.org
[93] For documents and information related to UNSCO see: www.unsco.org/about.asp

and the Palestinian National Authority Ministry of Planning. Its objective is to mobilize Arab states, civil society and the private sector to continue and enhance their efforts in supporting the process of rehabilitation and development in the Occupied Palestinian Territory.[94]

A host of other UN affiliated programs provide some level of services to Palestinian refugees. These include: the Joint United Nations Program on HIV/AIDS (UNAIDS), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Population Fund (UNFPA), the United Nations Children's Fund (UNICEF), and the World Health Organization (WHO). (Badil 3)

Suffice to say that, other than the efforts of the UNHCR, which are described further in Chapter 5 (B), there were no UN Commissions, Rapporteurs, Committees, Divisions, Forums, Offices, Departments or Programmes that were specifically created, or charged, with addressing issues affecting Jewish refugees from Arab countries.

VII) ALLOCATION OF UN RESOURCES TO MIDDLE EAST REFUGEES

There are numerous differences in the treatment of the two Middle East refugee populations with respect to recognizing rights for lost assets and the financial relief and assistance provided by the UN and/or other involved states.

[94] For information see: www.mop.gov.ps

Since 1947, billions of dollars have been spent by the international community - by the UN, its affiliated entities and member states - to provide **relief and assistance** to Palestinian refugees. In 2007 prices, UNRWA has spent $13.7 billion since its inception in 1950.[95] (Zabludoff 7) During that same time period, the UNHCR did not provide any comparable financial assistance to Jewish refugees. The overwhelming majority of assistance for Jewish refugees displaced from Arab countries came from international Jewish organizations, the Red Cross, and the Inter-Governmental Committee for European Immigration, and relevant Governments, all outside the rubric of the UN. (Levin 113)

Palestinian refugees have received disproportionate UN and other international financial and human resources compared to all other refugees. The international resources provided Jewish refugees from Arab countries was, as will be elaborated upon more fully in the next Chapter, was negligible.

[95] Based on compilation of individual years from UNRWA reports with each year increased to 2007 prices using the *US Consumer Price Index*

CHAPTER 5

PROVISION OF SERVICES TO MIDDLE EAST REFUGEES

A. U.N. REFUGEES WORKS AGENCY (UNRWA)

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I) INTRODUCTION

As noted earlier, the war that broke out after the establishment of the State of Israel in 1948 caused a UN-estimated 726,000 Palestinian refugees. Most of them fled to the West Bank, held by Jordan. Others went to the Gaza Strip, held by Egypt; to Jordan; Lebanon; Syria; Egypt; and into the Gulf region. (UN. Doc. DPI/1481 15)

On Nov. 19, 1948, the General Assembly adopted its first resolution on providing assistance to Palestine refugees - UNGA Resolution 212 (III): "Assistance to Palestine refugees/Establishing UNRPR." In response to a report by UN Acting Mediator Ralph Bunche that *"the situation of the refugees is now critical,"* the United Nations Relief for Palestine Refugees (UNRPR) was established to channel emergency assistance to refugees from Palestine through international voluntary agencies.

On December 11, 1948, the General Assembly adopted the seminal Resolution 194 (III) "Palestine Question: - UN Mediator Report, Conciliation Commission (UNCCP), Jerusalem status, Return of Refugees." Resolution 194 established the United Nations Conciliation Commission for Palestine which was mandated, among other things, to assure *"direct protection functions"* - rights and interests; as well as with *" implementing durable solutions*" – repatriation, resettlement and rehabilitation. (Akram, "Refugee Rights" 183)

As hopes for the immediate return of refugees to their homes faded, on December 8, 1949, the UN General Assembly adopted Resolution 302 (IV) establishing the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). Article 7 notes that the United Nations Relief and Works Agency for Palestine Refugees in the Near East was established:

7) *(a) To carry out in collaboration with local governments the direct relief and works programmes as recommended by the Economic Survey Mission;*

(b) To consult with the interested Near Eastern Governments concerning measures to be taken by them preparatory to the time when international assistance for relief and works projects is no longer available. (GA Res. 302 (IV))

The Agency began its operations on May 1, 1950. In its first few years, UNRWA concentrated on providing immediate relief in the form of food, shelter and clothing to Palestinian refugees in the five geographic areas of jurisdiction - the West Bank; the Gaza Strip; Jordan; Syrian Arab Republic; and Lebanon. Over the years, in addition to providing food, housing and clothing, UNRWA educated and gave health care to hundreds of thousands of young refugees. (GA Res. 302 (IV))

UNRWA was, and continues to be, the only UN relief agency to deal with only one regional refugee problem. (Spyer) The General Assembly initially envisioned UNRWA as a temporary organization, which would seek "the alleviation of the conditions of

starvation and distress among Palestinian refugees" with " a view to the termination of the international assistance for relief" at an early date. (GA Res. 302 (IV)) Over the years, UNRWA has adjusted its programs to meet the evolving needs of Palestinian refugees and their descendants. Moreover, in terms of its long-standing commitment to Palestinians, UNRWA has contributed to the welfare and human development of four generations of Palestinian refugees.

In the absence of a solution to the Palestine refugee problem, the General Assembly has repeatedly renewed UNRWA's mandate, most recently extending it until June 30, 2011.UN. "The United Nations" (Doc.DPI/1481; 15)

II) UNRWA'S MANDATE FOR PALESTINIAN REFUGEES

As noted earlier, under UNRWA's definition:

> Palestine refugees are persons whose normal place of residence was Palestine between June 1946 and May 1948, who lost both their homes and means of livelihood as a result of the 1948 Arab-Israeli conflict. UNRWA's services are available to all those living in its area of operations who meet this definition, who are registered with the Agency and who need assistance. The descendants of the original Palestine Refugees are also eligible for registration. (UNRWA. "Consolidated")

When UNRWA commenced its operations in 1950, it was responding to the needs of approximately 726,000 Palestine refugees. Today, UNRWA provides education, health, relief and social services to eligible refugees among the 4.6 million registered Palestine refugees in Jordan, Lebanon, the Syrian Arab Republic, the West Bank and the Gaza

Strip. Some 1.3 million refugees, around one third of the total number of registered Palestinian refugees, continue to live in 58 recognized camps.

UNRWA operates in refugee 'camps', a plot of land placed at UNRWA's disposal by the host government for accommodating the needs of Palestine refugees. UNRWA's services are located in or near these camps where there are these large concentrations of refugees. However, UNRWA also maintains schools, health centers and distributions centers in areas outside the camps. Socio-economic conditions in the camps are generally poor with a high population density, cramped living conditions and inadequate basic infrastructure such as roads and sewers.[96]

The refugees in camps do not own the land on which their shelters were built, but have the right to use the land for a residence. UNRWA's responsibility in the camps is limited to providing services and administering its installations. The Agency does not own, administer or police the camps, as this is the responsibility of the host authorities. (UNRWA "Camp")

One option being considered for Palestinian refugees is the preferred option for all refugees serviced by the UNHCR - to offer the option to Palestinian refugees to resettle

[96] See also: Iyad and Rouleau; Farsoun and Zacharia; Gilmour; Hamzeh; Hilal; Nakhleh and Zureik.

permanently in any number of countries. There is some basis for this option in international law.

The **1951 Convention Relating to the Status of Refugees** states that a refugee who finds a safe haven in another country has a right to permanently reside in that country without discrimination and to be treated at least as favorably as other nationals.[97]

The numbers of Palestinians now residing in other countries is significant. Currently, Palestinians live in large numbers in several Arab countries, including Jordan (estimate 2,000,000); Lebanon (estimate 350,000); and Syria (estimate 300,000) (UNWRA "Commissioner General) The following table presents the best estimate, in 1995 figures, of the number of Palestinian refugees residing in countries in the region:

[97] Chapter 1, Articles 1-7

Area/ Country of Residence	Total Population (1995)	Total Palestinian Refugees (1995) [98]
Jordan	5,905,043 [99]	2,000,000
Lebanon	4,139,281 [100]	480,643
Syria	21,226,920 [101]	302,587
Iraq	-	50,257
Egypt	-	72,154
Kuwait	-	75,000
Saudi Arabia	-	181,787
Gulf States	-	66,853
Libya	-	24,438
Europe/ Americas	-	388,437
Total		**3,642,156**

Table No.15 Palestinian refugees residing in countries in the region

In the past 15 years, no doubt these figures have changed dramatically as there were a recorded 4.6 million registered Palestinian refugees in 2009. The above figures merely provide a sense of how far, and to how many different states, Palestinians have gone, to seek a place to settle.

III) UNRWA SERVICES TO PALESTINE REFUGEES

Services provided by **UNRWA** fall under the following main categories:

A) Education

UNRWA operates one of the largest school systems in the Middle East and has been the main provider of basic education to Palestine refugees for over sixty years. (UNRWA "Education") Education has been a joint undertaking of UNRWA and the United Nations

[98] Figures taken from *Ha'Aretz*, 21 July 1995
[99] World Bank
[100] World Bank
[101] World Bank

Educational, Scientific and Cultural Organization (UNESCO). (UN "Question of Palestine" 14)

B) Relief and Social Services

The relief and social services department concentrates its efforts on the poorest Palestine refugees in the five geographic areas under UNRWA's jurisdiction – Jordan, Syria, Lebanon, the West Bank and the Gaza Strip - five fields of operations. The department provides food, shelter, blankets, clothing and small emergency cash grants to the most vulnerable refugees. (UNRWA "Relief and social services")

C) Health

Some 4,200 health workers provide health care to Palestine Refugees in 134 centers across UNRWA's five areas of jurisdiction. (UNRWA "Health") Under the guidance of the World Health Organization (WHO), UNRWA provides preventive, curative, rehabilitative and trauma-related medical services. (UN "Question of Palestine" 14)

D) Micro Finance

UNRWA's microfinance department promotes economic development and tries to alleviate poverty among Palestine refugees. By mid-2008, the department financed over 150,000 enterprise, consumer and housing loans to clients in the West bank, Gaza Strip, Jordan and Syria. (UNRWA. "Microfinance")

E) Infrastructure and Camp Improvement

The Infrastructure and Camp Improvement Department was created to address the deteriorating living conditions of Palestine refugees in camps where UNRWA operates. (UN "Question of Palestine" 14)

Among these five areas of responsibility, education is UNRWA's largest area of activity. UNRWA provides primary and junior secondary schooling free of charge for all Palestine refugee children living in all areas under its jurisdiction. Vocational and technical training courses are given in the eight UNRWA vocational training centers. The Agency also runs an extensive teacher-training program and offers university scholarships to qualified refugee youth. (UNRWA "Education") The Agency operates 644 schools in its five areas of jurisdiction which, in the 2001/2002 scholastic year, had an enrollment of 486,020 pupils. The 16,965 educational staff who run the schools and training centers account for nearly 50% of UNRWA's budget and more than half of all UNRWA staff. (UNRWA "Education") Since 1954, nearly 83,000 Palestine refugee men and women have graduated from UNRWA training centers and education science faculties. (UNRWA "Technical")

IV) UNRWA BUDGET

In 1990, UNRWA's annual budget was over $292 million. By 2000 it had increased to $365 million. UNRWA's General Assembly-approved budget for 2008 is US$ 541.8

million. UNRWA is funded almost entirely by voluntary contributions. UNRWA's budget has been supported by many countries of which the United States and Western countries have been the largest contributors. The Agency's core budget for 2010-2011 is projected to be $1.23 billion.[102]

***

UNRWA has accomplished what it was created to do – to provide sustenance and support to Palestinian refugees. Its success, over the last 60 plus years, lies in the fact that no Palestinian refugee is lacking protection nor the basic services to sustain them until the hoped-for permanent resolution to their plight.

[102] http://www.un.org/unrwa/english.html

CHAPTER 5 (CONTINUED)

PROVISION OF SERVICES TO MIDDLE EAST REFUGEES

B. U.N. HIGH COMMISIONER FOR REFUGEES (UNHCR)

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I) INTRODUCTION

The UNHCR is mandated to assist in the protection, resettlement and rehabilitation of the world's populations of refugees and displaced persons. Within that mandate, from 1957 to the mid 1970s, there were numerous interventions, by the UNHCR, on behalf of Jewish refugees from Arab countries.

This paper does not purport to represent a complete, exhaustive report on all UNHCR efforts on behalf of Jews leaving/fleeing Arab countries. However, it does list examples that demonstrate the range of political, legal and financial actions, undertaken by the UNHCR, to assist Jews displaced from countries in North Africa, the Middle East and the Gulf region.

II) MANDATE OF THE UNHCR

In its 256th Plenary Meeting, by adopting resolution 319 A (IV) on December 3, 1949, the General Assembly established the Office of the United Nations High Commissioner for Refugees.

Subsequently, on December 14, 1950, Resolution 428 (v) entitled "Statute of the Office of the United Nations High Commissioner for Refugees" was adopted by the General Assembly which called upon "*governments to co-operate with the United Nations High*

Commissioner for refugees in the performance of his functions concerning refugees falling under the competence of his office, especially by:

a. *Becoming parties to international conventions providing for the protection of refugees, and taking the necessary steps of implementation under such conventions;*

b. *Entering into special agreements with the High Commissioner for the execution of measures calculated to improve the situation of refugees and to reduce the number requiring protection;*

c. *Admitting refugees to their territories, not excluding those in the most destitute categories;*

d. *Assisting the High Commissioner in his efforts to promote the voluntary repatriation of refugees;*

e. *Promoting the assimilation of refugees, especially by facilitating their naturalization;*

f. *Providing refugees with travel and other documents such as would normally be provided to other aliens by their national authorities, especially documents which would facilitate their resettlement;*

g. *Permitting refugees to transfer their assets and especially those necessary for resettlement;*

h. *Providing the High Commissioner with information concerning the number and condition of refugees, and laws and regulations concerning them….*

The Office of the High Commissioner was set up as a subsidiary organ of the General Assembly on January 1, 1951, initially for a period of three years. Thereafter, the mandate of UNHCR has been routinely extended for successive periods of five years. The Head Office is located in Geneva, Switzerland.

