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Jewish Refugees from Arab Countries: The Case for Rights and Redress

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NOVEMBER 5, 2007

Jewish Refugees from Arab Countries: The Case for Rights and Redress

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INTRODUCTION

When the issue of refugees is raised within the context of the Middle East, people invariably refer to Palestinian refugees, virtually never to Jews displaced from Arab countries.

In reality, two major population movements occurred as a result of over a half century of turmoil in the Middle East. Securing rights for these former Jewish refugees has never been adequately addressed by the international community. For any peace process to be credible and enduring, it must address the rights of all Middle East refugees, including Jewish and other minority populations that were displaced from Arab countries.

Historically, Jews and Jewish communities have existed in the Middle East, North Africa and the Gulf region for more than 2,500 years. Jews in substantial numbers resided in what are to-day Arab countries over 1,000 years before the advent of Islam. Following the Moslem conquest of the region, for centuries, while relegated to second-class status, Jews were nonetheless permitted limited religious, educational, professional, and business opportunities.

It is important to note that the treatment of Jews by Arab leaders and Islamic populations varied greatly from country to country. By way of example, in some countries, Jews were forbidden to leave (e.g. Syria); in others, many Jews were expelled (e.g. Egypt) or displaced *en masse* (e.g. Iraq); while other Jewish communities lived in relative peace under the protection of Muslim rulers (e.g. Tunisia, Morocco).

When Arab countries gained independence, followed by the rise in Arab nationalism, state-sanctioned measures, coupled often with violence and repression, made remaining in the land of their birth an untenable option for Jews.

In 1948, the status of Jews in Arab countries worsened dramatically as many Arab countries declared war, or backed the war against the newly founded State of Israel. Jews were either uprooted from their countries of longtime residence or became subjugated, political hostages of the Arab-Israeli conflict. In virtually all cases, as Jews left the country, individual and communal properties were confiscated without compensation.

Since 1948, over 850,000 Jews have left their birthplaces and their homes in some 10 Arab countries. To-day, fewer than 7,000 Jews remain in these same countries.

The fact that Jews displaced from Arab countries were indeed *bone fide* refugees, under international law, is beyond question.

- On two separate occasions the United Nations High Commissioner for Refugees (UNHCR) ruled that Jews fleeing from Arab countries were indeed *'bona fide'* refugees who "fall under the mandate of my *(UNHCR)* office".[1]

[1] Mr. Auguste Lindt, United Nations High Commissioner for Refugees, Report of the UNREF Executive Committee, Fourth Session – Geneva 29 January to 4 February, 1957; and Dr. E. Jahn, Office of the UN High Commissioner, United Nations High Commissioner for Refugees, Document No. 7/2/3/Libya, July 6, 1967.

- In all relevant international bilateral or multilateral agreements, (i.e., UN Resolution 242, The *Road Map*, *The Madrid Conference*, etc.), the reference to "refugees" is generic, allowing for the recognition and inclusion of *all* Middle East refugees - Jews, Christians, and other minorities.

This Legal Report is intended to document, and assert, the rights of Jews displaced from Arab countries. Justice for Jewish refugees from Arab countries must assume its rightful place on the international political agenda, as a matter of law and equity.

It is important to underscore that:

1) *The legitimate call to secure rights and redress for Jews displaced from Arab countries is not a campaign against Palestinian refugees*. In any Middle East peace proposals, Palestinian refugees will be up for discussion. The history and truth about the plight of former Jewish refugees from Arab countries must be also be acknowledged and returned to the narrative of the Middle East from which it has been expunged;

2) *This Report should not be misconstrued as 'anti-Arab'*. This Report provides an accurate historical narrative about the plight and flight of Jews from Arab countries that has never been recognized by the international community nor acknowledged by Arab countries. Compelling evidence supports the call for justice to redress the victimization of Jews who lived in Arab countries and the mass violations of human rights that they were victims of; and

3) *This initiative is not about money, nor about launching legal proceedings to seek compensation.* This Report provides legal facts and evidence to assist all parties in any future negotiations on rights and redress for all Middle East refugees. In the absence of truth and justice, there can be no reconciliation, without which there can be no just, lasting peace between and among all peoples of the region.

The first injustice was the mass violations of rights of Jews in Arab countries. To-day, we must not allow a second injustice – for the international community to recognize rights for one victim population - Palestinian refugees - without recognizing equal rights for other victims of that very same Middle East conflict - former Jewish, Christian and other refugees from Arab countries.

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EXECUTIVE SUMMARY

A) Why Now?

Why has justice for Jewish refugees not only been *delayed*, but why has it been *denied* all these years?

Why has the issue been absent, not only from the international justice agenda, but why has it also been absent all these years from the Middle East peace agenda?

Why is it that the U.N. is preparing, yet again, to commemorate the International Day of Solidarity with the Palestinian People – on the 60th anniversary of the U.N. Partition Resolution of 1947 – but will ignore, yet again, the plight of Jewish refugees on that commemorative occasion?

Let there be no doubt about it: where there is no remembrance, there is no truth; where there is no truth, there will be no justice; where there is no justice, there will be no reconciliation; and where there is no reconciliation, there will be no peace.

There are a number of compelling, indeed urgent, moral and juridical considerations whose convergence warrants the publication of this Report.

First, there is the importance of rectifying the distorted historical narrative of Middle East refugees, and redressing the painful and pernicious delay and denial of justice for Jewish refugees these past sixty years. In particular, Jewish refugees from Arab countries must be restored to the Middle East narrative from which they have been expunged and eclipsed.

Second, there is the importance of the right to memory and the duty of remembrance of Jewish refugees; the importance for the refugees themselves of bearing witness; and the importance of hearing and documenting this witness testimony.

Third, there is the need to lay bare the truth, to counter the Middle East revisionism and distortion, to expose the cover-up of the historical narrative; and to combat the corruption of truth that inhibits understanding and prevents validation of a victim population, their history, their experience, and their pain.

Fourth, this Report not only details this pattern of state-sanctioned repression of Jews throughout Arab countries, but uncovers, for the first time, evidence of an international criminal conspiracy by the League of Arab States to persecute its own Jewish populations, as set forth more fully in Chapter 2 of this report.

Fifth, there are important developments in international human rights and humanitarian law, where more has happened in the last 15 years than in the previous sixty, which now underpin a

right of redress for victim populations, and which apply specifically to the case of Jewish refugees from Arab countries.

Sixth, there is now a panoply of remedies to implement the right of redress in international law. These are not limited to compensation or indemnification of a victim population, but include such components as the right of memory, the duty of remembrance, the search for truth, access to justice, state-responsibility for wrongs inflicted, and the like.

Seventh, the whole question of refugees – and refugee claims – has now emerged at the forefront of the peace process, be it as a subject matter of the bilateral Israeli-Palestinian negotiations, or as a subject of the forthcoming Middle East peace conference in Annapolis, or as in every narrative of discussions on the Israeli-Palestinian and Middle East peace process. Yet in each and all instances, the reference is only to Palestinian refugees, thereby cleansing Jewish refugees from the Middle East peace process narrative.

Eighth, there is the particular pernicious and prejudicial role of the United Nations, which has systemically excluded the narrative of Jewish refugees from Arab countries from any U.N. narrative on the Middle East, either by exclusively identifying only Palestinian refugees as the sole victim population of the Middle East conflict, or by asserting only Palestinian rights of redress while ignoring those of Jewish refugees.

International law now obliges us to recognize and respect the narrative of victims of human rights violations, and therefore also obliges us to respect justice for Jewish refugees from Arab countries and their case for rights and redress. Only in this fashion can there be movement from remembrance to truth, from truth to justice, from justice to reconciliation, and from reconciliation to peace - between and among all peoples and states in the region.

B) The Historical Narrative

Historically, Jews and Jewish communities have existed in the Middle East, North Africa and the Gulf region for more than 2,500 years.

Fully one thousand years before the advent of Islam, Jews in substantial numbers resided in what are to-day Arab countries. Following the Moslem conquest of the region, for centuries under Islamic rule, Jews were considered second class citizens but were nonetheless permitted limited religious, educational, professional, and business opportunities.
Upon the declaration of the State of Israel in 1948, the status of Jews in Arab countries changed dramatically as virtually all Arab countries declared war, or backed the war against Israel. This rejection by the Arab world of a Jewish state in their ancient homeland was the event that triggered a dramatic surge in a longstanding, pattern of abuse and state-legislated discrimination initiated by Arab regimes and their peoples to make life for Jews in Arab countries simply untenable. Jews were either uprooted from their countries of residence or became subjugated, political hostages of the Arab-Israeli conflict.

Little is heard about these Jewish refugees because they did not remain refugees for long. Of the hundreds of thousands of Jewish refugees between 1948 and 1972, some two–thirds

were resettled in Israel at great expense – others emigrated elsewhere – all without any compensation provided by the Arab governments who confiscated their possessions.
Securing rights and redress for Jews displaced from Arab countries is an issue that has not yet been adequately addressed by the international community. In fact, there were more former Jewish refugees uprooted from Arab countries (over 850,000) than there were Palestinians (UN estimate: 726,000) who became refugees as a result of the 1948 war when numerous Arab nations attacked the newly established State of Israel.

C) The Mass Violations of Human Rights

The uprooting of ancient Jewish communities from some 10 Muslim countries did not occur by happenstance. State-sanctioned repressive measures, coupled often with violence and repression, precipitated a mass displacement of Jews and caused the Jewish refugee problem in the Middle East. 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. These are evidenced from: (a) statements made by delegates of Arab countries at the U.N. during the debate on the partition resolution representing a pattern of ominously similar threats made against Jews in Arab countries; (b) Recently discovered Draft Law of the Political Committee of the Arab League detailing 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 common pattern of repressive measures – indeed collusion - against Jews by Arab governments.

The Report contains country reports that describe these unmistakable trends. The situations in Egypt, Iraq and Libya are described in greater detail. General 'snapshot" profiles are provided on 7 other countries, including Algeria, Tunisia, Morocco, Yemen, Aden, Syria and Lebanon.

D) The Discriminatory Response of the United Nations to the Plight of Jewish Refugees

From 1948 onward, the response of the international community to assist Palestinian refugees arising out of the Arab-Israeli conflict was immediate and definitive. During that same period, there was no concomitant United Nations' response, nor any comparable international action, to alleviate the plight of Jewish refugees from Arab countries.

The sole comparison that can be made between Palestinian and Jewish refugees is that both were determined to be *bona fide* refugees under international law, albeit each according to different internationally accepted definitions and statutes – the former covered by UNRWA and the latter by the UNHCR.

As far as the response of the United Nations is concerned, the similarity ends there. The contrasts, however, are stark:

a) Since 1947, there have been 842 UN General Assembly resolutions dealing with virtually every aspect of the Middle East and the Arab Israeli conflict.

b) Fully 126 of these UN resolutions refer directly and specifically to the 'plight' of Palestinian refugees.

c) In none of these 842 UN resolutions on the Middle East is there a specific reference to, nor any expression of concern for, the estimated 1,000,000 Jews living in, or being displaced from Arab countries during the twentieth century.

d) Numerous UN agencies and organizations were involved in a variety of efforts, or others were specifically created (e.g. UNRWA) to provide protection, relief, and assistance to Palestinian refugees. No such attention and assistance was forthcoming from these UN agencies for Jewish refugees from Arab countries.

e) Since 1948, 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 period, no such international financial support was ever provided to ameliorate the plight of Jewish refugees.

UNRWA, the United Nations Relief and Works Agency for Palestine Refugees in the Near East, was established by United Nations General Assembly resolution 302 (IV) of 8 December 1949 to carry out urgent, direct relief and works programmes for Palestine refugees. However, Arab governments, supported by Palestinian leaders, have consistently rejected any proposal or initiative designed to provide more permanent resettlement and housing for the Palestinian refuges, prefering to utilize Pallestinian refugees' continuing plight for political purposes.

E) The Legal Case for Rights and Redress

In the context of the Middle East, it would be an injustice to ignore the rights of Jews from Arab countries. As a matter of law and equity, it would not be appropriate to recognize the claim of Palestinian refugees to redress without recognizing a right to redress for former Jewish refugees from Arab countries.

The **international definition of a refugee** clearly applies to Jews displaced from Arab countries:

> *A refugee is 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..."*
>
> *The 1951 Convention relating to the Status of 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."

> Mr. Auguste Lindt, United Nations High Commissioner for Refugees, Report of the UNREF Executive Committee, Fourth Session – Geneva 29 January to 4 February, 1957.

"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."

> Dr. E. Jahn, Office of the UN High Commissioner, United Nations High Commissioner for Refugees, Document No. 7/2/3/Libya, July 6, 1967.

At the United Nations, on November 22nd, 1967, the Security Council unanimously adopted, Resolution 242, laying down the principles for a peaceful settlement in the Middle East. Still considered the primary vehicle for resolving the Arab-Israel conflict, 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.

The international community's intention to have Resolution 242 include the rights of Jewish refugees is evidenced by the fact that during the UN debate, the Soviet Union's delegation attempted to restrict the "just settlement" mentioned in Resolution 242 solely to Palestinian refugees. (S/8236, discussed by the Security Council at its 1382nd meeting of November 22, 1967, notably at paragraph 117, in the words of Ambassador Kouznetsov of the Soviet Union). This attempt failed clearly signaling the intention of the international community <u>not</u> to restrict the "just settlement of the refugee problem" merely to Palestinian 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:

> *"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…."*[2]

<u>With respect to Multilateral Initiatives</u>, the Madrid Conference, first convened in October 1991, launched historic, direct negotiations between Israel and many of her Arab neighbors.

[2] Goldberg, Arthur J., "Resolution 242: After 20 Years", published in <u>Security Interests</u>, National Committee on American Foreign Policy, April 2002.

In his opening remarks at a conference convened to launch the multilateral process held in Moscow in January 1992, 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."*[3]

Similarly, the Roadmap to Middle East peace 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.

All Bilateral Arab-Israeli Agreements 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 will include recognition of the rights and claims of all Middle East refugees:

- *Israel – Egypt Agreements*

The *Camp David Framework for Peace in the Middle East* of 1978 (the "Camp David Accords") includes, in paragraph A(1)(f), a commitment by Egypt and Israel 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."*

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."* Those claims include those of former Jewish refugees displaced from Egypt.

- *Israel – Jordan Peace Treaty, 1994*

Article 8 of the *Israel – Jordan 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 refugees of "*the conflict in the Middle East"* includes Jewish refugees from Arab countries.

- *Israeli-Palestinian Agreements, 1993-*

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.

[3] 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.

Recognition by Political Leaders of the rights of Jewish refugees from Arab countries include:

- After **'Camp** David II', **U.S. President Bill Clinton** recognized the rights of Jews displaced from Arab countries in a July 27th, 2000 interview on Israeli Television when he stated:[4]

> *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".*

- 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 Oct. 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:

> "*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."*

The Report argues for redress as a matter of international law. Jews from Arab countries are entitled to invoke the right to redress because of the injustices inflicted upon them that caused their displacement.

The report refers to the remedies available to assert the right to redress. The remedies considered include the Office of the High Commissioner for Refugees, the United Nations Convention on the Status of Refugees, a compensation fund established under an Arab-Israeli comprehensive settlement, and possibly, litigation in the courts of the countries where Jews displaced from Arab countries are now found.