The High Commissioner's function must remain *"entirely non-political"* and its activities "*humanitarian and social."* [103]

The international definition of a refugee, as defined in *The 1951 Convention Relating to the Status of Refugees* clearly applies to Jews who fled the persecution of Arab regimes. As noted earlier, the 1951 Convention defines a refugee as a person who:

> Owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country... (Article 1.A.2)

UNHCR's efforts are not only mandated by the organization's Statute and the 1951 *United Nations Convention relating to the Status of Refugees*, they are also guided by *The 1967 Protocol Relating to the Status of Refugees* . (UN. GA. "Protocol" 267) As an example of the evolution of international humanitarian law, the *Refugee Convention* is limited to events that occurred before January 1, 1951. The 1967 protocol removes this 1951 limitation.

These legal Agreements reflect the consensus of the international community on UNHCR's mandate, which is to provide protection, resettlement and rehabilitation services to refugees and displaced persons in an impartial manner, on the basis of need and irrespective of race, religion, political opinion or gender.

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[103] UNHCR Mandate

In its efforts to protect refugees and to promote solutions to their problems, UNHCR must work in partnership with governments, regional organizations, international and non-governmental organizations.

Based on 2009 figures, UNHCR now deals with 34.3 million people of concern: 14.4 million internally displaced people, 10.5 million refugees, 2 million returnees, 6.6 million stateless people and more than 800,000 asylum seekers. (UNHCR. "History of UNHCR")

When UNHCR was founded in 1951, it had only 34 staff members. To-day, UNHCR has 6,650 national and international members of staff, including 740 in UNHCR's Geneva headquarters. The agency works in 118 countries, with staff based in 108 main locations (i.e. in regional and branch offices) and 151 often remote sub-offices and field offices. (UNHCR. "History") The budget has grown from US$300,000 in 1951, its first year of operation, to more than US$2.3 billion in 2009. (UNHCR. "Figures.")

III) THE UNHCR AND JEWISH REFUGEES

The precursor to the United Nations High Commissioner for Refugees was the International Refugee Organization (IRO) which, interestingly enough, was first approached on behalf of Libyan Jewry in 1949. At that time, Libyan Jewish leaders wrote to the United Nations Security Council in 1948 describing their situation as "*unbearable materially, economically, as well as morally*," and asking to be *"freed of this hell*." (Stillman. *Modern Times* 155) The *International Refugee Organization*, refused to extend

its aid to Jews who had fled Libya and were arriving in Italy or other places throughout Europe. The International Refugee Organization argued that as Italian citizens leaving former Italian colonies, the Libyan Jews could avail themselves of the protection of the Italian government. (Schechtman 141)

With the advent of the UNHCR, Jewish communal organizations made representations in 1956, urging action in response to the plight of Jews in Egypt. The mistreatment of Jewish minorities, including the previously-described discriminatory decrees and practices of the Egyptian government, created an untenable situation for the estimated 40-50,000 members of the Jewish community of Egypt at that time who began to leave in substantial numbers.

The UNHCR was made aware of this situation by its own staff. In a January 7, 1957 Memorandum, a senior official of the UNHCR reported that *"in consequence of the recent political events, certain military measures have been taken in Egypt by Military Proclamation. The property of the United Kingdom, French and Australian nationals have been sequestered* (Military Proclamations Nos. 5 and 6)." (UNHCR. {G.XV.22/1 EGY})

On the basis of the above report, one would assume that these measures applied equally to all affected nationals. However, the Memorandum continues to state: Proclamation No.

4 provides for the sequestration of property *of "persons interned, placed under surveillance and of other persons and institutions."* Nominal rolls of such persons and firms were published which contained exclusively Jewish names. (UNHCR. {G.XV.22/1 EGY})

After assessing the situation, the UNHCR – to its credit - gave serious consideration to the provisions of the Statute of the UNHCR and confirmed its authority for intervening on behalf of refugees from Egypt under Articles 8 (b) – *"entering into special agreements with Governments to improve the situation of refugees and reduce the number requiring protection"* and Article 8 (e) of the Statute - *"the transferring of assets and especially those necessary for their (i.e. refugees') resettlement."* (UN Res.428 (V))

As noted earlier, on January 29, 1957, in one of his first statements to the *United Nations Refugee Fund* (UNREF) Executive Committee, the newly elected High Commissioner, Dr. Auguste Lindt declared that refugees fleeing from Egypt "fall under the mandate of the Office of the United Nations High Commissioner for Refugees:

> Another emergency problem is now arising: that of refugees from Egypt. There is no doubt in my mind that those refugees from Egypt who are not able, or not willing to avail themselves of the protection of the Government of their nationality fall under the Mandate of my office.

> They may have no nationality or they may have lost their nationality or, for valid reasons may not be willing to avail themselves of the protection of their country of nationality. I am therefore ready to exercise the legal and diplomatic functions of my office in their favor. (UNREF. “Executive”)

Although this statement did not specifically mention the fact that the vast majority of these ‘refugees’ were Jews, it was well understood and UNHCR follow up was expedited in close cooperation with international Jewish advocacy and relief organizations.

The second determination that Jews displaced from Arab countries fell under the mandate of the UNHCR was contained in a July 6, 1967 letter to Daniel Lack, Legal Advisor of the American Joint Distribution Committee, from senior UNHCR Legal Division official Dr. E. Jahn, wherein he states:

> I refer to our recent discussion concerning Jews from Middle Eastern and North African countries who have left or are unable or unwilling to return to these countries in consequence of recent events. I am now able to inform you that such persons may be considered prima facie within the mandate of this office. (UNHCR. “Letter from Dr. E. Jahn”)

The significance of this second ruling was twofold:

1) Unlike the first statement by the High Commissioner that merely referred to “refugees,” this letter referred specifically to “Jews”; and

2) Unlike the first determination that limited UNHCR involvement to refugees from Egypt, this statement constituted a ruling that Jews who left *any* of the Middle Eastern and North African countries concerned, namely: Algeria, Egypt, Lebanon, Libya, Morocco, Syria and Tunisia, fall within the mandate of the Office of the UNHCR.

As well, the conclusion by the High Commissioner that these refugees fall within his mandate is an acknowledgement that Jews in Arab countries have, or had, a "*well founded fear of being persecuted."* Under the UNHCR's criteria for determining refugee status, persecution is any serious violation of human rights (UNHCR "Handbook" Para. 51)

This is also the determination made by the United States Congress. As enunciated in *H.Res.185*, which was unanimously adopted on April 1, 2008, *"the international definition of a refugee clearly applies to Jews who fled the persecution of Arab regime."* (U.S. Congress. *H.Res.185*)

If the definition applies, then Jewish refugees also possess the same rights that accrue to the world's other refugee populations. Under the Statute of his Office, the UN High Commissioner is mandated to endeavour: "*to obtain permission for refugees to transfer their assets and especially those necessary for resettlement."* (Article 8e)This provision is not restrictive and covers all assets.

The Refugee Convention also has a restitution provision. The Convention provides:

> 1. A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.
>
> 2. A Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted. (Article 30)

In an interesting contrast, while UNRWA was mandated to deal exclusively with Palestinian refugees, Jewish refugees had no exclusivity on the services of the UNHCR, which serves all the world's refugees populations.

The Statute of the Office of the High Commissioner states that the competence of the High Commissioner shall not extend to a person "*who continues to receive from other organs or agencies of the United Nations protection or assistance.*" (Article 7(b)) It would seem from this provision that Palestinian refugees, because they receive assistance from UNRWA, should not be eligible for UNHCR services.

Moreover, the Refugee Convention provides: "*This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.*" (Article 1.D)

In fact, the Office of the High Commissioner for Refugees has made a specific determination to this effect. A memorandum of February 22, 1968 from A. Rörholt, Director of the Legal Division to all UNHCR representatives, correspondents and

officers, stated persons enjoying the assistance or protection extended by UNRWA are excluded from the UNHCR mandate. (Matas *Aftershock* 252 f.n. 291)

In light of these definitive provisions, it would appear clear that the Refugee Convention does not apply at all to Palestinian refugees. But that is not the case.

Notwithstanding the fact that Article 7 of the UNHCR Statute excludes Palestinian refugees from the Agency's mandate, Article 1D of the 1951 Convention has been cited as allowing – but restricting - the UNHCR to providing protection or assistance to Palestinian refugees only if, for any reason, protection or assistance cease to exist." This would apply to Palestinians who have found refuge outside of UNRWA's areas of jurisdiction (i.e. Iraq, Egypt, Kuwait, Yemen, etc.)

This ruling was confirmed by the UNHCR, in a note on the applicability of the Convention dated, October 2002,[104] *"UNHCR considers that two groups of Palestinian refugees fall within the scope of Article 1 D of the 1951 Convention:*

> i) Palestinians who are "Palestine refugees" within the sense of UN General Assembly Resolution 194 (III) of 11 December 1948 and other UN General Assembly Resolutions, who were displaced from that part of Palestine which became Israel, and who have been unable to return there.
>
> (ii) Palestinians who are "displaced persons" within the sense of UN General Assembly Resolution 2252 (ES-V) of 4 July 1967 and subsequent UN General

[104] Note on the Applicability of Article 1 D of the 1951 Convention relating to the Status of Refugees to Palestinian refugees

> Assembly Resolutions, and who have been unable to return to the Palestinian territories occupied by Israel since 1967. For the purposes of the application of the 1951 Convention, both of these groups include persons who were displaced at the time of hostilities, plus the descendants of such persons.

Therefore, the UNHCR does indeed provide limited assistance and protection to those Palestinian refugees who are outside the area of UNRWA operations and are unable to available themselves of the assistance offered by UNRWA. (Badil 4)

Moreover, the UNHCR confirmed, as witnessed above, that that their mandate applied to "…*persons who were displaced at the time of hostilities, plus the descendants of such persons*." The UNHCR affords no such recognition to any other refugee population where refugee status cannot be inherited. Therefore, in another anomaly, the descendents of Jewish refugees were not recognized by the UNHCR ; were not eligible for any services, but the descendents of Palestinians were and are.

IV) DIRECT INTERVENTIONS BY THE UNHCR

Beginning in 1957, and continuing through to the early 1970s, the UNHCR undertook numerous initiatives, at the highest political levels, on behalf of Jewish refugees from Arab countries. While not a full listing of such representations, the following are examples of such UNHCR initiatives.

At the United Nations

At the June 1967 meetings of the UN General Assembly, Mr. Assad Sadry, the personal emissary of the High Commissioner for Refugees Sadruddin Aga Khan, met with the Ambassadors of seven Arab countries about the treatment of their Jewish minorities. This was in advance of, and in preparation for, his upcoming trip to the region. ("Note to File from Mr. Daniel Lack")

Thereafter, in the summer of 1967, Mr. Sadry embarked upon an extensive visit to several Middle Eastern countries including Lebanon, Iraq, Syria, Jordan, the UAR, Tunisia and Libya. Upon his return, Mr. Sadry provided an extensive report to the UN on the status of Jews in these countries and indicated that these Jewish populations possessed a "mass sentiment" to get out. ("Central Registry")

UNHCR Representations to Arab Governments

On at least two occasions, the High Commissioner for Refugees journeyed to one or more Arab countries, personally and directly intervening on behalf of Jewish refugees. This occurred in 1959 when UN High Commissioner Dr. Lindt traveled to Cairo and again in 1967 when then High Commissioner Prince Sadruddin Aga Khan travelled to Egypt and Iraq. ("Meeting with United Nations High Commissioner")

Egypt

The first trip evolved from a letter UN High Commissioner Dr. A.R. Lindt sent to the Egyptian Foreign Minister on January 16, 1958, requesting the Government of Egypt to allow Jewish refugees "*to arrange for the administration and liquidation of assets they have left behind in Egypt and to transfer these assets to the countries of their resettlement*." The letter referred specifically to Article 8(e) of the UNHCR Statute and to General Assembly Resolution No. 428 (V), which calls upon the UNHCR to endeavor *"to obtain permission for refugees to transfer their assets and especially those necessary for their resettlement"* and calls upon governments (i.e. Egypt) to *"cooperate with the High Commissioner in the performance of his functions."* (UNHCR. "Letter of the High Commissioner)

During the week of Jan. 11-18th, 1959, Dr. A.R. Lindt accompanied by Mr. A. Sadry of the UNHCR staff, traveled to Cairo to meet with members of the Government of the United Arab Republic. The High Commissioner tried to obtain an agreement with the Government for the transfer of assets of mandated refugees and to consider arrangements for safeguarding property pending the transfer of assets. ("Memorandum concerning the Visit")

On March 13, 1959, Dr. A.R. Lindt wrote to the Egyptian Minister of Foreign Affairs Dr. Mahmoud Fawzi alluding to their recent discussions on *"the problem of assets of stateless persons,"* including "*desequestration of certain property and its subsequent safe*

custody, and the transfer of assets and pension rights." The High Commissioner indicated that he *"was pleased to hear that you consider the solution of this problem to be important*" and indicated that since "*agreements pertaining to these matters have been concluded by your Government with the Governments of France and the United Kingdom... the time has come to re-examine this problem.* (UNHCR. "Letter of the High Commissioner" Doc.No. 42) No such Agreement was ever expedited.

Iraq

In 1968, then High Commissioner for Refugees Prince Sadruddin Aga Khan discussed with "high" Iraqi government officials the possibilities of allowing all remaining Jews to emigrate, but found "*strong resistance*." These Iraqi officials reportedly indicated that *"holding the Jews as hostages can be very useful in connection with the activities now going on with regard to a settlement of the Middle East conflict."* ("Meeting with United Nations High Commissioner")

Libya

In mid 1970, the High Commissioner intervened with the Libyan authorities to enable the safeguarding and transfer of the assets of Jewish refugees who left Libya after the events of June 1967. (UNHCR. "Memorandum from Ghassan Arnaout")

UNHCR Representations to Other Interested Governments

Belgium

In mid 1956, following negotiations with the UNHCR, the Belgium Government decided to approve the admission of 500 refugee families that were within the mandate of the High Commissioner. (UNHCR. "Letter to Mr. C.H. Jordan")

Britain

On May 27, 1957, the High Commissioner wrote to the Secretary of State of Foreign Affairs of the United Kingdom requesting the release of blocked Egyptian funds in order to enable the payment of travelers' checks and letters of credit brought from Egypt by refugees on the same terms as the UK institutions were authorizing payment to their own nationals or to other refugees who reached their borders. (UNHCR. "Letter from Dr. A.R. Lindt")

France

France was a party to developments in North Africa and the Middle East and served as a refuge for tens of thousands of Jews who were exiting from Morocco, Tunisia, Algeria and Egypt. Moreover, at the request of the UNHCR, the French Government made representations to foreign governments for the release of stateless Jews who were being held in Arab countries. ("Note to File from Mr. Daniel Lack")

Greece

The UNHCR coordinated the "*procedure regarding movement of stateless Jewish refugees arriving in Greece."* A steady stream of "*600 refugees per month*" were arriving on Egyptian '*Laissez-Passer',* the great majority of whom proceeded to Israel while

others were remaining in Greece for various periods of time, waiting to be resettled in other countries. (UNHCR. "Letter from Dr. A.R. Lindt to the UK)

Italy

In 1967, in coordination with the UNHCR, Italy served as a major point of transit, and then as a country of residence, for Jews coming out of Libya. The policy of the Italian Government at the time was to "*grant de facto asylum to all Jews coming from Libya*." ("Note to File from Mr. Daniel Lack.") For a time, Italy also absorbed much of the initial care and maintenance expenses of Jews from Libya who were being accommodated in government camps. ("Standing Conference")

Switzerland

In mid 1957, the High Commissioner's office formally asked the Swiss Foreign Office to oversee the safeguarding of property in Egypt left behind by refugees determined to be under the UNHCR mandate. The Swiss Government expressed willingness, in principle, to take steps in Egypt to safeguard property left behind by refugees from that country. ("Central Registry" Bull.1. Box 15, No.347)

In 1959, for a period of time, arrangements were made for stateless refugees to leave their assets for safekeeping with the Swiss Legation that was, technically, Swiss territory and outside the jurisdiction of the Egyptian authorities. Apparently French, Tunisian and Moroccan nationals benefited from this procedure, whereby people left cash, jewelry, shares, insurance policies and personal documents in the hope that they could be retrieved at a later date. (UNHCR. "Letter to Dr. Paul Weiss")

In mid-1967, as a result of UNHCR intervention, the Political Department of the Swiss Confederation instructed its diplomatic representatives in Arab countries to assists Jews in danger. Moreover, a number of visas were made available for handicapped Jews, particularly from Egypt, to be accommodated permanently in old age homes in Switzerland, with the Swiss authorities paying up to 90% of their care and maintenance. ("Standing Conference")

The Netherlands

In early 1957, the Netherlands Government "*viewed with great sympathy and interest*" the application that the UNHCR made for a project to furnish emergency care for 3,000 needy Jewish refugees from Egypt. ("Letter to J.R. ter Horst")

Representations to International Financial Institutions

On a number of occasions, officials of the UNHCR met with senior representatives of the International Bank in order to solicit the Bank's help regarding the transfer of assets of stateless persons from Egypt.

On March 13, 1959, the High Commissioner wrote to Mr. Eugene Black, then Director General of the World Bank and the International Monetary Fund to make available financial experts to advise the UNHCR during the negotiations on the question of blocked refugee assets in Egypt. It was then reported that "*the High Commissioner has accordingly requested and received assurances that at the appropriate time, the Director General of the International Monetary Fund and the World Bank will second a technical*

expert to assist the Office of the UNHCR in these efforts." ("Memorandum concerning the Visit of Dr. A.R. Lindt")

V) FINANCIAL AFFAIRS

Accords were signed between Italy and the UAR (July 6, 1957); between France and the UAR (August 22, 1958); and between the United Kingdom and Egypt (February 1959); each of which dealt with government-to-government, as well as individual, financial claims, including the recovery of assets. These were bi-lateral agreements and some Jews did benefit from the provisions applicable to all expatriates, including Christians, Jews and others.

However, before and even after these agreements were finalized, the UNHCR was actively involved in financial resource matters.

A) Direct and Indirect Financial Support Provided by the UNHCR

On January 29th, 1957, a statement was made by the High Commissioner for Refugees confirming that certain stateless persons fleeing from Egypt were deemed to be refugees and under the mandate and protection of the High Commissioner. As a result, the UNREF Executive Committee voted an emergency Reserve Fund of $50,000, to be used at the discretion of the High Commissioner, to meet emergency aid problems of these new refugees. In a letter to Mr. Jerome Jacobson dated March 13, 1957, the High Commissioner informed the American Joint Distribution Committee that he had "*granted*

a sum of $30,000 to be used by your agency for emergency aid on behalf of Jewish refugees from Egypt." (Document. (6/0 EGY)

Beginning in 1956, there were modest funds provided by the UNHCR for the provision of services to Jewish refugees in specific countries. These amounts ranged, depending on the number of refugees being assisted in the country and the nature of the services being provided (e.g. housing, vocational training, counseling etc.). For example:

- In 1956, with tensions rising in advance of the 1957 War, the High Commissioner submitted to UNREF's Executive Committee a document entitled:"Tentative Target and Country Allocations for the Revised Plan of Operations (1957)." In it, he recommended the authorization of funding for Middle East refugees, including: $40,000 for 'planning purposes' $11,000 for Egypt to assist 33 families; $1,500 for Jordan to assist 4 refugees; $4,000 for Lebanon to assist 17 families; and $4,500 for Syria to assist 34 families. Nowhere in the Report are these refugees referred to as Jews. (UNREF. "Tentative Target)

- In August of 1964, the UNHCR Branch Office in Cairo "*received authorization from HQ to pay the fee for a lawyer representing a refugee before a Taxation Tribunal."* (UNHCR. "Report for May-August 1964")

- Some years later, it was proposed *"that the UNREF participation will amount to $20,400, with supporting contributions of both direct and indirect nature from the Italian and Belgium Governments to assist Jews who left Libya."* (UNHCR. "Letter to Mr. C.H. Jordan")

In 1967, in its efforts to help Jews leaving Libya, the UNHCR "*The High Commissioner had indicated his willingness to approach other governments to make available funds… This would be analogous to what happened after 1957 when funds from the (US) State Department for $150,000 had been channeled to the JDC (Joint Distribution Committee) via the UNHCR's Fund."* ("Legal Status of Jews in Italy")

Beyond these few examples, research did not uncover any other direct payments by the UNHCR to ameliorate the plight of Jewish refugees from Arab countries.

B) Assistance in Expediting Letters of Credit, Travelers' Checks

Many refugees tried to utilize negotiable instruments as one way to bring out some of their financial resources and as a crucial source of funds to sustain them during the period it would take to resettle elsewhere.

In early 1957, Jewish refugees from Egypt were turning up in various countries in Europe bringing with them Travelers Checks or Letters of Credit, in Pounds Sterling, for which, in many instances, considerable difficulty was encountered in having these negotiable instruments cashed. In an internal UNHCR memo dated January 17, 1957, the situation was described as follows:

> (1) In the U.K., all refugees from Egypt, both British subjects and all others, including stateless, former Egyptian nationals, etc. may cash Travelers Checks and Letters of Credit in Pounds Sterling up to 100 Pounds Sterling per capita.
>
> (2) All British subjects on the Continent may cash Travelers Checks of Letters of Credit issued in Pounds Sterling up to 100 Pounds Sterling per capita.
>
> (3) All non-British on the Continent may cash Travelers Checks or Letters of Credit up to 20 Pounds Sterling per capita. (UNHCR. Memorandum. (Ref. 6/25/EGY) 1957)

Thomas Cook decided, on its own, to cash Travelers Checks issued in Egypt by Thomas Cook's office there, up to 100 Pounds Sterling per capita, for all non-British citizens, anywhere on the continent. (UNHCR. "Note to File from A Sadry.") Midland Bank Ltd. did likewise. (UNHCR. Interoffice Memorandum - G.XV.L.)

American Express was the sole Bank that decided to pay out only 20 Pounds per capita to non-British persons on the European Continent. On July 22, 1957, the High Commissioner wrote to Ralph T. Reed, President of The American Express Company, about the plight of certain refugees from Egypt who were not receiving the full 100 pound Sterling per capita from the value of their traveler's checks. The American Express Company did not change its policy as a result of these representations. (UNHCR Archives, "Letter to A.R. Lindt")

In September of 1959, the UNHCR was alerted to the problem that validity of letters of credit issued by Egyptian banks were due to expire on June 30, 1959 and all efforts to secure extensions had been unsuccessful. The UNHCR subsequently made representations to the National Bank of Egypt and secured an extension of validity for these letters of credit until Dec. 31, 1959. (UNHCR. "Letter to Dr. Paul Weiss")

Through these efforts, while not direct financial assistance, the UNHCR did try to ease the challenges faced by Jews seeking to resettle elsewhere with the meager financial resources they were able to take out with them from their country of origin.

C) Recovery of Assets

The UNHCR also tried to assist with the recovery of assets. For example: Dr. Lindt wrote to the Egyptian Foreign Minister on January 16, 1958 requesting the Government to allow Jewish refugees *"to arrange for the administration and liquidation of assets they have left behind in Egypt and to transfer these assets to the countries of their resettlement."* (UNHCR. "Letter of the High Commissioner")

In July 1958, discussions were held on this issue between senior representatives of the UNHCR and the Egyptian Government, although they "*did not lead to any immediate results*." (UNHCR. Memorandum. (Ref. 6/25/EGY) 1958)

On October 1958, the Egyptian Minister for Foreign Affairs informed the UNHCR that the Minister of Finance was willing to deal with individual cases of transfer of assets "*with the exception of assets of persons who had already left the country, which would have excluded the majority of cases in which the UNHCR was interested in*." (UNHCR. Memorandum. (Ref. 6/25/EGY) 1958)

With respect to pension funds that refugees left behind, after numerous representations made over the course of several years, UNHCR Memorandum, indicates that by November 1962, *"it became clear that persons who had formerly resided in Egypt would not have governmental pensions paid to them in hard currency unless they could furnish*

proof that they had resided abroad prior to June 1947" – a ruling that had significant, adverse consequences for many Jewish refugees from Egypt. (UNHCR. Memorandum. (Ref. 6/25/EGY) 1958)

VI) CONCLUDING REMARKS

From a statutory perspective, it could be argued that the UNHCR did not pursue its mandate with respect to Jewish refugees from Arab countries to the fullest extent possible; including, protection, resettlement and rehabilitation.

On the other hand, subject to the political exigencies of that period in history, the activities noted above may have been as much as the UNHCR could have done, under the circumstances. .

If one compares the levels of service, expenditures, the per capita resources utilized, etc. there is a significant discrepancy in the international response to the problems facing Jewish refugees from Arab countries. Research has revealed that the services and resources provided by the UNHCR to Jewish refugees from Arab countries did not even remotely approach the level and duration of services and resources provided by UNRWA to Palestinian refugees.

It is true that the UNHCR undertook extensive diplomatic efforts in trying to assist Jewish refugees fleeing from Arab countries, particularly with respect to the recovery of

assets. Notwithstanding, through the UNHCR Memoranda and reports, one perceives a sense of caution in pursuing the full range of UNHCR responsibilities and potential.

For example, the first recognition by the UNHCR - Dr. Auguste Lindt's statement on January 29, 1957, twice referred to "*refugees from Egypt*," never specifically to Jews fleeing from Egypt. As noted earlier, the second reference, contained in a July 6, 1967 letter from UNHCR Legal Division official Dr. E. Jahn, did indeed refer to: "…*Jews from Middle Eastern and North African countries who have left or are unable or unwilling to return to these countries in consequence of recent events"* (UNHCR. "Letter from Dr. E. Jahn to Daniel Lack.")

Archive materials further reveal the sensitivity felt by UNHCR officials about the Jewish connection and Israel. For example, in a letter to the Netherlands Ministry of Foreign Affairs, Jerome Jacobson, Executive Secretary of the Central Registry of Jewish Losses in Egypt, noted that:

> It is important to draw attention to the fact that so far as we can ascertain no allocations for emergency assistance (for Jewish refugees) nor in fact for any other purposes to aid refugees have been made under the authority of the Convention relating to the Status of Refugees; all such actions are taken under the Statute of the Office of the High Commissioner. ("Letter to J.R. ter Horst.")