[4] Transcript released by The White House Office of the Press Secretary, "Interview of the President by Israeli Television"; The Roosevelt Room; July 27, 2000; 5:42 P.M. EDT

JUSTICE
FOR JEWS
from
Arab
Countries

I) WHY NOW?

A) From UN Partition Plan (1947) to Annapolis Peace Summit (2007): Rectifying an Historical Injustice 60 years Later

By the Honorable Irwin Cotler

In 1987, I co-chaired with the late Justice Arthur Goldberg of the Supreme Court of the United States, then U.S. Ambassador to the U.N., a tribunal on Justice for Jewish Refugees from Arab countries. One of the witnesses that came before our Tribunal lamented, "why now?" "Why was this happening forty years later?"

Today, twenty years after that Tribunal, on the eve of the 60th anniversary of the United Nations Partition Resolution of November 29, 1947, and the Annapolis Peace Conference, this lament is even more pronounced.

Indeed, the question is not so much why are we talking about justice for Jewish refugees from Arab countries sixty years later, but why has this concern not been on the international justice agenda at all?

Why has justice for Jewish refugees not only been *delayed*, but why has it been *denied* all these years?

Why has the issue been absent, not only from the international justice agenda, but why has it also been absent all these years from the Middle East peace agenda?

Why is it that as we approach the Annapolis peace conference on the Middle East – now scheduled for Nov. 29 2007 – there is mention only of Palestinian refugees, but no mention of Jewish refugees, though there are two victim populations arising from this conflict?

Why is it that the U.N. is preparing, yet again, to commemorate the International Day of Solidarity with the Palestinian People – on the 60th anniversary of the U.N. Partition Resolution of 1947 – but will ignore, yet again, the plight of Jewish refugees on that commemorative occasion?

Why have Jewish refugees from Arab countries been expunged from the Middle East narrative? Indeed, why is this narrative so distorted – and inverted – such that the original 1947 U.N. Partition Resolution is held out as one where Palestinian-Arab refugees are identified as the victim population – and they were – but no reference is made to the fact that Jewish refugees were also a victim population; and that Arab governments - and the League of Arab States - were responsible for *both* Palestinian and Jewish victim refugee populations as set forth in this Report?

What does it take, then, to rectify this historical injustice, this exercise in historical Middle East revisionism?

Le there be no doubt about it: where there is no remembrance, there is no truth; where there is no truth, there will be no justice; where there is no justice, there will be no reconciliation; and where there is no reconciliation, there will be no peace.

Accordingly, this chapter will be organized around two themes. First, 'why now?' What factors have mandated the publication of this report; and second, what are the principles that underpin the pursuit of justice for Jewish refugees from Arab countries, and what is the case for rights and redress?

B) Why Now? What Factors Motivate the Publication of this Report?

There are a number of compelling, indeed urgent, moral and juridical considerations whose convergence warrants the publication of this Report.

First, there is the importance of rectifying the distorted historical narrative of Middle East refugees, and redressing the painful and pernicious delay and denial of justice for Jewish refugees these past sixty years. In particular, Jewish refugees from Arab countries must be restored to the Middle East narrative from which they have been expunged and eclipsed.

Indeed, this exclusion is not only historical but also contemporary; there is an ongoing failure to include the plight of Jewish refugees in any narrative of the Middle East conflict, in any discussion of the Middle East peace process, and in any decision-making at the multi-lateral level, such as in the United Nations.

Second, there is the importance of the right to memory and the duty of remembrance of Jewish refugees; the importance for the refugees themselves of bearing witness; and the importance of hearing and documenting this witness testimony and ongoing narrative, particularly given the increasing willingness of witnesses to come forward some sixty years later to recount the experiences that they themselves have sometimes repressed.

Indeed, the raison d'être for the establishment of this group – *Justice for Jewish Refugees from Arab Counties* – and the publication of this report on "The Case for Rights and Redress" is the principle of *zachor* – of remembrance – of having peoples' stories and testimonies both acknowledged and respected, and their experiences validated and understood.

Third, there is the need to lay bare the truth, to counter the Middle East revisionism and distortion, to expose the cover-up of the historical narrative; and to combat the corruption of truth that inhibits understanding and prevents validation of a victim population, their history, their experience, and their pain.

Indeed, this report exposes not only the massive human rights violations that Jewish refugees from Arab countries have experienced, but documents - for the first time - the state-sanctioned character of these violations, including Nuremberg-like laws that resulted in denationalization, forced expulsions, illegal sequestration of property, and the like, the whole as set forth more fully in Chapter 5 of this report.

Fourth, this Report not only details this pattern of state-sanctioned repression of Jews throughout Arab countries, but uncovers, for the first time, evidence of an international criminal conspiracy by the League of Arab States to persecute its own Jewish populations, as set forth more fully in Chapter 2 of this report.

Fifth, there are important developments in international human rights and humanitarian law, where more has happened in the last 15 years than in the previous sixty, which now underpin a right of redress for victim populations, and which apply specifically to the case of Jewish refugees from Arab countries.

Sixth, there is now a panoply of remedies to implement the right of redress in international law. These are not limited to compensation or indemnification of a victim population, but include such components as the right of memory, the duty of remembrance, the search for truth, access to justice, state-responsibility for wrongs inflicted, and the like.

Seventh, the whole question of refugees – and refugee claims – has now emerged at the forefront of the peace process, be it as a subject matter of the bilateral Israeli-Palestinian negotiations, or as a subject of the forthcoming Middle East peace conference in Annapolis, or as in every narrative of discussions on the Israeli-Palestinian and Middle East peace process. Yet in each and all instances, the reference is only to Palestinian refugees, thereby cleansing Jewish refugees from the Middle East peace process narrative.

Eighth, there is the particular pernicious and prejudicial role of the United Nations, which has systemically excluded the narrative of Jewish refugees from Arab countries from any U.N. narrative on the Middle East, either by exclusively identifying only Palestinian refugees as the sole victim population of the Middle East conflict, or by asserting only Palestinian rights of redress while ignoring those of Jewish refugees.

C) *Foundational Principles for Rights and Redress*

Each of the foundational principles for rights and redress correspond to – and respond to – the above exigencies that mandated this report.

The first principle is fidelity to justice and the rule of law, to correct the historical record and redress misrepresentations of fact and law.

Second, there is the important principle of the right of memory and the duty of remembrance – of remembering and respecting the narrative and experience of the victim population. In this instance, it is remembering the victim population of the "forgotten exodus" of 856,000 Jews from ten Arab countries, of which only some 8,000 remain today, an astonishing statistic.

Yet, this is not just a matter of abstract principles or statistics. Behind each statistic is a name, an identity, a family, a member of a community. Each person is a universe; each person deserves to be remembered; each deserves to have his or her voice acknowledged and affirmed; each deserves to have his or her voice – his or her testimony – his or her truth – be part of the historical narrative.

There is a third, and related, principle – an important and integral component of memory and remembrance – and that is the search for truth, the antidote to Middle East historical revisionism in the matter of refugees.

The expunging of the "forgotten exodus" from the Middle East narrative is bad enough, but it ignores – or covers up – that it was a forced exodus, indeed, a forced expulsion of these Jews from Arab countries. Moreover, this forced expulsion - as documented in this Report – did not happen *par hazard;* rather, it was the result of state-orchestrated, state-sanctioned patterns of oppression, including threats, harassments, beatings, and pogroms targeting the Jewish population as described more fully in this report.

More importantly, yet rarely addressed and appreciated – if indeed even known – is the enactment in the Arab countries of Nuremberg-type laws against their Jewish population, and which, for example, decreed that: Jews were the enemies of the state in which they lived; Jews were to be denied or to forfeit their citizenship; Jewish property was to be sequestered; assets belonging to Jews were to be seized and their bank accounts blocked – the whole with a view to make their lives and those of their communities untenable. These Nuremberg-like laws therefore constituted not only a legal system of state-sanctioned discrimination, but they served as the basis for state-sanctioned expulsion.

Fourth, there is a dramatic and hitherto unknown evidentiary finding, namely, that these massive human rights violations were not events that occurred coincidently or haphazardly; nor were they the result only of state-sanctioned patterns of repression in each of the Arab countries, though this would be bad enough; rather, as the evidence discloses, they were the result of an international criminal conspiracy by the League of Arab States to target and persecute the Jewish populations in their respective countries.

In a word, there is clear evidence that points to a shared pattern of criminal conduct amongst a number of Arab regimes to coerce Jews to leave or to treat them as non-Jews if they remained.

The evidence included, as set forth more fully in the report: (a) Statements made by delegates of Arab countries at the U.N. during the debate on the Partition Resolution, representing a pattern of ominously similar threats made against Jews in Arab countries; (b) newspaper reports from that period; and (c) strikingly similar legislation and discriminatory decrees, enacted by numerous Arab governments in violation of the fundamental rights and freedoms of Jewish residents in Arab countries.

The sheer volume of such state-sanctioned discriminatory measures, replicated in so many Arab countries and instituted in such a parallel fashion, reveals a common pattern of repressive measures – indeed collusion - against Jews by Arab governments.

Moreover, lest there be any doubt about it, this Report reproduces a recently discovered document – the Draft Law of the Political Committee of the Arab League - where the plan to persecute Jews in Arab countries is set out in chilling detail. Indeed, in light of this Report, it is not possible to argue that Arab states, when enacting legislation against their Jewish minorities, simply acted in coincidental parallel fashion.

The Draft Law has seven simple provisions. The first requires registration of Jews and classifies them all as "members of the Jewish minority state of Palestine," i.e. that they are citizens of an

enemy state, Israel. The second requires freezing of Jewish bank accounts and use of the funds from those accounts to finance the wars of Arab states against the Jewish state.

The third states "only Jews who are subjects of foreign countries will be considered as neutrals." That is to say, Jews who are subjects of an Arab country are to be considered as hostile enemies.

The fifth clause provides for internment of active Zionists, those who support the right of Israel to exist. Their financial resources will be confiscated.

The fourth and sixth provisions state that any Jewish person who meets certain criteria is "free to act as he likes." Subject to two qualifications: that each Jewish person must prove that their activities are anti-Zionist and in active opposition to the right of self-determination of the Jewish people; and they must declare their readiness to join Arab armies, which were at war with Israel. In other words, only a Jew willing to kill other Jews is "free to act as he likes."

The final clause says that even if Jews meet these "criteria" they still have to register as Jews and will have their bank accounts frozen. These provisions make a mockery of the alleged exception that some Jews would have freedom of action. In reality, under the Draft Law, no Jew is free to act as he or she likes.

D) *An Ominous Discovery: The Comparison between the State-Sanctioned Patterns of Repression in Arab Countries and the Draft Law of the League of Arab States*

The pattern of repressive behavior against Jews in each of the Arab countries is disturbing enough, but what makes the repressive behavior so ominous, and the conspiracy so evident, is the comparison between the repressive measures adopted in early 1948 in each of the Arab League member states, and the corresponding blueprint of the Draft Law.

First, the Draft Law imposes denationalization - "all Jewish citizens of (name of country) will be considered as members of the Jewish minority State of Palestine." Shortly thereafter, as this Report documents, a massive denationalization began in each of the member states.

Second, the Draft Law requires the freezing of Jewish bank accounts, and Jewish bank accounts subsequently frozen by law.

Third, the Draft Law calls for the diversion of the funds of frozen Jewish bank accounts, in order to finance the Arab wars against Israel. This is exactly what happened, as enshrined in law, in country after country in the region.

Fourth, the Draft Law requires internment and confiscation of property of "active Zionists." What follows is that "Zionism" then became a criminal offence throughout the region - in some cases even punishable by death - while the reports of Jewish property confiscation became widespread in country after country.

In brief, the Draft Law was a prediction of what was to happen to Jews in the Arab countries. It became a blueprint, in country after country, for the laws that were eventually to be enacted in these countries against Jews, for the actions that devastated the Jewish communities in Arab lands; and for the forced exodus that was to follow.

I have elaborated more on this fourth principle because of its particular ominous character; that these massive human rights violations in Arab countries against the Jewish populations were not only the result of state-sanctioned patterns of oppression – including Nuremberg-type laws – which occurred par hazard, in parallel fashion, in each of the Arab countries; but as the above evidence discloses, they were the result of a collusion between Arab states – a blue-print embodied in the Draft Law of the League of Arab States – to persecute its Jewish nationals. I will now continue with the recitation of the foundational principles underlying the case for rights and redress, and the imperative, for rectifying this historical injustice.

The fifth principle, then, is that of the right to justice and corresponding right to redress. Simply put, victims of such massive human rights violations – particularly such as the Jewish victims of such state-sanctioned patterns of repression – have a right to justice and redress for those human rights violations, as sanctioned in international human rights and humanitarian law.

Indeed, the remedies developed under international human rights and humanitarian law for victim populations – and therefore for the Jews from Arab countries – include, but are not limited to: the right to memory and the duty of remembrance; access to justice including the right to know the truth about these violations; and the right to reparations, which should be proportionate to the gravity of the violations and the harm suffered by the victim group.

The Sixth principle, also anchored in basic principles of international humanitarian law, is that of State Responsibility for such massive human rights violations. Simply put, the states responsible for these violations have a duty to make redress. Evidence of such state-sanctioned wrongs not only creates rights of redress, but establishes a duty on the part of the violating states to make redress. Moreover, as this Report demonstrates, these wrongs against Jewish victim groups were not only committed by individual states for which each bears responsibility, but the wrong was inflicted by the League of Arab States as a whole, resulting from their international criminal conspiracy as above demonstrated in the comparison of the Draft Law with the laws of the individual Arab countries.

Accordingly, the Arab League as a distinct entity, as well as each of its individual members separately, must commit to access to justice for Jewish refugees, to reparations for the harms suffered by the victim populations, and to access to the factual information required concerning the violations of the wrongs so inflicted against them.

Seventh, there is the related principle of unjust enrichment. Not only was property forcibly sequestered, not only were assets seized, not only were bank accounts blocked, but in effect, the Arab countries have had the benefit from this type of illegal action for all these years. There is a case to be made of continuing unjust enrichment, as the law puts it, which needs to be redressed.

Eighth is the importance of the principle of reconciliation. In the case studies of major conflicts in which state-sanctioned violations have been perpetrated against victim populations, the basic principles of victim rights – the right to memory, the duty of remembrance, the pursuit of truth, the right to justice and redress, the duty of accountability, and the duty of State Responsibility - have all been demonstrated to be prerequisites to reconciliations between peoples as well as between states.

Accordingly, the integrity of the Middle East peace process requires an acknowledgement of the truth and justice that underpin the conflict – particularly as it pertains to the Jewish refugee population. Not only has this been ignored in terms of the Jewish victim population, but it has been utterly excluded from any narrative of justice, accountability, and peace.

None of this is intended to argue against the Palestinian right of redress nor intended to diminish the suffering of the Palestinian population, nor their plight, nor their victimization. Rather, the point is that the rights to redress of Jewish refugees from Arab countries are at least as compelling as those of the Palestinians; yet, Jewish rights have been historically ignored and excluded from any consideration, and continuing this distorted policy and practice would be to perpetuate a historic injustice.

The time has come, therefore, to rectify this historical injustice by restoring the plight and truth and justice of Jewish refugees from Arab countries to the Middle East narrative from which they have been expunged and eclipsed.

Simply put, any narrative on the Middle East that does not include justice for Jewish refugees is a case study in Middle East revisionism. It is an assault on truth, memory and justice. Rights for Jewish refugees from Arab countries have to be part of any narrative – any peace process – any decision-making - if that narrative or peace process or decision-making is going to have integrity, credibility, and legitimacy.

In particular, the United Nations must bear express responsibility for this distorted narrative. Indeed, the U.N. is a case study in Middle East revisionism. Since 1947, there have been 842 resolutions adopted by the U.N. General Assembly that have dealt with the Arab-Israeli conflict. There have been 126 resolutions that have specifically dealt with the Palestinian refugee plight. In none of these U.N. Resolutions on the Middle East is there any reference to, nor any expression of concern for, the plight of the 856,000 Jews living in, or having been displaced from, Arab countries.

As well, numerous U.N. agencies and organizations were involved in a variety of efforts, or others were specifically created, to provide protection, relief, and assistance to Palestinian refugees. Again, no such attention and assistance were forthcoming from these U.N. agencies for Jewish refugees from Arab countries.

Moreover, since 1947, billions of dollars have been spent by the international community - by the U.N. and its affiliated entities and member states - to provide relief and assistance to Palestinian refugees. During that same period, notwithstanding requests by international Jewish relief organizations, no such international financial support was ever provided to ameliorate the plight of Jewish refugees.

Finally, on this point and principle, dozens of resolutions were passed by the U.N. Commission on Human Rights in relation to the Middle East, including resolutions specifically concerning Palestinian refugees. Not one resolution ever dealt with Jewish refugees from Arab countries.

In perhaps the most egregious demonstration of U.N. injustice, the U.N. Council on Human Rights – the successor to the U.N. Commission on Human Rights – adopted 11 resolutions of condemnation in 2006-7, its first year of operation; all 11 resolutions of condemnation were passed against one member-state of the international community, namely Israel. Not one resolution of condemnation was adopted against any of the other 191 member states of the international community.

Moreover, while Israel was being singled out for differential and discriminatory treatment, the major human rights violators – such as Iran and Sudan - were enjoying exculpatory immunity.

Indeed, this report is not arguing that the UN should not have dealt with the issue of Palestinian refugees. That is part of the issue of truth, justice and reconciliation. But for the U.N. to deal only with the issue of Palestinian refugees - and not to have addressed at all - in any of its resolutions or deliberations, the issue of Jewish refugees from Arab countries, is not only a matter of a distorted narrative, but is a fundamental injustice in and of itself.

If one looks at UN involvement in the matter of "a just resolution of the refugee problem," the exclusion of Jewish refugees raises serious questions about the integrity of the United Nations role in the Quartet, or the peace process as a whole. For it is inconceivable and unjust for a U.N. narrative of the Middle East not to make any reference to the plight of Jewish refugees from Arab countries and their rights to redress.

E) *Proposals to Rectify the Historical Injustice*

In the matter of the United Nations, and in the interests of justice and equity, U.N. General Assembly resolutions must include reference to Jewish refugees as well as to Palestinian and Arab refugees. Further, the forthcoming International Day of Solidarity with the Palestinian People should acknowledge the reality of Jewish refugees. The U.N. Security Council, acting on principle and precedent, should establish an international compensation fund to indemnify Jewish, as well as Palestinian Arab refugees. The U.N. Human Rights Council should address the matter of Jewish refugees from Arab countries as part of its deliberations.

Indeed, there are other parallel initiatives that need to be taken to rectify this historical injustice which has expunged and eclipsed Jewish refugees from any narrative or decision-making on the Middle East. First, the United States – in concert with the Quartet – should include the issue of Jewish refugees from Arab countries on the agenda of the forthcoming Annapolis Peace Conference, together with that of Palestinian Arab refugees.

Second, the bilateral Israeli-Palestinian negotiations – which one hopes will presage a just and lasting peace – should include Jewish refugees as well as Palestinian refugees in a joiner of discussion.

Third, each of the Arab states – and this is particularly important for an authentic process of reconciliation – would have to acknowledge their role and responsibility in the perpetration of human rights violations against their respective Jewish nationals.

Fourth, the Arab League, the successor body to the League of Arab States, should also acknowledge its role and responsibility in the drafting and endorsement of its blueprint for the perpetration of human rights violations against Jewish nationals, and the consequent expulsion of Jewish refugees, effectively the "forced exodus".

Fifth, the Arab League initiative should incorporate the question of Jewish refugees from Arab countries as part of its narrative for an Israeli-Arab peace, just as the Israeli narrative now incorporates the issue of Palestinian refugees in its vision of an Israeli-Arab peace.

And finally, the whole question of the plight of Palestinian refugees – and their just treatment – might better be served by bringing them within the general United Nations refugee system, rather than the separate system for Palestinian refugees, which has nurtured their plight rather than facilitated its resolution.

F) *Conclusion*

As we approach the 60th anniversary of the United Nations Partition Resolution of 1947, a fair-minded Middle East narrative, founded on the principles of truth and justice - and one that would lead to reconciliation and peace - would have to acknowledge a basic truth: that both Palestinian-Arab refugees and Jewish refugees from Arab countries were the joint victims of the Arab-Israeli conflict, and in particular, the joint victims of the Arab war against Israel in 1947 and 1948.

Indeed, the historical pattern of the Israeli-Palestinian-Arab conflict can be summed up under the rubric of "double rejectionism". Both the Arab leadership and the Palestinian leadership in 1947 were prepared to forgo the establishment of a Palestinian state if that meant countenancing a Jewish state in any borders. Simply put, if the Arab leadership had accepted the U.N. Partition Resolution of 1947, there would have been no refugees - either Arab or Jewish. Fast forward to Camp David and the Taba negotiations in the year 2000, and the same "double rejectionism" remains.

Moreover, if one looks at the historical narrative in terms of remembrance, of truth, of justice, and of reconciliation, one cannot ignore the fact that not only is there this "double rejectionism," but that this is also related to a double aggression. Not only was there a rejection of a Palestinian state if that meant countenancing an Israeli state in any borders in 1947, but a war was launched by the Arab states against Israel to eclipse the nascent state in 1947.

Similarly, on a second front, and at the same time, a state-sanctioned repression campaign against the Jews was launched in Arab countries as part of this pattern of state-sanctioned human rights violations and aggression both internationally and domestically.

Accordingly, what we are addressing here are foundational principles of memory and remembrance, of truth and justice, of reconciliation and peace, not only on a normative level, but as foundational principles now enshrined in international human rights and humanitarian law.

International law now obliges us to recognize and respect the narrative of victims of human rights violations, and therefore also obliges us to respect justice for Jewish refugees from Arab countries and their case for rights and redress. Only in this fashion can there be movement from remembrance to truth, from truth to justice, from justice to reconciliation, and from reconciliation to peace - between and among all peoples and states in the region.

II) AN ARAB LEAGUE CONSPIRACY AGAINST THEIR JEWISH POPULATIONS

A) Learning from History

The Jewish community has learned through bitter experience to be leery of charges of conspiracy. The charge of a Jewish conspiracy to control the world is a staple of anti-Semitism.

Given the awful experience the Jewish community has had with false conspiracy charges, we levy with reluctance a charge of conspiracy by the League of Arab States against Jews. But the evidence is inescapable. The elements are all in place. There was parallel activity. The activity was illegal. There was a plan approved by a committee of the Arab League. And there were public statements by the Arab League leadership endorsing the activity.

In a word, state-sanctioned repressive measures, coupled often with violence and repression, precipitated a mass displacement of Jews and caused the Jewish refugee problem in the Middle East. The uprooting of ancient Jewish communities from these 10 Muslim countries did not occur by happenstance. 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. These are evidenced from: (a) statements made by delegates of Arab countries at the U.N. during the debate on the partition resolution representing a pattern of ominously similar 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 common pattern of repressive measures, - indeed collusion - against Jews by Arab governments.

B) The Voices of the Arab leadership

The following official statements represent a pattern of ominously similar threats made against Jews in Arab countries Listen to the voices of the Arab leadership:

- In a key address before the Political Committee of the U.N. General Assembly on the morning of November 24, 1947, just five days before that body voted on the partition plan for Palestine, Heykal Pasha, an Egyptian delegate, made the following statement:

> *A million Jews lived in peace in Egypt [and other Muslim countries] and enjoyed all rights of citizenship. They have no desire to emigrate 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*
>
> *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 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 decided to partition Palestine, it might be responsible for the massacre of a large number of Jews. .*[5]

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 by Jews in Arab countries not as a genuine expression of concern for Jewish well-being but rather as not-very veiled pan-Arab threat as to what the future might hold for the one million Jews in Arab countries.

- At that same U.N. Political Committee meeting, during the afternoon session, 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 should be remembered that there were as many Jews in the Arab world as there were in Palestine whose positions might become very precarious...*[6]

- Shortly thereafter, at the November 28, 1947 Plenary meeting of the UN General Assembly, ominously similar threats appeared once again in a statement by Iraq's Foreign Minister Fadil Jamali:

> *Not only the uprising of the Arabs of Palestine is to be expected but the masses 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.*[7]

[5] U.N. General Assembly, Second Session, Official Records, Ad Hoc Committee on the Palestinian Question, Summary Records of Meetings, Document A/AA.14SR.30, Lake Success, N.Y., Nov. 24, 1947, p. 185.

[6] U.N. General Assembly, Second Session, Official Records, Ad Hoc Committee on the Palestinian Question, Summary Records of Meetings, Document A/AA.14SR.31, Lake Success, N.Y., Nov. 24, 1947

[7] U.N. General Assembly, Second Session, Official Records, Verbatim Record of the Plenary Meeting, Nov. 28, 1947, p. 1391.

The assault on human rights was initiated by his own government, which soon took a series of steps, including discriminatory legislation, against its 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. Some representative examples include:

- Just two days after the State of Israel was proclaimed, a *New York Times* headline on May 16, 1948 declared "**Jews in Grave Danger in All Moslem Lands,** *Nine hundred thousand in Africa and Asia face wrath of their foes."* An article written by Mallory Browne, reported on a series of discriminatory measures taken by the Arab League against the Jewish residents of Arab League member states (including, at that time, Egypt, Iraq, Jordan, Lebanon, Saudi Arabia, Syria and Yemen). 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."*[8]

- Another indication that Arab countries were deliberating upon 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."[9] In fact, expulsions did take place in some countries.

C. The Plan

In this recently discovered document, the plan to act against Jews in Arab countries is set out in chilling detail. It no longer becomes possible, in light of this document, to argue that the various Arab states, when they enacted legislation against their Jewish minorities, were simply acting in parallel.

Below is a photocopy of a document entitled: "Text of Law Drafted by the Political Committee of the Arab League". It was affixed to a Jan. 19, 1948 Memorandum submitted to the UN Economic and Social Council warning that "all Jews residing in the Near and Middle East face extreme and imminent danger". This Memorandum was summarized in UN Economic and Social Council 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, February 24, 1948.

[8] Front Page, New York Times, "Jews in Grave Danger in all Moslem Lands", May 16, 1948.
[9] Al-Kifah, Mar. 28, 1949.

JUSTICE
FOR JEWS
from
Arab
Countries

JUSTICE FOR JEWS from Arab Countries

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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 bald, unadorned anti-Semitism. Sometimes anti-Semites try to cloak their anti-Semitism in anti-Zionism and pretend to draw a distinction between the two. But, in this document, this sort of pretence is abandoned. The anti-Zionist Jew, according to this law, suffers a lesser fate that a Jew who can not 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 is anti-Zionist still has to register, still has his bank accounts frozen, still has those accounts depleted to finance the wars against Israel.

Since the text of this law was drafted by the Political Committee of the Arab League, the Political Committee can be taken to have endorsed and supported this draft law. 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".[10] So each member state of the League would have been agreed to this draft law. Otherwise it could not have been the product of the Political Committee as a whole, but only some members of the Committee.

The Arab League was founded in 1945. Its original membership consisted of seven states: Egypt, Iraq, Lebanon, Saudi Arabia, Syria, Jordan, and Yemen. Currently there are twenty two member states.

The Pact of the League provides that:

> *"Committees shall be entrusted with establishing the basis and scope of co-operation in the form of draft agreements which shall be submitted to the Council for its consideration preparatory to their being submitted to the States referred to."*[11]

The Pact further provides that unanimous decisions of the Council are binding on all member states[12]. It is noteworthy that this provision is not limited to those member states who voted in favour of the decisions. The phrase "all member states" encompasses not just those states who were members at the time, the states who would have voted in favour of the decision. It includes as well other states who joined the organization later and cast no vote at all.

The World Jewish Congress, in January 19, 1948 submitted a memorandum to the United Nations Economic and Social Council expressing concern about this draft law. The memorandum itself had previously been made public, but not the draft law which, the Memorandum states, had already been approved by Egypt, Saudi Arabia and Iraq. The Arab League, in its Council Session in February 1948, in Cairo, approved a plan for "political, military, and economic measures to be taken in response to the Palestine crisis". The draft law was presumably presented to the Council at that time.

There was no formal announcement that the Draft Law recommended by the Political Committee was endorsed by the Arab League Council. Given the summary of the content of the meeting for February 1948, it seems likely that the draft law was adopted at that meeting.

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[10] Article 2 at.<http://faculty.winthrop.edu/haynese/mlas/CmteeRegs.html>
[11] Article 4
[12] Pact Article 7.

However, it is not necessary to have those minutes to establish an agreement amongst League members. In light of the fact that all League members would have been members of the political committee which approved the draft law, that committee approval establishes the agreement amongst member states. The effect of Council approval would be to make the agreement binding, which is to say to give the agreement the force of international law amongst member states.

The Vienna Convention on the Law of Treaties provides:

> "*A treaty is void if, at the time of its conclusion, it conflicts with a peremptory norm of general international law. For the purposes of the present Convention, a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a subsequent norm of general international law having the same character.*"[13]

So, even if, in general, unanimous resolutions of the Council make binding on all League members agreements resolved in committee, that is not true of resolutions endorsing agreements conflicting with peremptory norms of general international law. Respect for the Universal Declaration of Human Rights is a peremptory norm of international law. No agreement can derogate from the customary international law that this Declaration is binding on all states of the community of nations. So in this case, a Council resolution endorsing the Political Committee agreement would add nothing to the Political Committee agreement itself.

D. The Pattern of Behaviour

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. From the sheer volume of such state-sanctioned discriminatory actions, 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.

It is easy enough to see a pattern of behaviour in Arab states against Jews. The pattern was harassment, threatening and harming Jews through mob violence which the state after state instigated and from which it offered no protection; freezing and confiscating Jewish assets; denying Jews employment; interning Jews; denationalizing and expelling Jews.

Egypt, Iraq, and Libya each illustrate this pattern. (For additional details, see Country Report section, further in this Report).

In Egypt in 1948, after the establishment of the State of Israel, bombs in the Jewish Quarter of Cairo killed more than 70 and wounded nearly 200. Rioting resulted in many more deaths. 2,000 Jews were arrested and many had their property confiscated.

[13] Article 53

Many Jews lost their jobs through the enforcement of a 1947 amendment to the Egyptian Companies Law. The amendment required that at least 75% of the administrative employees and 90% of all employees of a company be Egyptian nationals. The Egyptian Nationality Code of 1926 provided that only those who "belonged racially to the majority of the population of a country whose language is Arabic or whose religion is Islam" were entitled to Egyptian nationality[14]. 85% of the Jews of Egypt were never citizens[15].