As proof of the UNHCR's reticence to make any of its efforts public, after approving a $30,000 grant to the American Joint Distribution Committee to assist Jewish refugees

from Egypt, the UNHCR requested that *"no publicity of any kind be given to the granting of this assistance to your organization."* (Document. (6/0 EGY) In a confidential Memorandum to C. Jordan, Daniel Lack of the Central Registry of Jewish Losses in Egypt reported on a meeting he had with Mr. Sadry of the UNHCR wherein the latter expressed reservations about political representations, citing *"the white-hot political atmosphere" (i.e. the Arab-Israeli conflict) as the reason for his refusal.* ("Confidential Memorandum." June 14, 1967)

In the world of the *realpolitik*, there is the ideal and the practical; similar to Max Weber's "ideal-type" and "necessary but not sufficient" theories. Human rights law espouses the ideal – the standards applicable to all. Practicality, at times, dictates but is within the realm of the possible, based on historical circumstances, geopolitical politics the players involved, etc.

On a practical level, through the good offices and particular interest of its High Commissioners, the conclusion is that the UNHCR did what it felt it could, in the face of what it no doubt perceived were the political constraints of the day.

CHAPTER 5 (CONTINUED)

PROVISION OF SERVICES TO MIDDLE EAST REFUGEES

C. COMPARISONS AND CONTRASTS: UNRWA AND THE UNHCR

I) INTRODUCTION

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I) INTRODUCTION

Despite the fact that the 1948 Palestinian refugees represent just over one percent of the total number of refugees the world has seen since World War II (Beker qtd. in Shulewitz 146), the plethora of UN resolutions, and resources earmarked to ameliorate their plight, goes well beyond the attention paid to the rest of the world's refugee populations during that same period.

This situation – and UNRWA itself – are anomalies in many ways. There are distinctions, unique to UNRWA, that ensue differential – some would even say preferential – treatment, for Palestinian refugees as compared to any other of the world's refugee populations. These distinctions are worth noting:

A) The Agencies Serving Middle East Refugees

All refugee populations – numbering in the millions - are under the auspices of the UNHCR . As noted earlier, Palestinian refugees were, and remain, the only refugee population in the world to be given its own, dedicated UN refugee agency – UNRWA.

There is no legal justification for denying Palestinian refugees the benefits of the existing refugee regimes governing the rights of all other refugees worldwide. (Akram 178)

B) Geographic Jurisdiction of UNRWA and UNHCR

The jurisdictions of UNRWA and the UNHCR are radically different. The UNHCR operates in 118 countries. UNRWA has a very limited jurisdiction comprising Jordan, Syria, Lebanon, the West Bank and the Gaza Strip.

C) Definition of a Refugee

UNRWA's definition of a refugee differs substantially from the definition utilized by the UNHCR for designating someone as a refugee. As noted earlier, the 1951 Refugee Convention defines a refugee is someone who:

> Owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country.

This is the universal standard by which everyone is determined to be a *bone fide* refugee. However, UNRWA utilizes different criteria for its definition of a Palestinian refugee:

> Palestine refugees are persons whose normal place of residence was Palestine between June 1946 and May 1948, who lost both their homes and means of livelihood as a result of the 1948 Arab-Israeli conflict. UNRWA's services are available to all those living in its area of operations who meet this definition, who are registered with the Agency and who need assistance.

The differences in these two definitions are seminal:

- The UNHCR definition is generic, a universal standard applicable to all. UNRWA's definition is tied to a geographic location (Palestine), and for the benefit of a narrowly delineated target population.

- The duration of residency is different. The UNHCR is interested in those who were displaced from their "country of nationality or habitual residence." (Refugee Convention, Article 1) UNRWA requires a very short residency requirement –

normal place of residence was Palestine between June 1946 and May 1948, - just two years.

D) The Resettlement of Middle East Refugees

Under UN General Assembly Resolution 428 (V), the UNHCR was founded with a dual focus: *"providing international protection*" and "*seeking permanent solutions"* by way of voluntary repatriation or assimilation in new national communities. (Goodwin and Guy 129-136) Indeed, UNHCR's efforts seek to resettle refugees as quickly as possible.

By contrast, UNRWA has not focused at all on resettlement. After 60 years, nearly one and one-half million Palestinian refugees and their descendants remain in camps and have neither been integrated into their countries of residence nor relocated elsewhere. In fact, some claim that: "UNRWA itself has at no point sought to promote resettlement among the refugee population." (Kushner 6-8) The emphasis of UNRWA is limited to providing relief services, while Palestinian officials continue to call for repatriation to their country of origin. (Zureik 8)

From the outset, the Arab world did not support efforts to permanently resettle Palestinian refugees. In 1949, Arab delegates rejected the proposals of the Security Council to conduct a survey to examine options to settle Palestinian refugees in different parts of the Middle East. Similarly, in June of 1959, Arab delegates reacted with fury

when UN Secretary-general Dag Hammarskjold presented a multi-year plan for the rehabilitation of the refugees. (Beker. "UNRWA, Terror")

On a number of occasions, the UN expressed its concern about the need to resettle Palestinian refugees. For example, just two years into UNRWA's mandate, on Dec. 2, 1950, the United Nations General Assembly adopted Resolution 393 (V) that recommended:

> Reintegration of the refugees into the economic life of the Near East, either by repatriation or resettlement, is essential in preparation for the time when international assistance is no longer available, and for the realization of conditions of peace and stability in the area; (GA Res. (A/RES 393 (V))

Not only has UNRWA refrained from resettling Palestinian refugees, there are examples of UNRWA actively endeavoring to prevent the permanent resettlement of Palestinian refugees. For example, a UN General Assembly resolution adopted in 1979 contends that: "measures to resettle Palestinian refugees in the Gaza Strip away from their homes and property from which they were displaced constitute a violation of their inalienable right to return." The resolution refers to the Report of the Commissioner-General of UNRWA, who actually called "… *once more on Israel to desist from removal and resettlement of Palestinian refugees."* (GA. Res. (34/52,F(1)))

Again in the 1980s, Israel tried to move Palestinians out of UNRWA's refugee camps and into new homes. These efforts were resisted not only by radical elements of the Palestine Liberation Organization, but also by UNRWA itself. (Safian)

Most recently, it was reported that Canada offered to resettle some 10-15,000 Palestinian refugees in Canada, if such a plan were approved as part of a Middle East peace agreement. The Associated Press reported that Jennifer Sloan, director of communications for Foreign Affairs Minister John Manley, said Canada made the offer in a series of telephone calls involving Manley, Israel, the Palestinian Authority and the United States.[105] The Palestinian response was not gratitude – it was fury. As reported in *The Globe and Mail* newspaper:

> A Palestinian militia leader threatened violent attacks against Canadian cities, if Ottawa keeps offering to allow Palestinian refugees to move to Canada. "If Canada is serious about resettlement, you could expect military attacks in Ottawa or Montreal," said Hussum Khader, head of the largest Palestinian Fatah militia in this West Bank city.
>
> For many of the 3.5 million Palestinian refugees, any talk of resettlement is a betrayal of their lifelong goal: to return to what is now Israel. By resettling refugees, they say, Canada would be weakening the Palestinian right of return to the homes from which they were expelled or fled when Israel was founded in 1948. (York)

The Palestinian negotiating position is that Resettlement anywhere other than what is now Israel is not an acceptable option for Palestinians, notwithstanding the

[105] The Canadian offer was first reported in a front-page story in *The Toronto Star* newspaper, January 11, 2001.

international community's universal goal and efforts to resettle all other of the world's refugees as quickly as possible.

E) Reducing the Numbers of Refugees

UNHCR's efforts are intended to reduce the number of the world's refugees. UNRWA's annual statistics for the number of Palestinian refugees keep rising exponentially every year.

Some contend that the figures are overstated; that not all of those registered with UNRWA are actually refugees. Even UNRWA admitted its figures were inflated in the following excerpt from a 1998 Report of the Commissioner General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East:

> UNRWA registration figures are based on information voluntarily supplied by refugees primarily for the purpose of obtaining access to Agency services and hence cannot be considered statistically valid demographic data; the number of registered refugees in the Agency's area of operations is almost certainly less than the population recorded. (UNRWA. "Report" (Doc.A/53/472))

In addition to the inclusion of descendents, this could explain, in part, how from a figure of 726,000 Palestinian refugees (1948), the numbers have risen to an UNRWA reported 4,671,811 (Dec. 2008) Palestinian refugees. (UNRWA. "UNRWA in Figures")

F) Descendents of Refugees

The UN Convention Relating to the Status of Refugees does not include descendents in its definition of refugees. (Lapidot, "Legal Aspects" 1)[106]

UNRWA's definition not only extends to the refugee him/herself; but also to the offspring of refugees as well. (Kushner 2) This criteria does not apply to any other refugee populations where, inherent in the definition of a refugee , status is not inherited from one generation to the next.

G) Status as a Refugee

For all of the world's refugees, *The UN Convention Relating to the Status of Refugees* ceases to apply to a person, who, inter alia, "*has acquired a new nationality, and enjoys the protection of the country of his new nationality."* (UN. Treaty Series. 189, Art.1D.)

In a unique provision in the UNRWA *Consolidated Eligibility and Registrations Instructions*, it says Palestinians are the world's only refugees who maintain their status as refugees, even though they may have obtained citizenship of another country. There are millions of Palestinians who remain registered as refugees, even though they have acquired citizenship from other countries throughout the Middle East, Europe, North America and elsewhere.

[106] Also see: UNRWA's "Frequently asked questions"

Under UNHCR guidelines, those Palestinians who have obtained citizenship of other countries would no longer be refugees recognized by the UNHCR. Yet as far as UNRWA is concerned, all 4.6 million Palestinian refugees are registered and eligible for aid, possessing all the same rights that have accrued to the most needy among them – the 1.3 million Palestinians who remain in refugee camps.

H) Provision of Services Directly to Refugees

United Nations' organizations - including the UNHCR - traditionally work through local authorities or other international and/or local agencies in the provision of their services. (Juma and Suhrke 32-33)

In a significant distinction, UNRWA provides its services directly to Palestine refugees, thereby creating a direct dependency and an enormous influence over Palestinian refugees. UNRWA plans and carries out its own activities and projects, and builds and administers its own facilities (e.g. schools, clinics, etc.). (UNRWA. "Overview")

I) Policy of Hiring Refugees as Staff

UNRWA employs some 29,629 staff (Dec. 2008), of whom more than 99 per cent are locally-recruited Palestinians, almost all of them Palestine refugees." (UNRWA. "Organization/Staff")

The UN High Commission on Refugees (UNHCR) and the UN Children's Fund (UNICEF), maintains, by design, a certain distance from its clients. UNHCR traditionally

avoids employing locals who are also recipients of agency services. (Romirowsky and Spyer; Kushner 11)

J) Financial Resources to Assist Middle East Refugees

There are numerous differences in the treatment of the two Middle East refugee populations with respect to recognizing rights for lost assets and the financial relief and assistance provided by the UN and/or other involved states.

The respective UNHCR and UNRWA, current expenditures for services to refugee populations reveals the differential treatment afforded Palestinian refugees. With a 2008 budget of $1,849,835,626 UNHCR spends approximately $56 on each of the 32,900,000 persons under its mandate. (UNHCR. "Financial Figures") By comparison, with a 2008 budget of $ 548,603,000 UNRWA spends more than double what the UNHCR does - approximately $117 on each of the 4,671,811 (Dec. 2008) registered Palestinian refugees.

However, as UNRWA budget is predominantly dispersed to provide services to the 1,373,732 (2009) Palestinians remaining in refugee camps, this would mean that UNRWA actually spends nearly $400 for each Palestinian remaining in the refugee camps. (UNRWA. "UNRWA in Figures")

Other analyses have looked at the level of international support, through the UN and its affiliated members, provided to Palestinian refugees, as compared to resources provided to other refugee populations. For example, famine in Africa is one of several humanitarian crises for which, in 1994, the UN created the UN Consolidated Inter-

Agency Appeal for Humanitarian Assistance, known as "CAP." CAP combines the fund-raising programs of the World Food Program, the World Health Organization, the High Commissioner for Refugees, plus 18 other humanitarian and human rights agencies and NGOs to promote the efficient use of donor funds. (UN Watch. "Palestinians Get More") The 2003 CAP reveals that compared to the UN's support for the Palestinians, African refugees suffer greatly by comparison.

Africans and Palestinians both require substantial humanitarian assistance. The 2003 CAP asks for nearly nine times as much aid per Palestinian as for each Ethiopian

CAP $ per Beneficiary	**CAP $ as percentage of GDP "UN Subsidy"** [107]	**Location**
194	11.0%	West Bank/Gaza
168	1.9%	Burundi
154	N/A	Great Lakes
135	0.4%	Guinea
118	0.3%	Uganda
104	2.7%	Angola
104	1.8%	Somalia
103	0.8%	Congo
91	0.5%	Sudan
80	1.2%	Liberia
71	5.1%	Eritrea
64	3.1%	Sierra Leone
42	0.9%	Southern Africa
22	0.7%	Ethiopia
6	0.01%	Cote d'Ivoir

Table 16: UN Consolidated Inter-Agency Appeal for Humanitarian Assistance ("CAP") - 2003

[107] Data compiled from the "UN Consolidated Inter-Agency Appeal for Humanitarian Assistance" (2003)

threatened by famine.

Using another indicator – total numbers of personnel and staff ratios - one again sees that Palestinian refugees receive more support than any other of the world's refugees. With 32,000 staff, in 2009, to provide direct services to the 1,373,732 Palestinians remaining in refugee camps, (UNRWA. "Programme") this would mean that UNRWA provides one staff person for every 43 Palestinians in refugee camps. By comparison, with 6,650 staff to service 10,500,000 refugees in 2009, (UNHCR. "Refugee Figures") the UNHCR had one staff person for every 1,579 refugees.

The anomalies in addressing the two refugee populations are further evidenced by the vastly greater sums of money that the United Nations and its Agencies have spent on the Palestinian refugees. Since 1947, billions of dollars have been spent by the international community - by the UN, its affiliated entities and member states - to provide relief and assistance to Palestinian refugees. During that same time period, no such financial assistance was forthcoming from the UNHCR for Jewish refugees fleeing Arab countries.

By 1986, UNRWA had spent $2.6 billion on services for Palestinian refugees (Levin 218) and its budgeted and real expenditures have increased considerably in the last 20 years. Over the last 10 years, UNRWA has spent over $4 billion dollars US in the provision of services solely to Palestinian refugees, as follows: [108]

[108] Number aggregated from UNRWA financials including "UNRWA In Figures."

YEAR	REGISTERED REFUGEES	TOTAL GENERAL FUND BUDGET
1998	**3,521,130**	**330,700 Million**
1999	**3,625,592**	**352,800 Million**
2000	**3,737,494**	**300,891 Million**
2001	**3,874,738**	**310,392 Million**
2002	**3,973,360**	**330,748 Million**
2003	**4,082,300**	**344,081 Million**
2004	**4,186,711**	**350,968 Million**
2005	**4,283,892**	**360,949 Million**
2006	**4,396,209**	**488,566 Million**
2007	**4,504,169**	**505,673 Million**
2008	**4,618,141**	**544,648 Million**
TOTAL		**$4,220,416,000**

Table 17. UNRWA Refugees & Budget: 1998-2008

UNRWA's General Assembly-approved budget for 2009, was over half a billion dollars. The largest contributors are the European Commission and the United States; the US pledged $150 million in 2008 to UNRWA.[109]

In contrast the UNHCR did expend organizational resources (e.g. staff time, travel; etc.) to try and assist Jewish refugees – particularly with rehabilitation – all subsumed within the annual UNHCR budgets. The international resources provided Jewish refugees from Arab countries was, as will be cited in the next chapter, was negligible.

[109] UNRWA Press Release, "US Pledges near 150 Million Dollars to UNRWA." 5 March 2008.

As noted earlier, the UNHCR did attempt, over a number of years and in numerous ways, to expedite the transfer of the assets of Jewish refugees until the early 1970s. However, there is an obvious and marked difference between the international community providing billions of dollars in resources and services to one group of refugees - Palestinians - and the UNHCR's attempts to restore to another group the assets that were already rightfully theirs.

K) Policy of Neutrality

Refugee relief organizations traditionally strive to remain non-political, in order to serve all victims of a particular refugee tragedy. (e.g. International Committee of the Red Cross). The High Commissioner for Refugees, as a UN Agency, is required to follow this principle. The Statute of the UNHCR expressly provides that, *" the work of the High Commissioner shall be of an entirely non-political character; it shall be humanitarian and social and shall relate, as a rule, to groups and categories of refugees"* (Goodwin *The Refugee* 234)

It is not the role of a UN refugee relief agency to become politicized and actively engage in supporting only one party to a conflict. In fact, this is exactly what UNRWA is accused of. (Beker "UNRWA, Terror")

In 1982, the Lebanese Ambassador to the United Nations complained that the PLO had transformed the UNRWA camps into "military bastions," and the UN was forced to admit that entire UNRWA institutions (and all the accompanying funding) were controlled by the PLO, a political and military entity. (Beker qtd. in Shulewitz 145-146)

The infiltration of UNRWA was not limited to Lebanon. A report by the United States General Accounting Office detailed the conviction of a number of UNRWA employees in terror activities. ("Department of State")

In an October 4, 2004 interview with the Canadian Broadcast Corporation (CBC), then UNRWA Commissioner General Peter Hansen publicly admitted that Hamas members were on the UNWRA payroll, adding, "*I don't see that as a crime. Hamas as a political organization does not mean that every member is a militant and we do not do political vetting and exclude people from one persuasion as against another.*" (Honest Reporting)

With this statement, Hansen verified what has long been suspected and contended — that UNRWA does employ members of Hamas who use international funds, and UN safe havens, at a time when Hamas is on a US, EU and Canadian list of terrorist organizations. Hansen attempted to draw a distinction between UN employees who identify with Hamas 'politically,' as opposed to 'militant' Hamas members. That distinction has been

categorically rejected by the United States and the European Union, both of which blacklist all branches of Hamas, and freeze all Hamas assets, without exception.

In all of the above-noted ways, clearly evident is the differential and differing standards and treatment accorded by the United Nations to Palestinian refugees and to Jewish refugees from Arab countries, through UNRWA and the UNHCR respectively.

CHAPTER 6

DIFFERENTIAL TREATMENT OF PALESTINIAN AND JEWISH REFUGEES – WHY?

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III) CONCLUDING COMMENTS 273

I) SUMMARY OF COMMONALITIES AND DIFFERENCES

This dissertation has demonstrated that in the twentieth century, two populations of refugees began to emerge as a result of the Arab-Israeli conflict - Palestinian Arabs as well as Jews from Arab countries. Within the United Nations, the overwhelming focus has been on Palestinian refugees and indeed, their plight requires the continuing international attention and action. Notwithstanding, this dissertation has also shown that the legitimate rights of Jews displaced from Arab countries have never been adequately addressed by the United Nations.

Nothing in his dissertation is intended to argue against any claimed Palestinian rights or to negate the suffering of the Palestinian refugees and their victimization. Jewish refugees from Arab countries, as a matter of law and equity, possess the same rights of all other refugees.

There is no comparable narrative that would allow any just comparison between the respective plights of Palestinian and Jewish refugees. Jewish refugees have, for the most part, been resettled and are no longer refugees. Palestinians have never been resettled and remain refugees. However, there are a number of seminal commonalities: both were victims of the Arab Israeli conflict; suffered losses; at the same time period; in comparable numbers; were legally determined to be refugees; and still retain rights under international law.

Both sides underscore this linkage. For example, in 1949, Nuri Said, then-Prime Minister of Iraq, suggested a large scale population exchange. He explicitly suggested they, *"force an exchange of population under U.N. supervision and the transfer of 100,000 Jews*

COMMONALITIES	PALESTINIAN REFUGEES	JEWISH REFUGEES
TIME PERIOD	**Pre 1948 - present**	**Pre 1948 - present**[110]
NUMBERS	**726,000**	**856,000**
LEGAL STATUS	**Determined as *bone fide* refugees - Retain rights under international law**	**Determined as *bone fide* refugees Retain rights under international law**
LOSSES	**Suffered individual and some communal losses**	**Suffered individual and extensive communal losses**

Table 18. Commonalities between Palestinian and Jewish refugees

beyond Iraq in exchange for the Arab refugees who had already left the territory in Israeli hands." (Meron 4) It was the military government of Syria, led by Col. Sami Hinnavi and Hashim al-Atasi, that took the position that the fate of Syrian Jews was linked to what would happen to Arab refugees from Israel. (Schechtman 164)

There were similar sentiments expressed by Israel. For example, when Iraq froze all the assets of its departing Jews in 1951, Israel's then Foreign Minister Moshe Sharett declared:

> By freezing the property of scores of Jews coming to Israel…the government of Iraq has opened an account between itself and the Arab world, and it is the amount of compensation owed to the Arabs who left the State of Israel's territory and abandoned their property, following the war of aggression of the Arab world against our country…Therefore, the government [of Israel] has decided to notify the appropriate UN institutions…that the value of Jewish property frozen in Iraq will be taken into account by us, in [calculating] the compensation we undertake to pay those Arabs who abandoned their property in Israel. (Levin 21)

[110] Jews still emigrating from Yemen

CONTRASTS	UNRWA	UNHCR
MANDATE	**To carry out direct relief and works programmes for Palestinian refugees**[111]	**To provide international protection and seek permanent solutions for the problem of refugees**[112]
PERSONS UNDER ITS MANDATE	**Only Palestinians - 4,671,811**	**'People of concern'- 32,900,000** **World's refugees – 10,500,000**
EMPLOYEES	**29,629** **Hire clients as employees**	**6,650** **Do not hire clients as employees**
GEOGRAPHIC JURISDICTION	**Lebanon, Syria, Jordan plus West Bank and Gaza**	**Operates in 110 Countries**
PROVISION OF SERVICES	**Directly to Palestinian Refugees**	**Through Local Authorities and Agencies**
BUDGET (2008)	**$544,608,000**	**$1,849,835,626**

Table 19. Contrasts between UNRWA and UNHCR

[111] UN General Assembly resolution 302 (IV) of 8 December 1949
[112] "Statute of the Office of the United Nations High Commissioner for Refugees"

The above are facts and statistics that demonstrate the differences between the UNRWA and the UNHCR in fulfilling their respective mandates. More fundamental are the policies, programs and resources allocated by the United Nations to address the needs of these two Middle East refugee populations. This dissertation has revealed the preferential treatment provided by the UN to Palestinian refugees, as compared to Jewish refugees. These differences are summarized below:

CONTRASTS	UNRWA/PALESTINIAN REFUGEES	UNHCR/JEWISH REFUGEES
DEFINITION OF A REFUGEE	**A person "whose normal residence was Palestine for a minimum of two years (pre- 1948), and who… lost both his home and his means of livelihood"**	**Person with a "well-founded fear of being persecuted …. and being outside the country of his former habitual residence"**
DESCENDENTS	**Retain parent's status as a refugee**	**Lose parent's status as a refugee**
CITIZENSHIP	**Acquire New Citizenship – Retain Refugee Status**	**Acquire New Citizenship– Lose Refugee Status**
UN RESOLUTIONS – GA AND SC	**172**	**0**
UN AGENCIES INVOLVED	**13**	**1**
UN FINANCIAL RESOURCES	**6.8 Billion[113]**	**Negligible**
POLICY OF NEUTRALITY	**Involved in Palestinian politics**	**Studiously non-political**

Table 20. Contrasts between Palestinian Refugees and Jewish Refugees

[113] See Cumulative Statistics 246-247

This linkage between Palestinian and Jewish refugees was reinforced by the Israeli government in 1975, when the Knesset made the following statement:

> The flight of Israel's Arab residents to the Arab countries, and the exodus of a comparable number of Jews from Arab countries to Israel expressed, in essence, a population exchange, examples of which this century has seen take place in a number of places around the world… The Arab countries must pay the Jews who left them, proper compensation on stolen assets and property…Israel, for its part, announced that within the framework of a peace agreement, it is willing to compensate the Arab population who left the State. Discussions on compensation will take into account the rights of Jews who were forced to leave Arab countries, and abandon their property. (Levin 212)

While this linkage does exist in the positions of both sides to the conflict, there is a great disparity in the way the UN treated these two refugee populations. This dissertation has demonstrated the unique situation where different UN agencies were mandated to deal with the respective refugee populations – UNRWA and the UNHCR. The differences between these two refugee relief agencies are significant.

The overwhelming support and benefits accrued by Palestinian refugees is not difficult to understand if one considers the continuing suffering of Palestinian refugees. Less understandable is the fact that Palestinian refugees receive far more support, under any criteria, than any of the world's other refugee populations.[114]

II) HYPOTHESES

A number of hypotheses will be analyzed to try and determine why there was such a disparity in the UN's treatment of the two Middle East refugees.

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[114] See Chapter 5 Section C on Differences between UNRWA and UNHCR, ratios: staff per refugee; expense per refugee.

A) <u>Hypotheses 1</u>: The United Nations, and the international community, after having been seized with the tragedy of the Holocaust, and the aftermath of Jewish refugees from Europe, became inured to the plight of more Jewish refugees - this time from Arab countries.

This hypothesis suggests that the United Nations chose not deal with Jewish refugees fleeing Arab countries because they would once again have to deal with a refugee problem for a specific group – Jews - that they had just recently addressed. This rationale is not supported by UN precedent.

During this same time period, there was a parallel conflict in the Raj, where millions of refugees were created as a result of a wide-ranging conflict – political, military and religious - between India and Pakistan. The UN intervened, recommended partition and two states were created. The refugee problem was temporarily resolved with a population exchange between the two countries. Years later, the war for independence led to the establishment of Bangladesh in 1971. Once again, much of this same civilian population became victims of this armed conflict and became refugees.

The United Nations established a precedent and intervened a second time to assist these refugees. After hearing statements from India and Pakistan, the UN Security Council adopted Resolution 307 which, in part:

> Calls upon all those concerned to take all measures necessary to preserve human life and for the observance of the Geneva Conventions of 1949 and to apply in full their provision as regards the protection of the wounded and sick, prisoners of war and civilian populations; (Art. 3)

> Calls for international assistance in relief of suffering and the rehabilitation of refugees and their return in safety and dignity to their homes, and for the full cooperation with the Secretary-General to that effect. (Art. 4)

So the UN did intercede, on two occasions, on behalf of refugee problems that had reoccurred in the same region. Moreover, Jewish refugees from the Holocaust era were not dealt with by the UN as it was not yet in existence. Ameliorating the plight of Jewish refugees, then, was not a recurring issue for the UN. In fact, other than the High Commissioner for Refugees, no UN entity ever acknowledged that there were even Jewish refugees at all.