In 1956, the Egyptian government, coincident with the Sinai war against Israel, ordered almost 25,000 Jews to leave the country and confiscated their property. They were allowed to take only one suitcase and a small amount of cash, and forced to sign declarations giving their property over to the Egyptian government.

In that same year, the property of the economic backbone of Egyptian Jewry, the main supporters of Egyptian Jewish institutions, was seized through the use of sequestration orders[16]. A directive authorized the sequestering agency to deduct from the assets, 10% of the value of the sequestered property each year[17]. Over time, this charge consumed the total value of the property.

Jews leaving Egypt were allowed, by regulation, to take with them travellers checks or other international exchange documents only up to a value of 100 pounds sterling a person. Even this 100 pounds allowance was, in practice, denied those fleeing. The Bank of Egypt provided Jews leaving the country with instruments drawn on Egyptian bank accounts in Britain and France that the British and French had blocked in response to the Egyptian blocking of British and French assets in Egypt.

Approximately 1,000 Egyptian Jews were sent in 1956 to prisons and detention camps. In November 1956, a government proclamation declared that "all Jews are Zionists and enemies of the state," and promised that they would soon be expelled[18]. A 1956 amendment to the Egyptian Nationality Law provided that "Zionists" were barred from being Egyptian nationals[19]. The amendment asserted that "Egyptian nationality may be declared forfeited by order of the Ministry of Interior in the case of persons classified as Zionists."[20] The term "Zionist" was undefined.

By 1957, there were only 15,000 Jews in Egypt. In 1967, after the Six-Day War, increased persecution led to more flight; Jewish population numbers dropped to 2,500. Most of those remained were those who were not allowed to leave. By the 1970s, after the remaining Jews were given permission to leave, only a few families stayed behind.

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[14] Article 10(4) of the Code. See: Maurice de Wee, La Nationalite Egptienne, Commentaire de la loi du mai 1926, p. 35. See also law 26 of 1952.

[15] H.J. Cohen, *"The Jews of the Middle East, 1860 – 1972."*

[16] Egyptian Official Gazette, No. 88, November 1, 1957; confidential Memorandum provided to the United Nations High Commissioner for Refugees, Mr. Auguste Lindt, on Feb. 21, 1957

[17] Directive No. 189 issued under the authority of Military Proclamation No. 4; confidential Memorandum provided to the High Commissioner, Mr. Auguste Lindt, on Feb. 21, 1957.

[18] *AP*, November 26 and 29th 1956; *New York World Telegram*

[19] Law No. 391 of 1956, section 1(a). See *Revue egyptienne de Droit International, Vol. 12 (1956), p. 80.*

[20] Article 18.

In Iraq[21], anti-Jewish rioting broke out after the establishment of Israel in 1948. The propagation of Zionism became a crime punishable by seven years imprisonment[22]. No foreign Jew was allowed to enter Iraq even in transit[23].

In 1950, Iraqi Jews were permitted to leave the country within a year provided they forfeited their citizenship. The property of Jews who emigrated was frozen[24]. From 1949 to 1951, 124,000 Jews were evacuated, or smuggled out through Iran.

In 1952, the permission to leave was cancelled and Jews were barred from emigrating. In 1963, Jews were forbidden to sell their property and forced to carry yellow identity cards. After the 1967 Six Day War, many of the remaining 3,000 Jews were arrested and dismissed from their jobs. Jewish property was expropriated and bank accounts were frozen. Jews were dismissed from public posts. Jewish businesses were shut and trading permits that had been granted to Jews were cancelled. Even telephones of Jewish customers were disconnected. Jews were placed under house arrest or required to remain within the cities.

In 1968, dozens of Jews were jailed for alleged involvement with a spy ring and tortured. Some died of the torture. Fourteen accused, including eleven Jews, were sentenced to death in show trials and, in January 1969, were hanged in public[25].

By the early 1970's most of the remaining Jews had fled with tacit Baghdad acquiescence. In 1973, the government pressured those few elderly Jews who remained to turn over title, without compensation, to more than $200 million worth of Jewish community property the fleeing Jewish community had left behind[26].

Libya was under British rule at the time of the creation of the State of Israel. Rioters murdered 12 Jews and destroyed 280 Jewish homes in June 1948 to protest the founding of the Jewish state. Although emigration was illegal, more than 3,000 Jews fled. The British legalized emigration in 1949. Hostile demonstrations and riots against Jews continued unabated. From 1949 to 1951, when Libya gained independence, 30,000 more Jews fled[27].

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[21] See generally, Carole Basri "The Jewish Refugees from Arab Countries: An Examination of Legal Rights - A Case Study of the Human Rights Violations of Iraqi Jews" 2003 Volume 26 Fordham International law Journal page 656.

[22] Law No. 51 of 1938. *Official Gazette*. 24 July 1938 (p.475 of the English edition); Law No.11 of 1948 amending Law No. 51 of 1938: *Official Gazette*. 14 November 1948 (p. 591 of the English edition).

[23] *New York Times* on May 16, 1948

[24] Law No. 5 of 1951 entitled "A law for the Supervision and Administration of the Property of Jews who have Forfeited Iraqi Nationality" (*Official Gazette*, 10 March 1951, English version, p.17), section 2(a). See also law No. 12 of 1951, supplementary to Law No. 5 as above (*Official Gazette,* English version, 27 January 1952, p.32), Law No. 64 of 1967 (relating to ownership of shares in commercial companies) and Law No. 10 of 1968 (relating to banking restrictions).

[25] Judith Miller and Laurie Mylroie, "Saddam Hussein and the Crisis in the Gulf", p. 34.

[26] New York Times, February 18, 1973.

[27] Norman Stillman, *The Jews of Arab Lands in Modern Times*.

Libyan independence meant a sequence of anti-Zionist, anti-Jewish laws. A 1957 law provided that prohibited anyone in Libya from entering into contracts with anyone in Israel[28]. A law of 1958 ordered the dissolution of the Jewish Community Council[29]. A 1961 law provided that only Libyan citizens could own and transfer real property. Only six Jews have been identified has having been granted the necessary permit evidencing Libyan citizenship[30].

A 1962 decree provided that a Libyan forfeited nationality if the person had had any contact with Zionism. Any person who had visited Israel after the proclamation of Libyan independence, and any person deemed to have acted in favour of Israel's interests lost their Libyan nationality under this law. The law was retroactive, applying to those who had visited Israel or done anything else the authorities deemed supportive of Israel before the law was enacted. Libyan Jews were the primary victims of this law [31].

A 1970 law provided that all property belonging to Israelis who had left Libyan territory "in order to establish themselves definitely abroad" would pass to the state[32]. The Libyan Government used this law to take possession of property belonging to Libyan Jews without bothering about the fact that these Jews were not Israelis and had not "established themselves abroad[33]. Another law of 1970 decreed that the state would administer liquid funds of Jews as well as the companies and the company shares belonging to Jews[34].

E. A Comparison Between the Pattern and the Draft Law

The pattern of behaviour is disturbing enough. When we compare this pattern with the agreed text of the law drafted by the Political Committee of the Arab League in early 1948, we can see this pattern as the acting out amongst Arab League members of their agreement. The draft law imposes denationalization - "all Jewish citizens of (name of country) will be considered as members of the Jewish minority State of Palestine". And there were denationalizations.

The draft law requires freezing of Jewish bank accounts. And Jewish bank accounts were frozen by law.

The draft law diverts the funds of frozen Jewish bank accounts to pay for the Arab wars against Israel. And that is exactly what happened, by law, in country after country in the region.

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[28] Article 1 of Law No.62 of March 1957; confidential memorandum to Prince Sadruddin Aga Khan, UN High Commissioner for Refugees, dated May 8, 1970.

[29] Under the Law of December 31, 1958 a decree to this effect was issued by the President of the Executive Council of Tripolitania.

[30] Law of May 24, 1961.

[31] Royal Decree August 8, 1962

[32] Law No. 14 of February 7, 1970

[33] Note to File, UNHCR Archives, dated August 24, 1970.

[34] Law of July 21,1970

The draft law requires internment and confiscation of property of "active Zionists". Zionism became a criminal offence throughout the region, in same cases punishable by death. Property confiscation of Jews was widespread.

The draft law was a prediction 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.

F. The Wrong

Decrees and practices discriminating against Jews in Arab countries echo the Nazi Nuremberg Laws on Citizenship and Race. And the victims, the Jews, are the same. The Nuremberg laws violated basic human rights; the right to a nationality; the right to vote; the right to equality. They were damaging in themselves and a signal of the disasters to come. They depersonalized Jews, by saying that they were not legal persons in the eyes of the state.

What turns an agreement into a conspiracy is both the secrecy and the illegality of the agreement. Arab League states, though they approved the draft law, never publicly declared they did so. This draft law was secret. It is being made public for the first time with the release of this report.

Moreover the agreement is illegal under international law. It does not just violate international human rights law, international treaty law. It also violates international criminal law. What has been unearthed is an international criminal conspiracy by Arab League states against their own Jewish citizens.

The statute of the International Criminal Court defines crimes against humanity to include deportations. The wording is this:

> *"For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:*
>
> *(d) Deportation or forcible transfer of population;"*[35]

The states parties to the treaty for the Court have agreed on the elements of all crimes including this crime. The elements of the crime against humanity of deportation or forcible transfer of population are these:

> *"1. The perpetrator deported or forcibly transferred without grounds permitted under international law, one or more persons to another State or location, by expulsion or other coercive acts.*
>
> *2. Such person or persons were lawfully present in the area from which they were so deported or transferred.*
>
> *3. The perpetrator was aware of the factual circumstances that established the lawfulness of such presence.*

[35] Article 7

4. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.

5. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population."

The text has a couple of footnotes. These footnotes add:

"*The term 'forcibly' is not restricted to physical force, but may include threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person, or by taking advantage of a coercive environment.*

'Deported or forcibly transferred' is interchangeable with 'forcibly displaced'"

The statute of the International Criminal Court includes as a crime against humanity:

"(h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;"

The elements of the crime against humanity of persecution are these:

"1. The perpetrator severely deprived, contrary to international law, one or more persons of fundamental rights.

2. The perpetrator targeted such person or persons by reason of the identity of a group or collectivity or targeted the group or collectivity as such.

3. Such targeting was based on political, racial, national, ethnic, cultural, religious, gender as defined in article 7, paragraph 3, of the Statute, or other grounds that are universally recognized as impermissible under international law.

4. The conduct was committed in connection with any act referred to in article 7, paragraph 1, of the Statute or any crime within the jurisdiction of the Court.

5. The conduct was committed as part of a widespread or systematic attack directed against a civilian population.

6. The perpetrator knew that the conduct was part of or intended the conduct to be part of a widespread or systematic attack directed against a civilian population."

The acts committed against the Jewish populations of Arab countries were either the crimes of deportation or forcible displacement, or they were the crimes of persecution committed in connection with the crimes of deportation or forcible displacement. The acts, even when Jews were not physically escorted out of Arab countries by state agents, involved threat of force. There was coercion caused by fear of violence, duress, detention, psychological oppression and abuse of power against Jews by state agents or by unruly mobs which states first incited and then did nothing to control. Discriminatory acts against Jews which were impermissible under international law amounted to the crime of persecution because the targeting of Jews was committed in connection with acts of deportation or forcible displacement. Indeed, these other acts formed part of the duress leading to the displacement of Jews from Arab countries.

The acts specifically listed in the draft law approved by the Political Committee of the Arab League fall into both categories. They required and constituted various forms of duress prompting Jews to leave the countries of their citizenship. As well, they were forms of persecution committed in connection with the acts of deportation or forcible displacement.

Of the Arab League states only Jordan is a party to the treaty establishing the International Criminal Court. Moreover, even for Jordan, the treaty applies only from the date of its accession and not retroactively. Nonetheless, the treaty articulates customary international law.

The relevant parts of the International Criminal Court treaty moreover reflect the law that was in place in 1948. These elements of the Rome Statute reflect the statute of the Nuremberg Tribunal. The Nuremberg Tribunal defined crimes against humanity to include:

> *"...deportation, and other inhumane acts committed against any civilian population, before or during the war; or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated."*[36]

G. The United Nations Response

As noted, the World Jewish Congress had sent a memorandum expressing its concerns about the Arab League draft law to the United Nations Economic and Social Council. Unfortunately, the fate of this memorandum rested in the hands of the President of the Council, Dr. Charles H. Malik, the representative of Lebanon to the United Nations and the person designated by Arab states to be their representative at the Council. Lebanon was one of the founding members of the Arab League, one of the states which had deliberated upon the anti-Semitic draft law. Mr. Malik used a procedural maneuver to ensure that nothing was done in response to the World Jewish Congress memorandum.

A report of activities of the political department of the World Jewish Congress for November 15, 1947 to May 15, 1948 contains this entry:

> "Item 37 of the agenda of the Council containing the reports of the NGO Committee to the Council was on the agenda for three days. It appeared as Document E/706 (containing a number of recommendations to the Council) and Document E/710 (containing a summary of our memoranda and suggestions without recommendation.) On March 5th Document E/706 was disposed of and it was expected that Document E/710 would come up under the same item of the agenda. At this point Dr. Malik (who at the beginning of the discussion of Item 37 mentioned that it consisted of two documents and that E/706 would be discussed first) made a remark 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 of the agenda which dealt with quite another matter. None of the delegates raised any objection and the Council proceeded in the manner proposed by Dr. Malik. *It was obvious that Document E/170 was dropped through a maneuver on the part of the President (emphasis added).*

[36] Article 6(c).

Six days later, on March 11, 1948 when the Council was ready to resume its deliberations, Mr. Katz-Suchy, the representative of Poland objected to this procedural ploy and requested that the matter of Document E/710 (which detailed the World Jewish Congress alarm about "*The extreme and imminent danger to Jews residing in the near and Middle East*) be reconsidered. He said that he himself had raised no objection at the time to what the President had done because he had been led to believe that some other organ of the Council would be instructed to act on the document. Mr. Katz-Suchy then charged that *"agreement had been reached among the five major Powers not to discuss document E/710"* and argued that "usual" Council procedure was not followed.

The President, still Dr. Malik, ruled the Polish motion out of order, saying that discussion on the item had already been disposed of and could only be re-opened by a decision of the Council.

Mr. Kaminsky (Byelorussian Soviet Socialist Republic) declared that *"he could not condone a practice whereby items on the agenda were allowed to disappear from the agenda."*

A resolution recommending that this matter be discussed in full at the next Council meeting (July 1948) was adopted by a vote of 15 – 1. The lone dissenting vote was cast by the representative of Lebanon who stated that the resolution "*was tantamount to prejudging the issue."*

The NGO Committee then met to discuss this resolution under the chairmanship, as one might have guessed, of Dr. Charles Malik. The Committee came up with a report on August 9, 1948 which stated that the Council *"has at the present time no competence to judge and hence to recommend any useful action on the statement of the World Jewish Congress."*[37] During the course of the debate which led to this conclusion, Dr. Malik temporarily stepped down from the chair to speak as representative of Arab states in support of what was eventually decided.

H. The Remedy

What are the consequences to be drawn from this conspiracy? A wrong creates a right of redress. The statute of the International Criminal Court provides that only individuals can be prosecuted, not states[38]. The criminal conspiracy amongst states can not lead to criminal prosecution. But it does, nonetheless, lead to civil liability at international law. States can be responsible for wrongdoing even if they are not criminally prosecutable.