B) <u>Hypotheses 2</u>: The UN, in recommending the establishment of a Jewish state in mandatory Palestine, believed that Israel would be created as a safe haven for Jewish refugees, so there was no further need for UN attention.

The UN 'Partition Plan' signaled the UN's desire to have Israel set up a country to which Jews could immigrate. UN Resolution 181(II) states: "*The mandatory Power shall use its best endeavors to ensure than an area situated in the territory of the Jewish State, including a seaport and hinterland, adequate to provide facilities for a substantial immigration…*" Of the 57 UN member states at that time, 33 voted ***Yes***,[115] 13 countries voted ***No***,[116] 10 countries ***Abstained***,[117] and one[118] did not vote. This same UN 'Partition

[115] Australia, Belgium, Bolivia, Brazil, Belorussian SSR, Canada, Costa Rica, Czechoslovakia, Denmark, Dominican Republic, Ecuador, France, Guatemala, Haiti, Iceland, Liberia Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland, Sweden, South Africa, Ukrainian SSR, United States of America, Soviet Union, Uruguay, Venezuela
[116] Afghanistan, Cuba, Egypt, Greece, India, Iran, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria, Turkey, Yemen
[117] Argentina, Chile, Republic of China, Colombia, El Salvador, Ethiopia, Honduras, Mexico, United Kingdom, Yugoslavia
[118] Thailand

Plan' called for the established of an "independent Arab state" which presumably would have served as a safe haven for displaced Palestinian refugees.

Israel accepted this option, proclaimed a state. Jewish refugees did indeed immigrate to Israel in large numbers. The Palestinian leaders, the Arab League, and Muslim countries at the UN, rejected this 'Partition Plan' and, because of that decision, Palestinian refugees have endured their plight ever since.

Similar to what Palestinians had to ensure at that time, Jews fleeing Arab countries were housed in transit and refugee camps in other countries as well – e.g. Italy, Greece. Even while they had Israel as a homeland to return to, the UN demonstrated no interest in Jewish refugees who were in danger, or in transit, well before they were able to finally arrive in Israel. The UN was made aware of these Jewish refugees – some 260,000 of whom did not immigrate to Israel (Gilbert 48) but finally resettled in Europe and the Americas, many after having been displaced numerous times.

Nor did the UN take note when the rights of Jews were being violated by Arab regimes, well after the establishment of Israel. Some Arab leaders were quite open in proclaiming that Jews were being used as "hostages" in the Arab world's conflict with Israel. For example, in 1968, then High Commissioner for Refugees Prince Sadruddin Aga Khan discussed with "high" Iraqi government officials the possibilities of allowing all remaining Jews to emigrate, but found "*strong resistance*". These Iraqi officials reportedly indicated to the High Commissioner that *"holding the Jews as hostages can be very useful in connection with the activities now going on with regard to a settlement of the Middle East conflict"* ("Meeting with UN High Commissioner")

The UN agency involved, the UNHCR, knew that this "hostage" situation prevailed yet did nothing about it. The fact that Israel was created as a homeland had little relevance. The UN did not pay heed to the injustice perpetrated against Jews remaining in Arab countries.

It appears that this hypothesis, that the UN did not act on behalf of Jews from Arab countries because it created Israel to solve the refugee problem, is not fully sustainable by the evidence.

C) Hypotheses 3: Manipulation of the UN by Arab States based on religious, cultural and/or racial factors.

Arab states have long been active in spearheading anti-Israel initiatives at the United Nations. Whenever the subject of Jews in Arab countries was raised, the representatives of Arab states used a variety of tactics to ensure that the UN never formally dealt with this issue.

The following were among the tactics used:

1) Utilizing threats, in an attempt to influence UN decision-making:

For example, in the debate on whether the UN should adopt the 'Partition Plan', Heykal Pasha (Egypt) stated:

> The United Nations…should not lose sight of the fact that the proposed solution might endanger a million Jews living in the Moslem countries…. If the United Nations decides to partition Palestine, it might be responsible for the massacre of a large number of Jews." (UN. General Assembly. "Ad Hoc Committee")

Further, he contended:

> If the United Nations decides to amputate a part of Palestine in order to establish a Jewish state, no force on earth could prevent blood from flowing there… If Arab blood runs in Palestine, Jewish blood will necessarily be shed elsewhere in the Arab world…. (UN. Dept. of Information)

At that same time, Iraq's Foreign Minister Fadil Jamali warned that "*any injustice imposed upon the Arabs of Palestine* (e.g. Partition Plan') *will disturb the harmony among Jews and non-Jews in Iraq; it will breed inter-religious prejudice and hatred."* (UN. General Assembly. "Second Session")

2) Misleading the UN – Treatment of their Jewish Populations

When allegations were raised against the treatment of Jews in their countries, Arab delegates asserted that there was no discrimination against Jews and that they were well treated. For example, in 1970, the Saudi representative to the Human Rights Commission stated that " *The Arab Jews were quite happy in their own countries and did not wish to go to Israel."* (UNHRC. (Doc. E/CN.4/SR.1080)) Mr. Kelani (Syrian Arab Republic) contended in 1974 that "*In the Syrian Arab Republic the Jews are treated as Syrian citizens"* (UN. General Plenary Meeting (A/PV.2283)) At the UN General Assembly, on October 1, 1991, Syrian Foreign Minister Farouk el-Shara, denied that the Arabs had ever discriminated against Jews:

> The Arabs have never adopted measures of racial discrimination against any minority, religious or ethnic, living among them. For hundreds of years Jews have lived amidst Moslem Arabs without suffering discrimination. On the contrary, they have been greatly respected.[119]

[119] Meron, Ya'akov. "The Expulsion of the Jews from the Arab Countries: The Palestinians' Attitude Toward It and Their Clams." in Shulewitz 83.

3) Misleading the UN – Jews Left Freely and Were Not Refugees

In 1970, the UN representative from Morocco claimed that Jews left Arab countries for economic reasons, not as a result of racial discrimination:

> It had been said that many Jews had left Arab states because discriminatory pressure had been exerted on them. Although many Jews had indeed left those countries, the explanation given for their departure was wrong. Such emigration formed part of a general world pattern, as did the movement of population from the developing countries to the developed countries for the purpose of seeking better working conditions and greater economic well-being. (UNHRC. (Doc.E/CN.4/SR.1081))

4) Misleading the UN – On Statistics

There were times when figures provided by Arab countries on the status and numbers of Jews leaving their countries were disputed by others. For example, such an interchange occurred on June 5, 1957 at a meeting of the United Nations Refugee Fund, Executive Committee.

In addressing the issue of Jews leaving his country, Mr. Safouat, (Egypt), differentiated between those persons domiciled in Egypt who had a specific nationality and those who were stateless:

> Those Egyptian nationals included 35,000 Jews, none of whom had been expelled. They in fact enjoyed the same rights and privileges as other citizens. Among those [possessing a foreign nationality], there were 11,046 British and 7,013 French subjects. Some of them, to wit 800 British and 684 French subjects, had been asked to leave Egyptian territory because the Egyptian Government had considered their activities to be harmful to the interest of the State…With regard to the category of stateless persons, they numbered 7,000 and only 280 of them had been requested to leave the country in the public interest or for reasons of state security. (UNREF "Summary Record" 4)

Mr. Kahany, (Israel), disputed the figure that only 280 stateless persons had been requested to leave Egypt:

> Since November 1956, the State of Israel alone has received nearly 15,000 Jewish refugees from Egypt, almost all of whom had, technically speaking, been stateless persons who had been obliged to leave the country after being hounded out of their employment and seeing all their property sequestered. (UNREF "Summary Record" 5)

The Representative of France, Mr. Monod similarly disputed the Egyptian representative's report that only 280 stateless persons had been asked to leave Egyptian territory: He "*too was obliged to enter reservations about the accuracy of the figures cited by the Observer for the Government of Egypt. France alone had received nearly 2,300 stateless persons from that country."* (UNREF "Summary Record" 5)

5) Utilizing Procedural Maneuvers to Divert Attention Away from Jewish Refugees

This dissertation has identified at least four major instances when procedural maneuvers were utilized in an attempt to divert attention away from Jewish refugees from Arab countries.

a) On March 5, 1948, Item 37 on the agenda of a meeting of ECOSOC was to address, inter alia, 'Reports of the NGO Committee,' including Document E/710 containing two memos from the World Jewish Congress (WJC) warning that "*all Jews residing in the Near and Middle East face extreme and imminent danger."* The meeting was presided over by Dr. Charles H. Malik, (Lebanon) who, through a procedural maneuver, passed over the WJC reports. On March 11, 1948, when

the Council was ready to resume its deliberations, Mr. Katz-Suchy (Poland) rose on a *"point of order concerning the consideration of Item 37 of the Agenda*" and objected to the fact that it had not been addressed. Concurring was Mr. Kaminsky, (Byelorussian Soviet Socialist Republic) who declared that *"he could not condone a practice whereby items on the agenda were allowed to disappear from the agenda."* After discussions, the matter was referred back to the NGO Committee and the danger facing Jews in Arab countries never made it back to the ECOSOC table. [120]

b) In the aftermath of the 1967 Arab-Israeli War, the Security Council adopted Resolution 237, which called for the "*scrupulous respect of the humanitarian principles governing the treatment of prisoners of war and the protection of civilian persons in time of war."* The UN then proceeded to examine the plight of Palestinians as well as Jewish civilians in Arab countries. One year later, to prevent this dual focus on both Palestinians and Jews, the Security Council adopted Resolution 259, which recalled *"its resolution 237 (1967) of 14 June 1967,"* albeit limiting the UN's focus only to: "*the safety, welfare and security of the inhabitants of the Arab territories under military occupation by Israel."*

c) In November of 1967, the United Kingdom submitted a draft of Resolution 242 to the UN Security Council. (SC Doc. S/8247) The UK version of 242 utilized generic language in calling for a just settlement of *"the refugee problem."* The Soviet Union tried to amend this Resolution, restricting the *"just settlement"* only

[120] See Chapter 4, United Nations, ECOSOC

to *"Palestinian refugees"* (SC Doc. S/8253 [Para.3(c)]) Ultimately, the USSR's attempt to focus UN attention solely on Palestinians was thwarted. [121]

d) At the Human Rights Commission, on January 27, 1969, then Israeli Ambassador Zeltner raised the issue of the public lynching of nine Jews that had occurred in Baghdad. The Egyptian representative, Ambassador Khallaf, contended that the discussion was procedurally out of order:

> In light of the Commission's decision to confine its attention to the question of the violations of human rights in the territories occupied by Israel, the whole of the statement made by the representative of Israel at the previous meeting was out of order. (UNHRC. (Doc. E/CN.4/SR.1010))

Moroccan ambassador Kettani, supported the Egyptian position, saying that the Israeli statement "*was quite alien to the agenda"* and inappropriate *"as if the State of Israel was competent to speak on behalf of all Jews throughout the world."* (UNHRC. (Doc. E/CN.4/SR.1010))

The matter was subsequently not dealt with by the Human Rights Commission.

6) Deflecting the UN Debate

At times, instead of recognizing rights for Jews displaced from Arab countries, members of the UN Human Rights Commission and Council used the proceedings to vilify Israel and excoriate her policies. At that same 1969 Human Rights Commission meeting at which the Israeli representative raised the public execution of nine Jews in Baghdad, the Iraqi representative, Ambassador Afnan, accused Israel of trying to distract the Commission's attention away from Israel's *"crimes."* (UNHRC. (Doc.

[121] See Chapter 4, United Nations, Security Council

E/CN.4/SR.1010)) On Friday March 21, 2003, at the Fifty - Ninth session of the UN Commission on Human Rights, the Syrian Ambassador called the State of Israel *"a cancer."* The Palestinian representative called the Israeli Ambassador *"a liar"* for suggesting that the Palestinians had ended *Camp David II*. The Israeli Ambassador appealed to the Chair, protesting this breach in diplomatic protocol, but the Chair, from Libya, refused to intervene. (UNECOSOC. "Comm. of Human Rights" (Doc. E/2003/23 & E/CN.4/2003/135))

On Monday, March 24, 2003, the Algerian Ambassador evoked Nazi references to describe Israeli actions by comparing the situation of the Palestinians today to that of European Jewry during the Holocaust. He said: "*The Israeli war machine has been trying for five decades to arrive at a final solution."* He then referred to the *"Kristallnacht that has been daily inflicted on the Palestinian people."* The Israeli Ambassador again asked the Chair to remind the Algerian Ambassador that such language was deeply offensive to Jews. Once again, the Libyan Chairman remained silent. (UNECOSOC. "Comm. of Human Rights" (Doc. E/2003/23)

7) Challenging UN Authority to Deal with Issue

In 1967, the UN's envoy Mr. Gussing reported that he had been rebuffed by government officials in his efforts to determine the condition of Jews in Egypt since the six day June war. He further reported that the Egyptian Government, *"expressed the firm opinion that*

the Security Council resolution (237) did not apply to the Jewish minority." (UN. General Assembly. A/6797)

In 1969, the Soviet Union also described the Baghdad lynching as *"a purely internal matter."* (UN. General Assembly. A/6797)

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Individually, none of the above incidents would have a significant impact on the UN's decision-making. However, together, these manipulative tactics initiated by Arab representatives have a cumulative, relentless effect on UN policy and action.