The states members of the Arab League have victimized their Jewish population. These victims are entitled to a remedy from the Arab League itself for that victimization. The right to a remedy includes a right to access to justice, reparation for the harm suffered and access to the factual information concerning the violations[39].

[37] UN Economic and Social Council, Report of the NGO Committee, Aug. 9, 1948, UN Document E/940

[38] Article 25(1).

[39] UN Document E/CN.4/2000/62, 18 January 2000, Commission on Human Rights 56th session, "The right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms" Final report of the Special Rapporteur, Mr. M. Cherif Bassiouni, submitted in accordance with Commission resolution 1999/33.

III) THE HISTORICAL NARRATIVE

Since Biblical times, the land of Israel has been a major arena for conflict and wars. Its importance over thousands of years of history traverses many fields, underscored by the fact that the Middle East is:

- Geographically (and militarily) strategic, as a land-link 'crossroads' from north to south and east to west (Europe to India; Africa to Asia); and provides a sea lane from the Mediterranean to the Red Sea;
- The birthplace of the world's three great monotheistic religions (Christianity, Islam and Judaism); and
- The cradle of civilization, with a rich heritage in numerous fields; from architecture to music to mathematics to philosophy.

There has been an uninterrupted presence of large Jewish communities in the Middle East from time immemorial. The ancient Jewish communities of the Middle East and North Africa existed some 1,000 years before the Arab Muslim conquests of the these regions – including the Land of Israel – and about 2,500 years before the birth of the modern Arab states.

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

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, the original indigenous inhabitants, remained as minorities in their own lands.

The treatment of Jews by Arab leaders and Islamic 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); while other Jewish communities lived in relative peace under the protection of Muslim rulers (e.g. Tunisia, Morocco). The final result was the same in all countries. From 1,000,000 Jews resident in North Africa, the Middle East and the Gulf region at the turn of the century, it is estimated that less than 7,000 Jews remain to-day in 10 Arab countries.

It is within the last 55 years that the world has witnessed the mass displacement of over 850,000 Jews from the totalitarian regimes, the brutal dictatorships and monarchies of Syria, Trans-Jordan, Egypt, Lebanon, Yemen, Iran, Iraq, Algeria, Tunisia and Morocco.

The displacement of Jews from Arab countries did not happen in a vacuum. It was the result 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.

Beginning in 1947, two populations of refugees - Palestinian Arabs as well as Jews from Arab countries - emerged as a result of the Arab states' refusal to accept the UN Partition Plan.
Then, as now, the international community's response to the plight of these refugees focused primarily on Palestinian Arabs. Virtually ignored in the discussion of Middle Eastern refugees was the plight of hundreds of thousands of Jewish refugees displaced from some 10 Arab countries in North Africa, the Middle East and the Gulf states.

In virtually all cases, as Jews left their country, 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).

Figures as to total losses vary. The World Organization of Jews from Arab Countries' (WOJAC) estimate is well over $100 billion.

A) Pattern of Mass Displacement of Jews from Arab Countries

When Arab countries gained independence, coupled with the rise in Arab nationalism, Jews in Arab countries were subjected to a wide-spread pattern of persecution by Arab regimes. 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 virtually all Arab countries declared war, or backed the war against Israel. This rejection by the Arab world of a Jewish state in their ancient homeland was the event that triggered a dramatic surge in a longstanding, pattern of abuse and state-legislated discrimination initiated by Arab regimes and their peoples to make life for Jews in Arab countries simply untenable. Jews were either uprooted from their countries of residence or became subjugated, political hostages of the Arab-Israeli conflict.

Between 1948-49, the rights and security of Jews resident in Arab countries came under legal and physical assault by their own governments and the general populations. 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. In **Iraq**, 'Zionism' became a capital crime. Bombs in the Jewish Quarter of Cairo, Egypt killed more than 70 Jews**.** 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 on the Partition Plan, Muslim rioters engaged in bloody pogroms in **Aden** and **Yemen**, which killed 82 Jews. In numerous countries, Jews were expelled or had their citizenship

revoked (e.g. **Libya**). Varying numbers of Jews fled from 10 Arab countries, becoming refugees in a region overwhelmingly hostile to Jews.
In numerous countries, Jews were expelled or had their citizenship revoked. In other states, the reasons that many Jews felt compelled to leave or flee varied by country, individual, community and family. Some of the reasons included: discrimination/ anti-Jewish legislation; fear of violence/ rioting; Arab collusion with Fascist/Nazi persecution of Jews in North Africa; and the rising tension of the Arab-Israeli conflict.

The statistics of this mass displacement Jews from Arab countries, 1948-2005:

	1948[40]	**1958**[41]	**1968**[42]	**1976**[43]	**2001**[44]	**2005**[45]
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[46]
Lebanon	5,000	6,000	3,000	400	100	~50[47]
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[48]	200
TOTAL	**856,000**	**475,050**	**76,000**	**32,190**	**7,800**	**5,110**

[40] Data was derived from multiple sources, including: *Trends and Characteristics of International Migration since 1950 – Refugee Movements and Population Transfers"* United Nations Department for Economic and Social Affairs: Demographic Study No. 64 ST/ESA/Ser. A/64, 1978; Roumani, Maurice. *The Jews from Arab Countries: A Neglected Issue*. WOJAC, 1983. p.2; --- *The Jewish Case Before The Anglo-American Committee of Inquiry, 1946*.

[41] *American Jewish Yearbook* (AJY) v.58 *American Jewish Committee*.

[42] AJY v.68; AJY v.71

[43] AJY v.78

[44] AJY v.101

[45] AJY v.105

[46] 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.

After 1948, since virtually all Arab countries were at war with Israel, many Arab countries began to treat their own Jewish citizens as 'enemy nationals". Many governments began to enact officially legislated discriminatory laws against Jews, denying them most basic human and civil rights, including: expropriating their property; removing them from civil service and other forms of employment; subjecting them to countless arrests, physical attacks, torture, and even public executions. All of these sinister acts appear to be part of a discernable pan-Arab pattern to force a mass Jewish displacement from Arab countries.

IV) THE RESPONSE OF THE UNITED NATIONS TO THE PLIGHT OF THE TWO POPULATIONS OF MIDDLE EAST REFUGEES

A) Overview

From 1947 onward, the response of the international community to assist Palestinian refugees arising out of the Arab-Israeli conflict was immediate and definitive. During that same period, there was no concomitant United Nations' response, nor any comparable international action, to alleviate the plight of hundreds of thousands of Jewish refugees from Arab countries.

The sole comparison that can be made between Palestinian and Jewish refugees is that both were determined to be *bona fide* refugees under international law, albeit each according to different internationally accepted definitions and statutes – Palestinian refugees covered by the United Nations Relief and Works Agency for Palestinian Refugees (UNRWA) and Jewish refugees under the statute of the United Nations High Commissioner for Refugees (UNHCR).

As far as the response of the United Nations to the two populations of refugees is concerned, the similarity ends there. The contrasts, however, are stark:

a) Since 1947, there have been over 842 UN General Assembly resolutions dealing with virtually every aspect of the Middle East and the Arab Israeli conflict;

b) Fully 126 of these UN resolutions refer directly and specifically to the 'plight' of Palestinian refugees.

c) In none of 842 UN resolutions on the Middle East is there a specific reference to, nor any expression of concern for, the estimated 1,000,000 Jews living in, or being displaced from Arab countries during the twentieth century.

d) Numerous UN agencies and organizations were involved in a variety of efforts, or others were specifically created, to provide protection, relief, and assistance to Palestinian refugees. No such attention and assistance was forthcoming from these UN agencies for Jewish refugees from Arab countries.

[47] *Time Magazine*. February 27, 2007.

[48] AJY v.102

e) 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 period, no such international financial support was ever provided to ameliorate the plight of Jewish refugees.

B) Representations to the U.N. General Assembly Calling for an International Response to the Plight of Jewish Refugees

It is widely believed that over the last 55 years, the United Nations General Assembly and Security Council have spent more time on the Arab-Israeli conflict than on any other issue.

When the issue of 'refugees' is raised within the context of the Middle East, people invariably refer to Palestinian refugees; rarely, if ever, is there a reference to legitimate rights of Jews displaced from Arab countries.

The fact that there is not one recorded UN resolution on Jewish refugees is not due to a lack of trying.

On numerous occasions, the Israeli government, the World Organization of Jews from Arab Countries (WOJAC) and other Governmental and non-governmental officials alerted the United Nations, its leadership and affiliated agencies to the problem of Jewish refugees and sought its intervention to ameliorate the plight of Jews fleeing from Arab countries. By way of example:

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."

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."

On January 11th, 1957, Philip Klutznick, on behalf of the Coordinating Board of Jewish Organizations, wrote to Secretary General Dag Hammarskjöld, 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."

On December 2, 1968, *The International League for the Rights of Man,* a non-Jewish organization, wrote to Secretary General U-Thant calling attention to "situations in Egypt, Syria and Iraq, representing continuing and serious infringements of human rights."

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.

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."
On November 24th, 1987, then-Israeli Ambassador to the UN Johanan Bein addressed the 42nd Session of the UN General Assembly and spoke of "the war of aggression unleashed by Arab countries against Israel in 1948" which "brought about an exodus of Jews from Arab lands."
Notwithstanding these and other formal representations, there was not one UN resolution expressing concern about the plight and fate of up to 1,000,000 Jews displaced from Arab countries, nor any ameliorative action undertaken on their behalf by the international community.

C) *Relevant UN Resolutions and Action*

The following are the most seminal UN resolutions on the Middle East that could pertain to the issue of Jewish refugees and the concomitant response (or lack of it) by the international community.

UN Resolution 181 (II) (A+B): The General Assembly, on Nov. 29th, 1947, in adopting Resolution 181 (II), approved 'The Partition Plan', that provided for the termination of the Mandate, the progressive withdrawal of British armed forces and the delineation of boundaries for two States and for the city of Jerusalem. It called for the creation of the Arab and Jewish States not later than October 1st, 1948. By resolution 181 (II), the Assembly also set up the United Nations Palestine Commission (UNPC) to carry out its recommendations.[49] The adoption of resolution 181 (II) was followed by outbreaks of violence during which time the displacement of significant numbers of both Palestinians from Israel and Jews from Arab countries began.

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 process. It was the "road map" of its era and provided a detailed plan for the region. It consists of 15 paragraphs, one of which (paragraph 11) deals with the subject of refugees. In part, it 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. Unlike Security Council resolutions, this General Assembly resolution was non-binding but Arab government representatives at the United Nations still voted against it.

UN Resolution 237 (1967)**:** After hostilities broke out 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. It called upon Israel to ensure the safety, welfare and security of the inhabitants of the areas where military operations had taken place and to facilitate the return of the displaced persons. The Governments concerned were asked to "respect scrupulously the humanitarian principles governing the protection of civilian persons in time of war" as enunciated in the Fourth Geneva Convention of 1949.[50]

After this latest Middle East conflict, it was clear that the predominant concern of the UN was for the safety of Palestinian refugees. However, this resolution can appropriately be cited as the first official

[49] UN Resolution 181 (II), adopted by the General Assembly on November 29, 1947.
[50] UN Resolution 237 (1967), adopted by the Security Council on June 14, 1967.

United Nations recognition that alludes to the plight and potential claims of former Jewish refugees. Then-Secretary-General U Thant sent Nils-Goran Gussing, his special representative to the region, and he stated expressly that the provisions of 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."*[51]

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 primarily to determine Israel's compliance with Security Council resolution 237, also addressed 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.[52]

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." 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."[53]

Therefore, it cannot be said that the United Nations was unaware 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, the U.N. passed resolution 259, which refers back specifically to resolution 237, albeit with a significant change in language. Now the UN was only concerned with:

[51] Gruen, George E., "The Other Refugees: Jews of the Arab World," p. 8.
[52] General Assembly, 5th Emergency Special Session, Agenda item 5, "The Question of the Treatment of Minorities", A/6797, Sept. 15, 1967.
[53] Ibid.

"The safety, welfare and security of the inhabitants of the Arab territories under military occupation by Israel."[54]

No mention of "Jewish persons." The concern for Jews had dissipated. The UN reverted back to form.

The second UN resolution that a number of governments (including Israel and the U.S.) contend applies to Jewish refugees is, of course:

UN Resolution 242 (1967): Later that year, on November 22nd, 1967, the 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 and 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."[55]

Resolution 242, still considered the primary vehicle for resolving the Arab-Israel conflict, stipulates that a comprehensive peace settlement should necessarily include "a just settlement of the refugee problem." An unsuccessful effort was made by the Soviet Union's UN delegation to restrict this "just settlement" only to Palestinian refugees. (S/8236, discussed by the Security Council at its 1382nd meeting of November 22, 1967, notably at paragraph 117, in the words of Ambassador Kouznetsov of the Soviet Union). This attempt failed clearly signaling the intention of the international community not to restrict the "just settlement of the refugee problem" merely to Palestinian refugees.

Moreover, Justice Arthur Goldberg, the US Ambassador to the United Nations who was instrumental in drafting the unanimously adopted resolution, has pointed out that:

"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…."[56]

The United Nations has also discussed, at great length, the issue of "refugee properties"; however, a plethora of UN resolutions have only addressed properties of Palestinian refugees. Beginning in 1948, the issue was addressed at virtually every annual meeting of the General Assembly, progressively expanding the focus on "refugee properties" of Palestinians.

However, with reference to Jewish 'refugee properties,' the UN, by resolution or otherwise, never affirmed like it did for Palestinians, that "compensation should be paid... by the Governments or authorities responsible" (resolution 194); never called for "assessment and payment of compensation" for Jewish property losses (like it does for Palestinian refugees in resolution 394); did not call for an "identification and evaluation of ...refugee's immovable properties" in Arab countries (like it does for Palestinian refugees in resolution 1725); did not ask "…the Secretary-General to take

[54] UN resolution 259, adopted by the Security Council on September 27, 1968.
[55] United Nations, United Nations Information System on the Question of Palestine, Resolution 242 (1967).
[56] Goldberg, Arthur J., "Resolution 242: After 20 Years", published in Security Interests, National Committee on American Foreign Policy, April 2002.

all appropriate steps... for the protection and administration of...property, assets and property rights" (like it does for Palestinian refugees in resolution 36/146); nor reaffirm that Jewish refugees "be entitled to their property and to the income derived there from, in conformity with the principles of justice and equity" (like it does in resolution 51/129).

Moreover, unlike the Palestinians, Jewish claims do not only concern private property but also significant Community assets that were expropriated in many countries – synagogues, schools, community centers, cemeteries, ritual baths, etc.

In addition to the value of individual and communal properties left behind by the Jews of Arab countries, the State of Israel has spent hundreds of millions of dollars in the transport and absorption of these former refugees, most of who arrived destitute or with almost no wealth. Such amounts have to be taken into consideration in the overall evaluation of the compensation issue**.**

D) The Response of UN Agencies

Since 1947, only one UN entity – the United Nations High Commissioner for Refugees (UNHCR) - has responded to the needs of Jewish refugees from Arab countries. By contrast, numerous existing UN Agencies addressed the wide-ranging needs of Palestinian refugees, including:

United Nations Conciliation Commission for Palestine (UNCCP): Established in December 1948 (General Assembly Resolution 194) the UNCCP was given the mandate to assist the governments and authorities concerned to achieve a final settlement of the Palestine question, and to provide protection and promote a durable solution for Palestine refugees. [57]

United Nations Relief and Works Agency for Palestine Refugees (UNRWA) Immediately after the Arab-Israeli hostilities of 1948, emergency assistance to Palestine refugees was provided by international organizations such as the International Committee of the Red Cross, League of Red Cross Societies and the American Friends Service Committee. On December 8th, 1949, the UN General Assembly adopted Resolution 302 (IV) creating UNRWA specifically for the provision of assistance to Palestinian refugees.