The reasons Arab and Islamic countries collaborate at the UN to ensure that political pressure is brought to bear on Israel are numerous and complex. The Arab and Islamic world is not monolithic. At times, there have been disagreements—even wars—between countries supposedly united by religion. Even during peaceful times, many of these countries have difficulty getting along. For example, it was reported that: *"The Islamic Solidarity Games, the Olympics of the Muslim world, which were to be held in Iran in April, have been called off by the Arab states because Tehran inscribed 'Persian Gulf' on the tournament's official logo and medals."* (Karsh) This disagreement may seem trivial but it reveals the political divisions between Muslim states in the Gulf region. Opposition to Israel has been a useful cause that serves to unite them all.

There are those who contend that the historical record disproves the theory that Islamic anti-Semitism is caused by Zionism or Israeli policy; that the Arab response at the UN

was, in essence, anti-Jewish. Some scholars maintain—Bernard Lewis among them—that Islam's enmity towards the Jews predates the creation of the state of Israel by over 1,300 years; that it is not Zionism but Judaism that is targeted by Islam. [122]

This theory contends that, Islam, at its core considers Jews as 'non-believers' and that is why they are to be punished. In the *Qur'an*, *Sura* 2:61, it states:

> And humiliation and wretchedness were stamped upon them and they were visited with wrath from Allah. That was because they disbelieved in Allah's revelations and slew the prophets wrongfully. That was for their disobedience and transgression.

The "ultimate sin" committed by the Jews was that they are among the devil's minions [*Qur'an* 4:60], accursed by God [*Qur'an* 4:47]), and on the day of judgment, they will burn in the hellfire (*Qur'an* 4:55). As per, *Qur'an* 98:7: "*The unbelievers among the People of the Book and the pagans shall burn forever in the fire of Hell. They are the vilest of all creatures."*[123]

In addition to this religious antipathy towards Jews came the political opposition. With the issuance of the Balfour Declaration on November 2, 1917 and the awarding of the Mandate over Palestine to Britain after World War I, Arabs within the Mandate and in the surrounding countries felt threatened. The rise of Arab nationalism, and the reaction to the departing colonialists heightened political instability throughout the region.

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[122] See Lewis, *Semites and Anti-Semites*
[123] For further, see Bostom's "Anti-Semitism in the *Qur'an*…"

At first, Arab nationalism did not emerge as a reaction to Zionism. Arab nationalism was "*the idea that Arabs are a people linked by special bonds of language and history (and many would add religion), and that their political organization should in some way reflect this reality."* (Khalidi and Anderson vii.) .

Two main schools of thought are proffered to explain the rise of Arab nationalism:

1) Contact with the West inspired nationalism. Arabs developed an interest in self-determination because of their reaction to secular, Western ideas; and

2) Arab nationalism was a form of protest by Arab elites against the Ottoman rule.

During the twentieth century, Arab states achieved independence from their colonial rulers in North Africa, the Middle East and in the Gulf region - Egypt in 1922;Saudi Arabia in 1927; Iraq in 1932; Syria in 1941; Lebanon in 1941; Sudan in 1956; Jordan in 1946; Libya in 1951; Morocco in 1956; Algeria in 1962; and Yemen in 1967.

The first attempt at political organization was the creation of the multilateral Arab League in 1945. Following the establishment of the state of Israel, efforts at unifying the bi-lateral political organization of Arab states were unsuccessful and short-lived. For example, the political merger between Egypt and Syria began in 1958 and dissolved in 1961. In the 1970s, the merger between Egypt and Libya resulted in a similar fate.

Religious elements were also introduced in the narrative used by some Arab leaders against the establishment of a Jewish homeland in Israel. Haj Amin Al- Husseini, *Mufti of Jerusalem*, for example, used powerful Islamic symbols and motifs to mobilize the Arab masses against Zionism. He spoke frequently of the Jewish danger to Jerusalem. (Litvak

3) The Mufti's close ties to Nazi Germany fueled his hostility towards Jews.[124] At the Nuremberg Trials, Eichmann's deputy Dieter Wisliceny, subsequently executed as a war criminal, testified:

> The Mufti was one of the initiators of the systematic extermination of European Jewry and had been a collaborator and adviser of Eichmann and Himmler in the execution of this plan. ... He was one of Eichmann's best friends and had constantly incited him to accelerate the extermination measures. (qtd. in Dershowitz, *The Case* 200)

With the collapse of Nazi Germany in 1945, and the adoption of the UN partition plan in 1947, anti-Zionism replaced anti-Semitism as the 'cause *célèbre'* of the Arab world and for many Arabs who felt threatened by the re-emergence of a Jewish state in the region.

From the outset, Muslim states opposed the creation of Israel as an intrusion into *Dar al-Islam*, a domain rightfully to be ruled only by Muslims. In the Arab world view, the United Nations' partition decision lacked moral validity as they believed that the UN did not have the authority to give away Arab land. (Litvak 3).

Consequently, anti-Zionism and/or anti-Semitism have been integrated into the cultural fabric and narrative of Arab states since the accreditation of Israel as a member of the United Nations.

Today, sixty years later *"anti-Semitism has become an integral part of the intellectual and cultural discourse of the Arab world. Much of Arab society believes it….."*
(Litvak 5)

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[124] For elaboration, see Black's Chap. 16

Some Muslim leaders blur any distinction between anti-Zionism and anti-Semitism. Noted international human rights advocate Prof. Irwin Cotler states: *"After the Second World War, the horrors of the Holocaust discredited traditional anti-Semitism. Yet anti-Semitism did not die. For many member states of the United Nations, it turned into anti-Zionism."* (Cotler, "Anti-Jewishness")

While anti-Semitism is abhorrent in and of itself, some Muslim take these views to the extreme. For example, in a February 28, 2010 interview for Al-Aqsa T.V., Abdallah Jarbu', Hamas Deputy Minister of Religious Endowments declared:

> [The Jews] suffer from a mental disorder, because they are thieves and aggressors. A thief or an aggressor, who took property or land, develops a psychological disorder and pangs of conscience, because he took something that wasn't his…They want to present themselves to the world as if they have rights, but, in fact, they are foreign bacteria – a microbe unparalleled in the world. It's not me who says this. The Koran itself says that they have no parallel: 'You shall find the strongest men in enmity to the believers to be the Jews.' …May He annihilate this filthy people who have neither religion nor conscience. I condemn whoever believes in normalizing relations with them, whoever supports sitting down with them, and whoever believes that they are human beings. They are not human beings. They are not people. They have no religion, no conscience, and no moral values."[125]

It is noteworthy that this Hamas official's animosity is directed not at Israel but rather against Jews in general. This is consistent with the attitude of some leaders during the period when Jews were considered as *dhimmi*, living among Muslims as second class citizens.[126]

At that time, many state-sanctioned decrees were adopted by Arab countries against Jews, as previously delineated in this dissertation.[127] They remain in force to-day as do other

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[125] This interview is available on the Internet at: www.memritv.org/clip/en/0/0/0/0/0/0/2415.html
[126] See Chapter 2 Section B on Jewish refugees
[127] See Chapter 2 Section B on Jewish refugees

discriminatory edicts enacted during the colonial period. For example, Great Britain decided in 1922 that no Jews would be authorized either to reside, or buy land, in the protectorate which was to become the Emirate of Transjordan. This decision was ratified by the kingdom of Jordan in its law No. 6, section 3, of April 3, 1954[128] which states that any person may become a citizen of Jordan if he is not a Jew. When Jordan made peace with Israel in 1994, this legislation remained in force, and still exists to this very day. (Littman)

These are not the policies of a few rogue Muslim states. The Political Law of the Arab League, referred to earlier in this dissertation, show how Arab states colluded in their opposition to the creation of the state of Israel. A major forum for this political struggle was the United Nations. There, the Arab world, and their political allies, have been extremely successful in mounting opposition to the State of Israel and her policies. Concomitantly, these same political forces have ensured that the UN would not provide a sympathetic hearing to the plight and flight of Jewish refugees from Arab countries.

D) <u>Hypotheses 4</u>: ***The United Nations was politically and numerically dominated by a consortium of political alliances, which provided an overwhelming voting bloc that prevented the UN from addressing the plight of Jewish refugees from Arab countries.***

Israel has long complained about what it perceives as the anti-Israel bias of the United Nations. Abba Eban, Israeli Ambassador to the United Nations once quipped: *"If Algeria*

[128] Reconfirmed in Law No.7, Sect. 2, of April 1, 1963

introduced a resolution declaring that the earth was flat and that Israel had flattened it, it would pass by a vote of 164 to 13 with 26 abstentions." (Dershowitz, *Chutzpah* 224)

The UN has demonstrated a decided preoccupation with Israel:

- The General Assembly has had only ten emergency sessions in its history and six of them focused on Israel.
- In 2002 alone, the UN General Assembly produced twenty-two reports and formal notes on "*conditions of Palestinian and other Arab citizens living under Israeli occupation*."
- Almost 30% of UN Commission on Human Rights resolutions over a thirty-five year period have been about Israel.
- Israel is the only state to have been the subject of an entire Agenda Item of the Human Rights Commission for the past thirty-three years. (Bayefsky)

It appears that the geopolitical forces have influenced Middle East Affairs, as they have in numerous other regions around the world. After the establishment of the State of Israel, and the advent of the Cold War, Middle East countries became allied with the two major protagonists, the United States and the USSR. Both countries wielded tremendous influence over the Middle East, through their alliances. Israel fell under the orbit of the United States while the USSR became the champion of many Arab states, including the 'front-line states of Syria and Egypt.

Interestingly enough, in 1947, the USSR voted in favor of UN Resolution A/RES 181 (III) and its call for a Jewish state alongside a Palestinian state. In fact, the USSR

recognized the newly established State of Israel just three days after its proclamation. (Heller 60)

The UN Security Council and General Assembly did not react to Middle East events in the same manner. Given the permanent membership of the United States on the United Nations Security Council, overall, there have been fewer UNSC Resolutions than those adopted by the General Assembly and they have been more balanced towards Israel. For example, during the first decade of the UN's operation, from 1946-1956, there were 37 resolutions on the Middle East, only two of which mentioned Palestinian refugees. During the last decade, from 1999-2009, there have been 57 resolutions on the Middle East, - an increase of 54%, - eight of which have dealt with Palestinian refugees.[129]

At the outset, like the UN Security Council, the General Assembly similarly demonstrated a more balanced approach to the Middle East situation. From 1946 – 1956, the General Assembly adopted 40 resolutions on the Middle East, 10 of which were on Palestinian refugees.[130] Most votes were so uncontroversial that there was not even a recorded vote. There were, however, four recorded votes on seminal resolutions which reflect the political alliances of that period. They include: [131]

- ***UN Resolution 181 (***Partition Plan) – Adopted in 1947, out of 56 votes cast, there were 33 states in favor - Australia, Belgium, Bolivia, Brazil, Byelorussian S.S.R., Canada, Costa Rica, Czechoslovakia, Denmark, Dominican Republic, Ecuador, France, Guatemala, Haiti, Iceland, Liberia, Luxemburg, Netherlands, New

[129] See Appendix A: Summary of UN Security Council Resolutions, 1946-2009.
[130] See Appendix: B: Summary of UN General Assembly Resolutions 1946-2009
[131] See Appendix C: Voting Record of the General Assembly, by State, 1946 - 2009

Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland, Sweden, Ukrainian S.S.R., Union of South Africa, U.S.A., U.S.S.R., Uruguay, Venezuela; there were 13 against -Afghanistan, Cuba, Egypt, Greece, India, Iran, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria, Turkey, Yemen; and 10 countries abstained - Argentina, Chile, China, Colombia, El Salvador, Ethiopia, Honduras, Mexico, United Kingdom, Yugoslavia.

- ***UN Resolution 194*** (Palestine Question) - Adopted in 1948, out of the 58 votes cast, there were 35 states who voted in favor - Argentina, Australia, Belgium, Brazil, Canada, China, Columbia, Denmark, Dominican Republic, Ecuador, El Salvador, Ethiopia, France, Greece, Haiti, Honduras, Iceland, Liberia, Luxembourg, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Siam, Sweden, Turkey, Union Of South Africa, United Kingdom, United States, Uruguay, Venezuela; 15 states voted against – Afghanistan, Byelorussian SSR, Cuba, Czechoslovakia, Egypt, Iraq, Lebanon, Pakistan, Poland, Saudi Arabia, Ukrainian SSSR, USSR, Syria, Yemen, Yugoslavia; and there were 8 abstentions - Bolivia, Burma, Chile, Costa Rica, Guatemala, India, Iran, Mexico.

- ***UN Resolution 273*** (Israel Membership at the UN) – Adopted in 1948, out of the 58 votes cast, there were 37 states who voted in favor - Argentina, Australia, Bolivia, Byelorussian SSR, Canada, Chile, China, Columbia, Costa Rica, Cuba, Czechoslovakia, Dominican Republic, Ecuador, France, Guatemala, Haiti,

Honduras, Iceland, Liberia, Luxembourg, Mexico, Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Peru, Philippines, Poland, Ukrainian SSSR, Union Of South Africa, USSR, United States, Uruguay, Venezuela, Yugoslavia; 12 states voted against – Afghanistan, Burma, Egypt, Ethiopia, India, Iran, Iraq, Lebanon, Pakistan, Saudi Arabia, Syria, Yemen; and there were 9 Abstentions - Belgium, Brazil, Denmark, El Salvador, Greece, Siam, Sweden, Turkey, United Kingdom.

- ***UN Resolution 303*** (Jerusalem: International Regime: Adopted in 1948, out of the 59 votes cast, there were 38 states who voted in favor – Afghanistan, Argentina, Australia, Belgium, Bolivia, Brazil , Burma, Byelorussian SSR, China, Colombia, Cuba, Czechoslovakia, Ecuador, Egypt, El Salvador, Ethiopia, France, Greece, Haiti, India, Iran, Iraq, Lebanon, Liberia, Luxembourg, Mexico, Nicaragua, Pakistan, Paraguay, Peru, Philippines, Poland, Saudi Arabia, Syria, Ukrainian SSR, USSR, Venezuela, Yemen; 14 states voted against – Canada, Costa Rica, Denmark, Guatemala, Iceland, Israel, Norway, Sweden, Turkey, Union Of South Africa, United Kingdom, United States, Uruguay, Yugoslavia; and there were 7 Abstentions - Chile, Dominican Republic, Honduras, Netherlands, New Zealand, Panama, Thailand.

Even as early as 1947-1949, there was some consistency in the voting blocs that could already be identified. For the most part, on one side was the Soviet Union, its communist allies, Muslim and Arab states and developing countries. On the other side was the

United States and its allies; along with some countries in Europe which, much like to-day, were divided in their voting records (e.g. Sweden and Denmark).

For many years, the Soviet Union served as the superpower broker for the Arab states at the United Nations. For example, in 1967, the USSR was accused of "stalling" UN Security Council action on seminal *Resolution 242* when it introduced a competing draft resolution demanding "*an immediate withdrawal of parties"* to the old Armistice lines. Western delegates regarded the move as a delaying tactic because the Council had neared a vote on a British resolution. *"The Russians just can't swallow a Western draft"* a Western delegate said. "*They are posing as the great champions of the Arabs."* (Fulton)

With the dissolution of the USSR and as independence was gained by numerous countries in Africa and in Asia, membership in the United Nations grew exponentially. Resolutions adopted by the General Assembly on the Middle East were far more numerous. The UN and its Agencies were increasingly controlled by political blocs which, by their voting patterns, secured overwhelming majorities on virtually all UN votes on the Middle East. The only common denominator among these vastly different and politically diverse factions was their anti-Israel stance on virtually every issue. Participants were among those who belonged to more than one of the following multi-lateral organizations over the last 50 years: *The Organizations of Islamic Conference* (OIC – including the *Arab League*) - 57 members.[132] The *Communist Bloc* comprised the

[132] Afghanistan, Algeria, Chad, Egypt, Guinea, Indonesia, Iran, Jordan, Kuwait, Lebanon, Libya, Malaysia, Mali, Mauritania, Morocco, Niger, Pakistan, Palestine, Saudi Arabia, Senegal, Sudan, Somalia, Tunisia, Turkey, Yemen, Bahrain, Oman, Qatar, Syrian Arab Republic United Arab Emirates, Sierra Leone, Bangladesh, Gabon, Gambia, Guinea-Bissau, Uganda, Burkina Faso, Cameroon, Comoros, Iraq, Maldives, Djibouti, Benin, Brunei Darussalam, Nigeria, Azerbaijan, Albania, Kyrgyzstan, Tajikistan, Turkmenistan, Mozambique, Kazakhstan, Uzbekistan, Suriname, Togo, Guyana, Côte d'Ivoire.

former USSR - 15 countries [133]and 7 *Warsaw Pact* members.[134] *The* Organization *of African Unity* (OAU) has 53 members [135] while additional support for anti-Israel resolutions could be counted on from the 118 member *Non-Aligned Movement* (NAM).[136]

> Beginning around 1967, the full weight of the UN was gradually but deliberately turned against the country it had conceived by General Assembly resolution a mere two decades earlier. The campaign to demonize and delegitimize Israel at every opportunity and in every forum was initiated by the Arab states together with the former Soviet Union, and supported by what has become known as an "automatic majority" of Third World UN member states. The result today is that the UN's political organs, specialized agencies, and bureaucratic divisions have been subverted in the name of a relentless propaganda war against the Jewish state. (Neuer 2)

A low point in the anti-Israel history of the United Nations was the General Assembly Resolution 3379 (XXX) equating Zionism with racism. This Resolution was adopted in 1975 by a vote of 89-76. After much political activity, this Resolution was revoked in 1991 by a vote of 87-25. United Nations General Assembly Resolution 46/86, states

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[133] Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan.

[134]Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Romania.

[135] Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of the Congo, Republic of the Congo, Côte d´Ivoire, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sahrawi Arab Democratic Republic, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Swaziland, São Tomé and Príncipe, Tanzania, The Gambia, Sudan, Togo, Tunisia, Uganda, Zambia, Zimbabwe.

[136] Afghanistan, Algeria, Angola, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh , Barbados , Belarus , Belize, Benin , Bhutan , Bolivia, Botswana, Burma (Myanmar), Brunei, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Chile, Colombia, Comoros, Congo, Côte d'Ivoire, Cuba, Democratic Republic, of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kenya, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mongolia, Morocco, Mozambique, Namibia, Nepal, Nicaragua, Niger, Nigeria, North Korea, Oman, Pakistan, Palestine, Panama, Papua New Guinea, Peru, Philippines, Qatar, Rwanda, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, São Tomé and Príncipe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syria, Tanzania, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkmenistan, Uganda, United Arab Emirates, Uzbekistan, Vanuatu, Venezuela, Vietnam, Yemen, Zambia, Zimbabwe.

simply: "The general assembly decides to revoke the determination contained in its resolution 3379 (XXX) of 10 November1975." (Matas 135) The twenty- five states who voted against this resolution, presumably, still contend that Zionism is racism.[137]

This resolution is but one example of a relentless political assault on Israel, at the UN, during the last decade. The General Assembly has adopted 282 resolutions on the Middle East since 1999 - there were only 40 in the UN's first decade. Of these, 72 dealt specifically with Palestinian refugees - there were only 10 such resolutions in the UN's first decade.[138] An analysis of the voting patterns of the 192 current members confirms the political alliances identified above.[139]

Underscoring the perceived anti-Israel bias of UN member states is not intended to condone Israeli actions. No country – including Israel – should be above the law and can, and should, be held accountable for its conduct.. It is legitimate for the UN to criticize Israel, based on international standards that are applicable to all UN member states. This does not always seem to be the case. For example, at its 2005 annual assembly in Geneva, the *World Health Organization* (WHO) passed only one resolution against a specific country, calling upon Israel "… *as the occupying power, to halt immediately all its practices, policies and plans which seriously affect the health conditions of civilians under occupation*. (WHA58.6) Similarly, the *International Labour Organization* (ILO), at its annual 2005 conference in Geneva, carried only one major country-specific report on its annual agenda in 2005 -- charging Israel with violating the rights of Palestinian

[137] Afghanistan, Algeria, Bangladesh, Brunei Darussalam, Cuba, Democratic People's Republic of Korea, Indonesia, Iran, Iraq, Jordan, Lebanon, Libya, Malaysia, Mali, Mauritania, Pakistan, Qatar, Saudi Arabia, Somalia, Sri Lanka, Sudan, Syria, United Arab Emirates, Vietnam, Yemen.
[138] See Appendix: B: Summary of UN General Assembly Resolutions 1946-2009
[139] See Appendix C: Voting Record of the General Assembly, by State, 1946 – 2009 (Delayed: To be handed out to Committee members at the Defense on April 8, 2010).

workers.[140] While both these international organizations singled out Israel for their sole criticism, other, major human rights violations, in numerous countries around the world, were ignored.

Each year, the US State Department submits to the US Congress a document entitled: "Country Reports on Human Rights Practices" which is intended to provide Congress with "a full and complete report regarding the status of internationally recognized human rights." (US Dept. of State, Annual Report) In 2005, the US Department of State identified numerous human rights violations which were ignored by the WHO and the ILO.

For example, in the Western Hemisphere, the Cuban government's "*human rights record remained poor, and the government continued to commit numerous, serious abuses"* including: beatings and abuse of detainees and prisoners; arbitrary arrest and detention of human rights advocates; severe limitations on freedom of speech and press; denial of peaceful assembly and association; restrictions on freedom of movement; and more significantly for the ILO, *"severe restrictions on worker rights, including the right to form independent unions."*

In Darfur, Sudan "*serious abuses*" were reported by the US Department of State, including the killing hundreds of civilians, razing villages of African tribes; torture and violence against women and "*violations of humanitarian and international law that could be considered war crimes*."

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[140] *The situation of workers of the occupied Arab territories, report of the director-general to the International Labour Conference, 93rd Session, International Labour Office, Geneva, 2005*

In the Far East, according to the 2005 US Report, the human rights record of the government of the Democratic People's Republic Of Korea *"remained extremely poor, and the regime continued to commit numerous serious abuses"* including: extrajudicial killings, disappearances, arbitrary detention, harsh and life-threatening prison conditions, torture, forced abortions and infanticide in prisons, lack of an independent judiciary and fair trials, denial of freedom of speech, press, assembly and association, denial of freedom of religion, freedom of movement, and severe punishment of some repatriated refugees.

With respect to countries in the Middle East, the US Report states that in Israel "*The government generally respected the human rights of its citizens"* while in both Egypt and Syria, it states that the government's "respect" and "record" for human rights "*remained poor."*

The singling out of Israel for sole criticism does not mitigate the need to call attention to the legitimate rights of the Palestinian refugees and their continued suffering. It is just to do so, based on the same international standards applicable to all the world's refugees. However, this does not seem to be the case:

> It is something else to elevate this claimant people (Palestinians) far above any other of the thousands of aggrieved minority peoples around the world…. The UN's advocacy for the Palestinians is more often than not a way of targeting Israel. For example, the organization is completely silent on the violations of Palestinian rights in Lebanon… (Neuer 3)

The UN's anti-Israel positions have not gone unnoticed. On March 5, 2010, Hannah Rosenthal, Head of the US State Department's Office to Monitor and Combat Anti-Semitism, stated the following:

> Looking at UN statistics over the last six years, where there have been negative remarks against a country, 170 have been against Israel. Compare that to North Korea that had eight... Israel has had 50 resolutions condemning alleged human rights abuses. Compare that to the Sudan which has had five. Clearly Israel is being held to a different standard and that means it has crossed the line from anti-Israel policy to profound anti-Semitism. (Paul)[141]

This sentiment was also shared many years earlier by one of the world's champions of human rights. In a 1968 appearance at Harvard, Martin Luther King said, "*When people criticize Zionists, they mean Jews. You are talking anti-Semitism."* [142] (Lipset)

Professor Anne Bayefsky, a senior fellow at the Hudson Institute and member of several Canadian delegations to the UN, concurs that *"The United Nations has become the leading global purveyor of anti-Semitism.* Other human rights experts, like David Matas, Professor of Law at University of Manitoba, claim that the UN is a forum for anti-Semitism, citing the example of the Palestinian representative to the UN Human Rights Commission who claimed , in 1997, that Israeli doctors had injected Palestinian children with the AIDS virus. (Matas 129-144)

While some of these allegations defy credibility, the still have the effect of maintaining Israel in the 'cross-hairs' of the United Nations and in the docket of the international court of public opinion.

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[141] Report on a speech to the Community Security Trust (CST) annual meeting in London.

[142] According to sociologist Seymour Martin Lipset, at a dinner shortly before his assassination in 1968, Martin Luther King responded to a black student who harshly criticized Zionists, *"Don't talk like that! When people criticize Zionists they mean Jews. You are talking anti-Semitism."*

Palestinians officials are aware of the inordinate amount of support they receive from the United Nations. The recent report of the Permanent Observer Mission of Palestine to the United Nations states:

> The 57th Session of the U.N. General Assembly adopted an impressive package of 20 Palestinians resolutions on a variety of issues with the traditional overwhelming support of Member States." ("Palestine & The UN." *Monthly Bulletin*. Vol.7., Iss.10)

Arab and Muslim interests even boast openly how they control the UN. For example, in an interview with Al Jazeera, Ekmeleddin Ihsanoglu, the secretary-general of the Organization of Islamic Conference (OIC), claims credit that the organization was "the initiator" of a UN war crimes inquiry in Gaza. (*Aljazeera*)

An institutional body like the UN, by itself, is not anti-Semitic. Rather, it is member states who are guiding the UN in its' proclamations and generate the anti-Israel or anti-Semitic rhetoric that shape the institution. This political bent of the current member states have ensured that the predominant attention of the UN was on Palestinian refugees, while the issue of Jewish refugees from Arab countries was never appropriately addressed.

III) Concluding Comments

The original questions posed at the outset of this Dissertation were: "Why would the UN react so differently towards Palestinian and Jewish refugees? Is it UN bias? Or collusion by Arab states; or is it the nature of the UN to be subverted by political alliances?

It would seem that a combination of all of the above would apply. It has been demonstrated that Arab states colluded in their treatment of Jewish populations in Arab countries and in their anti-Israel representations to the United Nations. There is the factor of this uniqueness of the Jews as there seems to be no distinction between anti-Zionism and anti-Semitism at the UN.

The UN may not have an anti-Israel bias. However, this has been a case study in how a seemingly objective international body could be controlled by a confluence of political allies.

Clearly, this phenomenon did not bode well for Jewish refugees from Arab countries and led to their differing treatment, as compared to Palestinian refugees.

The lesson learned here for minority groups ,such as the Jews from Arab countries, is that their fate will be determined not by objective and legal criteria, but by political considerations.

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