Today, UNRWA provides basic relief, health, education and social services to some 3.8 million people – the original refugees (UN estimate – 725,000[58]) and their descendents. UNRWA administers 59 refugee camps in its five areas of operation – West Bank, Gaza Strip, Jordan, Lebanon, and Syria – and employs more than 100 foreign nationals and 20,000 Palestinians. UNRWA operations are financed almost entirely by voluntary contributions from governments and the European Union, with United Nations bodies covering staffing costs. Its 2002 budget was $292 million (US) with another $55 million (US) for projects and an additional emergency 'relief' fund of $86 million (US).[59]

Several other additional UN entities have subsequently been mandated to deal with the Palestinian issue, including the issue of Palestinian refugees.

[57] Badil, "The Role of the United Nations," p. 1.

[58] United Nations Conciliation Commission on Palestine, P. 18; United Nations. *Annual Report of the Director General of UNRWA,* Doc. 5224/5223, Estimate as of September 1949.

[59] United Nations Relief and Works Agency for Palestinian Refugees in the Near East website, "Finances."

- In 1974, the UN established the Committee on the Exercise of the Inalienable Rights of the Palestinian People (General Assembly Resolution 3376), mandated to recommend to the General Assembly a program of implementation designed to enable the Palestinian people to exercise their inalienable rights to self determination, to national independence and sovereignty; and to return to their homes and property from which they have been displaced and uprooted.

- In 1977, the UN established the Division for Palestine Rights (General Assembly Resolution 32/40). 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 of the International Day of Solidarity with the Palestinian People on November 29.

- In 1994, the UN established the Office of the United Nations Special Coordinator for the Occupied Territories (UNSCO) to provide guidance and facilitate coordination among UN programs and to assist the Palestinian Authority and donors in coordinating international assistance. UNSCO was not established specifically to address the Palestinian refugee issue, but relates to Palestinian refugees in the West Bank and Gaza Strip as residents of the occupied territories through its mandate.[60]

A host of other UN affiliated programs provide some level of services to Palestinian refugees. These include: the United Nations High Commissioner for Refugees (UNHCR) dealt with Palestinians who did not fall under the mandate of UNRWA; the Joint United Nations Program on HIV/AIDS (UNAIDS), the United Nations Development Program (UNDP), 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). [61]

As noted earlier, the sole UN body that has dealt with the needs of a segment of those Jews fleeing from Arab countries was the Office of the UN High Commissioner for Refugees (UNHCR). Beginning in 1957 and continuing through to the early 1970s, the UNHCR undertook significant initiatives, trying to expedite the transfer of assets after Jews had resettled in new countries of residence. However, notwithstanding good intentions, the protection and rehabilitation provided to Jewish refugees by the UNHCR did not even represent a miniscule fraction of the overwhelming support provided by the international community to Palestinian Arab refugees.

V) COUNTRY REPORTS

[60] Badil, "The Role of the United Nations", p. 2.
[61] Badil, "The Role of the United Nations," p. 3.

The historical narratives in Egypt, Iraq and Libya are described in some detail; a more cursory review is provided on seven other countries, including Algeria, Tunisia, Morocco, Yemen, Aden, Syria and Lebanon.

A) EGYPT

History[62]

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).

Over the years, Jews have sought shelter and dwelled in Egypt. By 1897, there were more than 25,000 Jews in Egypt, concentrated in Cairo and Alexandria. In 1937, the population reached 63,500.

In the 1940's, with the rise of Egyptian nationalism and the Zionist movement's efforts to create a Jewish homeland in adjoining Israel, anti-Jewish activities began in earnest. In 1945, riots erupted – ten Jews were killed; 350 injured, and a synagogue, a Jewish hospital, and an old age home were burned down. After the success of the Zionist movement in establishing the State of Israel, between June and November of 1948, violence and repressive measures by the Government and Egyptians began in earnest. Bombs were set off in the Jewish Quarter, killing more than 70 Jews and wounded nearly 200. Rioting over the next few months resulted in many more Jewish deaths. 2,000 Jews were arrested and many had their property confiscated.

In 1956, the Egyptian government used the Sinai Campaign as a pretext to order almost 25,000 Egyptian Jews to leave the country and confiscated their property. They were allowed to take only one suitcase and a small sum of cash, and forced to sign declarations "donating" their property to the Egyptian government. Approximately 1,000 more 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 (*AP*, November 26 and 29th 1956; *New York World Telegram*).

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.

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 once proud and flourishing Jewish community is on the verge of extinction.

[62] Historical Society of Jews from Egypt

State Sanctioned Discriminatory Decrees and Violations of Human Rights

(Intended merely as a sampling and not an exhaustive survey of such decrees)

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." [63] 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 Jews in Egypt, a great proportion of whom, through Ottoman subjects, could not thus 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 which made it mandatory for at least 75% of the administrative employees of a company to be Egyptian nationals and 90% of employees in general. This resulted in the dismissal and loss of livelihood for many Jews since only 15% of them had been granted Egyptian citizenship. [64]

Under Article 3, Paragraph 7 of Emergency Law No. 5333 of 1954, on 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.[65]

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 Nov 22, 1956, stipulated that "Zionists" were barred from being Egyptian nationals.[66] 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 term "Zionist" was never defined, leaving Egyptian authorities free to interpret 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.[67] 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".[68] 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

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[63] Article 10(4) of the Code. See: Maurice de Wee, La Nationalite Egptienne, Commentairo de la loi du mai 1926, p. 35.

[64] H.J. Cohen, *"The Jews of the Middle East, 1860 – 1972"*

[65] Confidential Memorandum provided to the UNHCR, Feb, 26, 1960

[66] Law No. 391 of 1956, section 1(a). See *Revue egyptienne de Droit International, Vol. 12 (1956), p. 80*

[67] *Egyptian Official Gazette, No. 88, November 1, 1957*

[68] Decision of the President of the Republic, Law No. 391 of 1956 regarding Egyptian nationality, See *Revue egyptienne de Droit International, Vol. 12 (1956), p. 87*

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. [69]

This 1958 decree includes a similar provision that, while not specifically excluding non-Moslems from citizenship, is even more clearly of an ethnic and political tenor showing that Egypt wished to be an Arab, Mohammedan country. Thus, the Minister of Interior is permitted by the law to accord "Arab nationality" to aliens or strangers who have "rendered eminent service to the state, to Arab nationalism or to the Arab fatherland."

These two nationality laws made it very easy for Egypt to take away the citizenship of any Egyptian Jew. Provision both in the 1956 and 1958 laws permitted the government to take away citizenship of persons absent from UAR 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.[70]

Economic Discrimination and Strangulation

A government decision, taken in 1951, 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.

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.

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.[71] 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; and though a number of Copts and Moslems were also interned, their assets were never sequestered.[72]

[69] Now according to the International Encyclopedia of Comparative Law vol. 1 (article "Egypt" p. E 10), after an amendment under the Law No. 282 of 1959, article 10 of the Nationality law reiterates the racial criterion, already found in the 1926 Code, for the acquisition of Egyptian nationality.

[70] Confidential Memorandum provided to the UNHCR, Feb, 26, 1960

[71] Confidential Memorandum provided to the High Commissioner, Mr. Auguste Lindt, on Feb. 21, 1957

[72] Confidential Memorandum provided to the UNHCR, Feb, 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. The names of persons and firms affected by this measure represented the bulk of the economic substance of Egyptian Jewry, the largest and most important enterprises and the main sustenance, through voluntary contributions, of Jewish religious, educational, social and welfare institutions in Egypt.[73]

As the Egyptian government began to take over more and more sectors of the economy, nationalization legislation often hit Jews particularly hard because the measures affected areas of the economy in which Jews had been prominent, and in which there were many Jewish employees (e.g. banking, insurance, etc.)

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 is legally sequestered, the Jews of Egypt are being taxed to pay for the machinery or improper sequestration and withholding.[74] The Jews leaving Egypt were subjected to additional deprivations and inconveniences. A regulation was established which only authorized Jews leaving Egypt to take with them travelers checks or other international exchange documents up to a value of 100 pounds sterling per capita. A diabolically shrewd maneuver was precipitated upon these unfortunate refugees because 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. [75]

B) IRAQ

History[76]

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 is attested to by the community's most influential contribution to Jewish scholarship, the Babylonian Talmud. Jews had

[73] *Egyptian Official Gazette, No. 88, November 1, 1957*

[74] Confidential Memorandum provided to the High Commissioner, Mr. Auguste Lindt, on Feb. 21, 1957

[75] Ibid

[76] Patai, Raphael. The Vanished Worlds of Jewry. Macmillan Publishing Co. Inc.: New York, 1980. p. 142 and material from the website of the Historical Society of Jews from Egypt; "The Jewish Refugee from Arab Countries: An Examination of Legal Rights: A case Study in Ethnic Cleansing" by Carole Basri, Fordam Law Revue, 2003.

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 subjected to special taxes, and restrictions on their professional activity. Under British rule, which began in 1917, Jews fared well economically, but all of this progress ended when Iraq gained independence in 1932.
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.

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. A year later, however, the property of Jews who emigrated was frozen and economic restrictions were placed on Jews who chose to remain in the country. 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.

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. (Judith Miller and Laurie Mylroie, "Saddam Hussein and the Crisis in the Gulf", p. 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).

The *NY Times* (July 28, 2003) reported that there are only 28 Jews left in Baghdad. A once flourishing Iraqi Jewish community of 135,000 has thus been virtually extinguished (*Associated Press*, March 28, 1998).

State Sanctioned Discriminatory Decrees and Violations of Human Rights

(Intended merely as a sampling and not an exhaustive survey of such decrees)

Beginning in 1948, Iraqi authorities took discriminatory measure against their Jewish citizens by enacting a number of legislative and other decrees.

- The first piece of legislation enacted that violated the rights of Jews was the 1948 amendment [77] to the 1938 supplement[78] to the Penal Code of Baghdad. The Baghdad Penal Code set out 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. The Code was initially enacted by the British authorities in Iraq on November 21, 1919, but in essence it followed the Ottoman Penal Code of 1859, the source of which is French. 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.

- Law No. 1 of 1950, entitled "Supplement to Ordinance Canceling Iraqi Nationality", in fact deprived 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 for good pending putting his signature on a special form in the presence of an official whom the Minister of Interior designates" (official Iraqi English translation)[79]

- Law No. 5 of 1951. entitled "A law for the Supervision and Administration of the Property of Jews who have Forfeited Iraqi Nationality" also deprived them of their property. Section 2(a) "freezes" Jewish property. [80]

- There were a series of laws that subsequently expanded on the confiscation of assets and property of Jews who "forfeited Iraqi nationality". These included Law No. 12 of 1951[81] and the attached Law No. 64 of 1967 (relating to ownership of shares in commercial companies) and Law No. 10 of 1968 (relating to banking restrictions).

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[77] Law No.11 of 1948 which amended Law No. 51 of 1938, itself an addition to the Baghdad Penal Code: *Official Gazette*. 14 November 1948. (p. 591 of the English edition)

[78] Law No. 51 of 1938. *Official Gazette*. 24 July 1938 (p.475 of the English edition). This addition does not mention the number of the section of the Penal Code which is involved.

[79] Law No. 1 of 1950 entitled "supplement to Ordinance canceling Iraqi Nationality", *Official Iraqi Gazette*, March 9, 1950.

[80] Law No. 5 of 1951 entitled " A law for the Supervision and Administration of the Property of Jews who have Forfeited Iraqi Nationality" (Official *Gazette*, 10 March 1951. English version, p.17).

[81] Law No. 12 of 1951, supplementary to Law No. 5 as above (*Official Gazette,* English version, 27 January 1952, p.32)

C) LIBYA

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 in Tripoli.

In the late 1930s, anti-Jewish laws were gradually enforced, and Jews were subject to terrible repression. Still, by 1941, the Jews accounted for a quarter of the population of Tripoli and maintained 44 synagogues. In 1942, the Germans occupied the Jewish quarter of and times were extremely difficult for Jews in Libya although conditions did not greatly improve following the liberation. During the British occupation, rising Arab nationalism and anti-Jewish fervor were the reasons behind a series of pogroms, the worst 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 (Howard Sachar, *A History of Israel*).

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, and in the years immediately preceding Libyan independence in 1951, hostile demonstrations and riots against Jews brought about the departure of some 30,000 Jews who fled the country up to, and after the point when Libya was granted independence and membership in the Arab League in 1951 (Norman Stillman, *The Jews of Arab Lands in Modern Times*).

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.[82]

- Law of December 31, 1958, was a decree that was issued by the President of the Executive Council of Tripolitania. It ordered the dissolution of the Jewish Community Council and the appointment of a Moslem commissioner nominated by the Government. [83]

- On May 24, 1961, a law was promulgated which provided that only Libyan citizens could own and transfer real property. Conclusive proof of the possession of Libyan citizenship

[82] Confidential memorandum to Prince Sadruddin Aga Khan, UN High Commissioner for Refugees, dated May 8, 1970.
[83] Ibid.

was required to be evidenced by a special permit that is reliably reported to have been issued to only six Jews in all. [84]

- Royal Decree of August 8, 1962 provided, inter-alia, that a Libyan national forfeited his nationality if he 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. [85]

- 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 ("Israelis who had left Libyan territory in order to establish themselves abroad definitely"), 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." [86]

- The Government decreed the law of July 21, 1970, wherein it states that it wanted to control "the restitution of certain assets to the State." The "Law relative to the resolution of certain assets to the State" asserted 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.[87]

D) OTHER COUNTRY PROFILES

ALGERIA

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 moved to Algeria. After the French occupation of the country in 1830, Jews gradually were granted French citizenship.[88]

In 1934, Muslims incited by events in Nazi Germany, rampaged in Constantine killing 25 Jews and injuring many more. Before 1962, there were 60 Jewish communities, each maintaining their own rabbis, synagogues and educational institutions. After being granted independence in 1962, the Algerian government harassed the Jewish community and deprived Jews of their economic rights. As a result, almost 130,000 Algerian Jews immigrated to France and, since 1948, 25,681 Algerian Jews have immigrated to Israel.

[84] Ibid.
[85] Ibid.
[86] Note to File, UNHCR Archives, and dated August 24, 1970.
[87] Ibid.
[88] International Forum for Peace and Culture website.

Algeria's independence from France was the key event in the final uprooting of the Jewish community. 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.[89] 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, thereby entrenching anti-Israel and anti-Jewish bias in the country.

TUNISIA[90]

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 such as a poll tax.

In 1948, the Tunisian Jewish community had numbered 105,000, with 65,000 living in Tunis alone.

After Tunisia gained independence in 1956, a series of anti-Jewish government 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."

Similar to the conditions for Jews in Algeria, 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.

SYRIA

Jews have lived in this land since biblical times and the community's history is intertwined with the history of Jews in the land of Israel. Jewish population increased significantly after the expulsion of

[89] See section 34 of the Algerian Nationality Code, Law no. 63-69 of Mar. 27, 1963 p. 306; also cited in *Annualize de l'Afrique du Nord* 1973, pp. 806-14.

[90] Maurice Roumani, *the Case of the Jews from Arab Countries: A Neglected Issue*, (Tel Aviv: World Organization of Jews from Arab Countries, 1977), Norman Stillman, *The Jews of Arab Lands in Modern Times*, (NY: Jewish Publication Society, 1991).

the Jews from Spain in 1492. Throughout the generations, the main Jewish communities were to be found in Damascus and Aleppo. [91]

In 1943, the Jewish community of Syria had 30,000 members. 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 government restricted emigration to Israel, 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 Jewish bank accounts and confiscated their property.

Shortly after the founding of Israel, as reported in the *New York Times* on May 16, 1948: "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."

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 a total of 15,000 Jews to leave Syria, 10,000 of who emigrated to the U.S.A. and another 5,000 to Israel. [92]

YEMEN (and ADEN)[93]

The Jews of Yemen have various legends relating to their coming to that country, the most widespread of which states that they arrived there before the destruction of the First Temple (587 BCE). The first historical evidence of their existence in Yemen dates from the third century.

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 (e.g. Jews were not permitted to walk on pavements – or to ride horses). In court, a Jew's evidence was not accepted against that of a Moslem.

In 1922, the government of Yemen reintroduced an ancient Islamic law requiring that Jewish orphans under age 12 to be forcibly converted to Islam. When a Jew decided to emigrate, he had to leave all his property behind. In spite of this, between 1923 and 1945 a total of 17,000 Yemenite Jews left and immigrated to Palestine. [94]

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, where serious riots broke out in 1947 after the United Nations decided on partition. Many

[91] . Shulewitz, Malka Hillel. The Forgotten Millions: The Jewish Exodus from Arab Lands. Cassell: New York, 1999, p. 52, 53.

[92] Prof. Ada Aharoni, International Forum for Peace and Culture website.

[93] . Karen Hayesod Head Office Jerusalem. The Exodus from Yemen. Goldberg Press Ltd.: Jerusalem, 1950.and Patai, Raphael. The Vanished Worlds of Jewry. Macmillan Publishing Co. Inc.: New York, 1980.

[94] Prof. Ada Aharoni, International Forum for Peace and Culture website.

Jews were killed, and the Jewish quarter was burned to the ground. It was not until September 1948 that the British authorities in Aden allowed the refugees to proceed to Israel.

In 1947, after the 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 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. This increasingly 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 of some 63,000 people from its ancient roots in what later became an Arab country. It is estimated, there are about 1,000 Jews in Yemen today. They are living in dire conditions and are not allowed to leave.

MOROCCO[95]

Jews first appeared in Morocco more than two millennia ago, traveling there in association with Phoenician traders. The first substantial Jewish settlements developed in 586 BC when Nebuchadnezzar destroyed Jerusalem and Jews fled to Egypt.

By 1948, this ancient Jewish community, the largest in North Africa, numbered 265,000. In June 1948, after the establishment of the State of 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.

Immigration to Israel started upon the initiative of small groups who arrived at the time of Israel's independence. However, the waves of mass immigration, which brought a total of more than 250,000 Moroccan Jews to Israel, were prompted by anti-Jewish measures carried out in response to the establishment of the State of Israel. By way of example, on June 4, 1949, riots broke out in northern Morocco killing and injuring dozens of Jews. Shortly afterwards, many Jews began to leave.

During the two-year period between 1955 and 1957 alone, over 70,000 Moroccan Jews arrived in Israel. When Morocco declared its independence 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 10% of its original size. Of the 17,000 Jews that remain (from a community of 265,000 in 1948), two-thirds live in Casablanca.

[95] Sand, Jay. The Jews of Africa: Morocco. www.mindspring.com/~jaypsand/morocco.htm; and Patai, Raphael. The Vanished Worlds of Jewry. Macmillan Publishing Co. Inc.: New York, 1980; and Prof. Ada Aharoni, International Forum for Peace and Culture website.

LEBANON[96]

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, and Turkey, and later from Syria and Iraq.

There were instances of rioting and incitement around the time of the establishment of the State of Israel. As reported in the *New York Times* on May 16, 1948:

"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."

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 this country, conducted 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 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.

E) Arab Decrees and the Nuremberg Laws on Citizenship and Race

The mass displacement of the Jews from the Arab countries, as described above, has been a flagrant breach of international law. The 1945 Nuremberg Charter made wartime mass deportation a crime against humanity, and the 1949 Geneva Convention Relative to the Treatment of Civilians in Time of War also prohibits deportations and forcible transfers, whether mass or individual.[97]

Decrees and practices discriminating against Jews in Arab countries – particularly denationalisation – are eerily similar to the Nazi Nuremberg Laws on Citizenship and Race. And the victims, the Jews, are the same.

Today, instead of or in addition to affiliation with the Jewish religious community, denationalization in Arab countries comes from affiliation with Zionism. "Zionist" is often just a code word for "Jewish." Insofar as it has any separate meaning, the meaning is that Jews must denounce and reject some

[96] Ibid.
[97] Charter of the International Military Tribunal. 82 units 279 signed 8 August 1945.

human rights in order to keep others. Jews must denounce and reject the right to self determination of the Jewish people in order to keep their right to nationality.

Before World War II, Jews in Europe were denationalized because of their ties with the Jewish religion; after World War II Jews in the Middle East have been denationalized because of their ties with the Jewish people and Israel. The violation of human rights is as basic, as repugnant, as wrong.

The Reich Citizenship Law of September 15, 1935 provided that "A citizen of the Reich may be only one who is of German or kindred blood."[98]

Only citizens of the Reich could enjoy full political rights.[99] The First Supplementary Decree to this citizenship law, of November 14, 1935, provided that only citizens of the Reich could exercise the right to vote and the right to hold public office.[100] The law stated explicitly "A Jew cannot be a citizen of the Reich. He cannot exercise the right to vote; he cannot hold public office."[101] Jewish officials were retired as of December 31, 1935.[102]

The Nuremberg laws defined a person as Jewish both by ancestry and by affiliation. One of the ways in which a person was considered Jewish was if the person was descended from two full Jewish grandparents and if the person was a member of the Jewish religious community when the law was issued or joined the community later.[103]

The Nuremberg laws violated basic human rights; the right to a nationality; the right to vote; the right to equality. They were damaging in themselves and a signal of the disasters to come. They depersonalised Jews, by saying that they were not legal persons in the eyes of the state.

These laws were unconscionable at the time. After the Holocaust, similar laws with the same target victims are unspeakable.

VI) JEWISH REFUGEES FROM ARAB COUNTRIES: THE CASE FOR RIGHTS AND REDRESS

A) Jews from Arab Countries and the Israeli-Palestinian Peace Process

98 Article 2(1).
99 Article 2(3).
100 Article 3.
101 Article 4(1).
102 Article 4(2).
103 Article 5(2) (a).

It would be an injustice to ignore, in the Israeli-Palestinian peace process, the rights of Jews from Arab countries. It would be a distortion of history, and would constitute a fundamental inequity, to recognize a right in Palestinian refugees to redress without recognizing a right to redress for Jewish refugees displaced from Arab countries. The case of displaced Jews to redress is as strong as, if not stronger than, the case of Palestinian refugees.

Yet, that is exactly what appears to be happening. Occasionally, the two sets of claims have been put on equal footing. A United Nations Security Council Resolution adopted in 1967 calls for "a just settlement of the refugee problem" without distinction between Palestinian and Jewish refugees.[104] The Camp David Framework for Peace in the Middle East of 1978 (the "Camp David Accords") includes, in paragraph A (1) (f), a commitment by Egypt and Israel 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" - again without distinction between Palestinian and Jewish claims. President Carter stated in a press conference in 1977 that "Palestinians have rights...obviously there are Jewish refugees... they have the same rights as others do."[105]

But in practice that is not how things are working out. In 1991, the Madrid Peace Conference established a Multilateral Working Group on refugees. Its mandate was to "consider practical ways of improving the lot of people throughout the region who have been displaced from their homes". Those countries involved in the Working Group, save perhaps the Israelis, view their efforts as relating to Palestinian refugees only.

Several aspects of the 1994 Israel-Jordan Peace Treaty are worth noting. The Article 8, Paragraph 1, entitled "Refugees and Displaced Persons" recognizes 'the massive human problems caused to both Parties by the conflict in the Middle East'. What is significant about this provision is that it is clearly not limited to Palestinian refugees.

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 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…'

Reference to massive human problems in a broad manner, and the commitment of the parties to find ways to resolve these problems, suggests that the plight of all refugees of 'the conflict in the Middle East', including Jewish refugees from Arab lands, was envisaged in this Treaty.

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.

The rights of Jews displaced from Arab lands were discussed at 'Camp David II' in July 2000. On July 28, 2000 President Clinton was interviewed on Israeli television and stated clearly:

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104 Resolution 242.

105 October 27, 1977.

"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".

This candour by President Clinton has not been replicated by others in leadership positions. If one thought of Israel, the West Bank and Gaza as on the moon rather than in the Middle East, this blinkered approach, looking only at Palestinian refugees in isolation from displaced Jews, might have a certain logic to it. Redress due to displaced Jews is not due from the Palestinian leadership. Jewish refugees did not, for the most part, flee the West Bank and Gaza.

However, if one looks at the peace process in context, if one places Israel in the Middle East, where it obviously is, if one accepts that peace in the Middle East means peace with Israeli's Arab neighbours as much as with the Palestinians, then it is impossible to overlook the issue of displaced Jews. A settlement of outstanding disputes between Israel and its neighbours must resolve this dispute.

A comprehensive peace must be endurable and enduring. There can be no peace without truth or justice. Recognition of the past is essential to the integrity of the Middle East peace process. Rejection of memory is a rejection of peace. Justice in the Middle East includes justice for Jews from Iran and Arab countries. Unless the displacement of Jews from Arab lands and Iran is acknowledged within the Middle East peace process, unless Jews displaced from Arab lands and Iran are treated equitably in the Middle East peace process, there will be no true, just peace.

B) The Injustice

Some 850,000 Jews were displaced from Arab countries after the creation of the State of Israel. About 600,000 of those settled in Israel. While somewhat different in context, there was victimization, and a right to redress also exists, for another 57,000 Jews displaced from Iran.

These people were not, for the most part, voluntary migrants seeking to leave their home countries for economic reasons or wanting to immigrate to Israel for religious or ethnic reasons. They were mainly refugees forced to flee to save themselves. Before they were displaced, they were threatened, harassed and persecuted. Before they were displaced, as part and parcel of the persecution they suffered, or after, their property was forfeited or confiscated. The Jews who were displaced from Arab countries and Iran are a victim population, people who suffered human rights violations at the hands of the governments and populations in the countries in which they lived.

The story of that victimization has been described many times.[106] That victimization creates a right to redress.

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[106] See Itamar Levin, in Policy Forum publication number 22, published in 2000 by the Institute of the World Jewish Congress, titled "Confiscated Wealth: The Fate of Jewish Property in Arab Lands," which detailed the victimization of the Jews of Iraq, Syria and Egypt; Itamar Levin, "Locked Doors: The Seizure of Jewish Property in Arab Countries", Praeger, 2001; "Why Did They Leave" in "Jews from Arab Countries: "The Jewish Refugee from Arab Countries: An Examination of Legal Rights: A Case Study of the Ethnic Cleansing of Iraqi Jews," published by Carole Basri, in the Fordham Law School Journal.

C) Redress

In international law, any human rights violation gives rise to a right to redress. The right belongs both to the victim and the beneficiaries of the victim. The duty to make redress falls on the state responsible for the human rights violations.

Today, there are regimes, most notably in Iraq and Egypt that are not the regimes that were in place at the time the violations occurred. Even in those cases, it can be argued that successor regimes should provide reparation to the victims.

Reparations should be adequate, effective and prompt. They should be proportionate to the gravity of the violations and the harm suffered.

Reparations for the taking of property are also due to foreign nationals; that is, nationals of another country other than those of the regime that did the taking, whether victims of human rights violations or not. In this case, the state to which the foreign national belongs is entitled to assert the right of its national to reparations.[107]

Arbitrary deprivation of property is itself a violation of a fundamental human right, forbidden by the Universal Declaration of Human Rights.[108] There does not have to be violation of another right accompanying the arbitrary deprivation in order for human rights to be violated.

D) Remedies

A. The High Commissioner and Mandate Refugees

The Statute of the Office of the United Nations High Commissioner for Refugees obligates the High Commissioner to provide for the protection of refugees falling under the competence of his office by, amongst other duties, "endeavouring to obtain permission for refugees to transfer their assets and especially those necessary for resettlement."[109] This provision is noteworthy, not only because of the duty it imposes on the High Commissioner, but also because it covers all assets.

There need be no nexus between the human rights violations that had caused the flight and the assets left behind to trigger the duty owed by the High Commissioner. Indeed, the assets may remain under the ownership of the refugee. As long as there are any restrictions on the transfer of the assets out of the country fled, the Statute of the High Commissioner requires him to act. Although many of the Jews from Arab countries were displaced decades ago, many are still suffering financial and other resettlement difficulties that emanated from their displacement.

In order for a refugee population to fall within the mandate of the High Commissioner, the High Commissioner or some other instance has to determine that the population has or had a well-

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[107] "Private Property Rights in International Law - The Property of Jewish Refugees from Arab and Moslem Countries" a soon to be published paper by Alberto M. Aronovitz, Staff Legal Advisor at the Swiss Institute of Comparative Law; "Considerations Applicable to Compensation for Jews Ejected from Arab Lands" soon to be published paper by Steven C. Sheinberg, Assistant Director, Legal Affairs, Anti-Defamation League.

[108] Article 17(2.

[109] Article 8(e).

founded fear of persecution.[110] The High Commissioner has made such a determination for Jews from Arab countries.

In the first instance of this determination, in his first statement as newly elected High Commissioner, Mr. Auguste Lindt, at the January 29, 1957 meeting of the United Nations Refugee Fund Executive Committee (UNREF) in Geneva, stated:

> *"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."*[111]

In the second such instance, Dr. E. Jahn for the Office of the High Commissioner wrote to Daniel Lack, Legal Adviser to the American Joint Distribution Committee, on July 6, 1967:

> *"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."*[112]

The High Commissioner has gone about endeavouring to obtain permission from Arab governments for Jewish refugees to transfer their assets from the Arab countries they fled.[113] Mostly, those efforts did not succeed. However, the efforts themselves are noteworthy. They remind us that the High Commissioner is available, still, to pursue the transfer of assets. As well, the determination by the High Commissioner that these refugees fall within his mandate is a determination by an international instance that these refugees have or had a well-founded fear of persecution.

Persecution is any serious violation of human rights.[114] Such persecution was clearly documented in the first section of this paper. The UNHCR made an independent determination, and confirmed publicly on at least two occasions, that Jews from Arab countries were victims of serious human rights violations that caused their flight. That determination remains valid and has contemporary legal consequences, beyond the previous efforts of the High Commissioner to obtain permission from persecuting governments to transfer refugee assets.

B. The High Commissioner and Convention Refugees

The Refugee Convention also has a restitution provision requiring contracting states to give sympathetic consideration to the transfer of assets of refugees.[115] An obligation to give sympathetic consideration is more than mere words. While an obligation to give sympathetic consideration does

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110 Article 6B.

111 United Nations High Commissioner for Refugees, Report of the UNREF Executive Committee, Fourth Session – Geneva 29 January to 4 February, 1957.

112 United Nations High Commissioner for Refugees Document No. 7/2/3/Libya.

113 "The United Nations High Commissioner for Refugees (UNHCR) and Former Jewish Refugees from Arab Countries," a soon to be published paper by Stanley A. Urman, Director, Justice for Jews from Arab Countries.

114 Office of the United Nations High Commissioner for Refugees Handbook on Procedures and Criteria for Determining Refugee Status, paragraph 51.

115 Article 30.

allow a contracting state to say no to a request to transfer assets, all treaties must be performed in good faith.[116] Sham consideration, unsympathetic consideration would be a violation of the treaty.

Treaties do not have retroactive force.[117] However, the obligation to transfer assets is not a retroactive obligation. It is a contemporary obligation, as a matter of Treaty interpretation. As long as the assets still exist, and the request to transfer is current, we are dealing with present facts and not past facts.

It would frustrate the purpose of resettlement of the Refugee Convention to interpret the Convention not to apply to assets in a contracting state belonging to refugees who fled before the contracting state acceded to the Convention. Where transfer of assets is necessary for resettlement, then allowing transfer means that there will be resettlement. Refusing transfer means that there will not be true resettlement. An interpretation of the treaty that would facilitate resettlement has to be favoured over an interpretation that would frustrate resettlement.

C. An International Fund

During two, seminal Palestinian-Israeli negotiations, discussion took place on the need to create an 'international fund' as part of any comprehensive Middle East peace.

- In July 2000, immediately after at 'Camp David II', President Clinton was interviewed on Israeli television and stated:

> *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.*
>
> *That's another piece of good news I think I can reveal out of the summit. The Palestinians said they thought those people should be eligible for compensation, as well. So we'll have to set up a fund and we will contribute. I went to the G-8 in Okinawa in part to give them a report, and I asked the Europeans and the Japanese to contribute, as well. And there will be other costs associated with this. So it will not be inexpensive…*
>
> *I will try to get as much support as I possibly can for the United States, but also as much support as I possibly can from Europe, from Japan and from other people in the world."*

In January 2001, during the negotiations held between Palestinians and Israelis in Taba, Egypt the following was apparently agreed upon: (*Excerpt from Report, Prepared by EU Middle East Envoy Miguel Moratino , Summarizing the Palestinian- Israeli Negotiations held in Taba, Egypt in January 2001) (First published in Ha'Aretz Newspaper, on February 14, 2002 and by Arab Gateway http://www.al-bab.com/arab/docs/pal/taba2001.htm)*

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116 Vienna Convention on the Law of Treaties, Article 27.
117 Article 28.

"3.3 Compensation

Both sides agreed to the establishment of an International Commission and an International Fund as a mechanism for dealing with compensation in all its aspects. Both sides agreed that "small-sum" compensation shall be paid to the refugees in the "fast-track" procedure, claims of compensation for property losses below certain amount shall be subject to "fast-track" procedures."

As discussed at both venues, such an International Peace Fund would, *inter alia*:

1) provide funding to develop the infrastructure of a new Palestinian state (e.g. hospitals, schools, roads, sanitation facilities, etc.);

2) provide funding to Israel to establish secure defense perimeters along the new borders that would be agreed upon by both parties; and

3) Provide compensation for all refugees who were victims of the Arab-Israeli conflict.

This option provides significant benefits to all parties.

- As part of a final, comprehensive Middle East peace plan, such a fund would redress historical injustices and ensure adequate compensation for all victims of the Arab-Israeli conflict;

- The establishment of such a multilateral fund, to be endowed by the G-8 countries and others, would ensure international involvement and legitimacy for any comprehensive Middle East peace plan; and

- To-day, over 50% of all Israeli citizens are descendents of Jews displaced from Arab countries. In addition to Palestinian refugees, were the rights of Jewish refugees from Arab countries to be recognized, and addressed by such an international fund, this would serve as a strong inducement for the government of Israel to engage in comprehensive negotiations to resolve the overall issue of refugees.

A useful international precedent for such an international fund is the United Nations Compensation Commission and Fund established by UN Security Council (S/RES/692)adopted by the Security Council at its 2987th meeting on 20 May 1991) to compensate foreign nationals, companies and governments for injuries suffered as the result of the Iraqi invasion of Kuwait. A Middle East 'Compensation Commission' could serve an important vehicle to address some seminal rights and remedies that could be negotiated as part of a comprehensive Arab-Israeli agreement.

The United Nations Compensation Commission and Fund provides a model for a remedy that could be negotiated as part of an Arab-Israeli comprehensive settlement.[118] The United Nations

[118] "The United Nations Compensation Commission: A Model Compensation Regime for Jewish Refugees from Arab States?" a soon to be published paper by Elie Haymovitz and Talia Magnas, Claims Analysts at the Conference on Jewish Material Claims Against Germany.

Compensation Commission and Fund were established by Security Council resolution of May 1991, to compensate foreign nationals, companies and governments for injuries suffered as the result of the Iraqi invasion of Kuwait.[119]

This model could be used to arrange for compensation for Jewish refugees arising out of the Arab-Israeli conflict. Moneys could come from the governments of the countries from which the Jews were displaced. But the source of the funds could be broader. It need not be restricted to those governments.

The intended beneficiaries of the fund could also be broader, allowing all those displaced, both Jewish and Palestinian, to make claims against an international fund established specifically for that purpose whether or not the Jews are in Israel, whether or not the Palestinians are in refugee camps or in the West Bank and Gaza. Though the remedy here is patterned after the UN Compensation Fund, the remedy would not be a UN Fund, but rather a fund established as part of and the result of an Arab-Israeli comprehensive settlement.

It may seem strange to arrange for settlement of all Jewish claims from Arab states in the context of an Israeli-Palestinian peace agreement when many of those Jewish persons with claims are not Israeli citizens and when the claims are almost entirely not against Palestinians or their representatives. But one objective in the negotiations is to ensure that an Arab-Israeli settlement would constitute an end to all claims arising out of the conflict, including private claims. The private claims of Palestinian refugees would have to be limited to the avenues of relief expressly created in an Arab-Israeli settlement and extinguished otherwise.

It may unreasonable to expect that an Arab-Israeli settlement would limit within a fund established by the agreement and otherwise extinguish Palestinian claims but neither extinguish nor limit Jewish claims. Whatever differences may exist between Palestinian and Jewish claims, these may have to be addressed within an Arab-Israeli settlement and the mechanisms for compensation from the fund.

If it were otherwise, if Jewish claims were not satisfied within the Arab-Israeli settlement and extinguished outside that agreement, then Palestinians might also argue that their claims too are not extinguished by virtue of the settlement. A crucial dispute would remain unresolved.

D. Foreign Courts

The likelihood of Jews obtaining justice in the courts of the countries from which they were displaced is small. Indeed, part of the persecution they suffered was the perversion of justice, the absence of an effective remedy in their home countries. By way of example, the Camp David Framework for Peace in the Middle East of 1978 (the "Camp David Accords") includes, in paragraph A (1)(f), a commitment by Egypt and Israel 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." It could be argued that the unqualified reference to the "refugee problem" can be regarded as an indication that Egypt and Israel envisioned a broad resolution of the refugee problem that included both Palestinian and Jewish refugees.

[119] Security Council resolution 692, May 20, 1991.

Moreover, Article 8 of the Treaty provides that the "Parties agree to establish a claims commission for the mutual settlement of all financial claims." In practice, this commission has not been established and no lawsuits filed by former Jewish refugees from Egypt in Egyptian courts have ever been satisfactorily resolved.

This failure raises the question of the availability of foreign justice. The use of foreign courts raises two questions. One is whether the law of the foreign state allows a remedy.[120] The other is whether international law allows a remedy.

There have been a number of developments in the international arena in recent years to suggest that the principle that a state may allow a litigant to seek reparations against a foreign state for violations of fundamental human rights has reached the status of customary international law. Customary international law is the practice of states that they view as legally binding upon them. Developments include the Statute of the International Criminal Court,[121] the writings of the International Law Commission,[122] the reasoning of the International Criminal Tribunal for the Former Yugoslavia[123] and legal opinions of states expressed in the United Nations Commission on Human Rights and General Assembly.[124]

E) Choosing a Remedy.

Justice for Jews from Arab Countries is not itself seeking to invoke all remedies on behalf of Jews from Arab countries. In particular, *Justice for Jews from Arab Countries* does not seek monetary compensation on behalf of individual victims through litigation. Individual victims and their representatives are free to seek whatever legal remedies are open to them. We note that several have chosen to do so, either in the courts of the countries where they now live or the courts of the countries from which they fled, or through negotiations with the government of the countries from which they fled.

Since the release of our last report, several individual victims have sought to invoke remedies for the wrongs inflicted on them. The remedies themselves, as the result of these efforts, are developing. For example:

- The Israeli Supreme Court rendered a decision (Case 8902/05) on the 29 Adar 5767 (19.3.07), that may have implications for the way the Government of Israel deals with the issue of rights and redress for Jews displaced from Arab countries. The Honorable Supreme Court Judges A. Prokatcha, A. Rubinstein, and D. Heshin responded to a petition filed by the fellowship society

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120 For the United States, see the soon to be published paper by Marc D. Stern, Assistant Executive Director, American Jewish Congress, and "American Law on Recovery of Illegally Expropriated Property."

121 Article 75.

122 Appendix to the annex to the report on the work of the fifty-first session of the International Law Commission, 3 May-23 July 1999, United Nations document A/54/10.

123 *Prosecutor v. Furundzija*, December 10, 1998, paragraph 155, Judges Mumba, Cassese and May.

124 "The Response of the United Nations to the Issue of Refugees Arising out of the Arab-Israeli Conflict," soon to be published paper by Stanley A. Urman; "Jewish Refugees and the United Nations Commission on Human Rights," soon to be published paper by Andrew Srulevitch, Executive Director, UN Watch; United Nations Commission on Human Rights in 2001 passed a/ resolution 62, paragraph 6.

"Shemesh" - Shalom VeShilumin ("Shemesh - Peace and Reparations"), as well as on behalf of about 60 individuals and their families originating from Iraq.

The respondents in this case were, among others: The Prime Minister; The Israeli Government; The Minister of Foreign Affairs; The Minister of Finance; The Minister of Justice; The Minister of Defence; The Minister of Education, Culture and Sport; and others.

The society is seeking reparations for the lost property and goods left behind when Jews were displaced from Iraq.

After hearing the arguments of the parties, the High Court decided to postpone its final judgment on the case but did:

> *"request a detailed notice of update on behalf of the respondents, within four months, about the continued activity of the government on the matter of the compensation (to be given) to the Jews originating from Iraq. In particular, we wish to receive details concerning the activity of the special ministerial committee appointed to deal with this matter".*

• In a legal victory that may have relevance for future claims by Jews displaced from Arab counties, the United States Supreme Court has declined to review a lower court's decision which will allow the Bigio family, originally from Egypt and currently living in Canada, to sue the Coca-Cola company in the United States. Refael Bigio and his family have been seeking legal redress for property that was taken from them by the Egyptian Government.

Bigio's grandfather had owned a factory 45 minutes from downtown Cairo and in the 1930s, the Coca-Cola Company rented space from the Bigios for its first bottling operations in Egypt. Egypt sequestered the property in 1962 and the Bigios were displaced from the country three years later. They have been trying to recover the property since 1979.

After over a decade of legal proceedings, and after two years of trying to negotiate with Coca-Cola, the Bigio family went to court. Coca-Cola had originally wanted the case to be heard in an Egyptian court. This recent decision by the U.S. Supreme Court to decline to consider the request by Coca-Cola to halt a lawsuit brought against it by the family means that the lawsuit can now proceed in a U.S. Appeals Court. The case is reported as *Bigio v. The Coca Cola Co.* in the U.S. 2nd Circuit Court of Appeals.

• A hotel in Alexandria, Egypt that had belonged to a Jewish family until it was nationalized by Egypt in 1952 has been returned to its rightful owners. Founded in 1929, the hotel was seized from the Metzger family in 1952. Five years later the Metzgers were expelled from Egypt.

Now run by the French company Accor, the 86-room, four-star Cecil Hotel, was returned recently to the Metzger family, and then resold to Egypt for an undisclosed amount, according to the 'Agence France Presse' news agency. A 1996 Egyptian court ruling returned the hotel to its Jewish owners, but the ruling was never implemented at that time, ostensibly for fear that it would establish a legal precedent for the restitution of nationalized Jewish property in Egypt.

What *Justice for Jews from Arab Countries* does seek is equity in redress for the victims. There were two refugee populations arising out of the refusal of Arab states to recognize the existence of Israel in 1948. It would be unjust for the Palestinian refugees to obtain redress and the Jewish refugees not to obtain redress.

Mere acceptance of the validity of our assertions of rights and violations are, in a sense, themselves a form of redress, indeed the form of redress we most seek. Nonetheless, one has to distinguish recognition of a right and its violation on the one hand, and awarding redress on the other. On the issue whether there is a right, whether there has been a violation, there can be no compromise or half way measures. Either the right exists or it does not. Either there has been a violation or there has not.

However, when it comes to redress, there is a wide array of possibilities. The distinction between rights and redress is similar to the distinction between liability and damages or between conviction and sentence. Once liability is established damages can take a wide variety of forms. Once a person is convicted, the criminal can receive a wide variety of sentences with different options for redress for the victim(s).

For Jewish refugees from Arab countries, redress can take many forms. By way of example:

- In South Africa, to redress past injustices, Truth and Reconciliation Commissions were established where the white minority had to acknowledge the historical narrative, and accept responsibility for their ill treatment of the black majority. The Arab world has never acknowledged, nor assumed responsibility for the ill treatment, and displacement of their Jewish populations.
- Redress might be establishing Chairs at prominent universities to promote and preserve the rich Sephardic heritage and legacy.
- Redress could entail the establishment of Foundations to protect and preserve holy sites in Arab countries where there are no longer any Jews or Jewish communities; or
- Redress could also be compensation, because it there is to be compensation for one refugee population - Palestinians - there must also be compensation for Jewish refugees from Arab countries.

Whatever is the result of those negotiations, whatever redress ends up being awarded, the Jewish refugee population from Arab countries, as part of a comprehensive peace agreement, should be treated with law and equity.

We assert that Jews from Arab countries have legal rights which have been violated. How do we propose to go about achieving recognition of the rights we believe exist and remedies for the violations?

There is a need to distinguish between the general and the particular. The general point is that

Our effort is to attempt at persuasion rather than legal coercion. We are trying to convince everyone through our efforts to recognize the rights of Jews from Arab countries so that court

proceedings become unnecessary. Ultimately, we hope our persuasion will lead to general recognition of the right as part of a comprehensive peace agreement.

In a general sort of way, it is wrong and discriminatory to recognize the rights of one group and not another. But that is not the same thing as saying that the rights of the two groups are linked. Linkage suggests that, if the rights of one group are not recognized, the rights of the other group should also not be recognized. That is our position.

The plight of Palestinian refugees will be solved only as part of an overall Middle East peace settlement. But there can not be an overall peace settlement without also addressing the wrongs done to Jewish refugees from Arab countries. A peace agreement which provided redress for Palestinian refugees without redress for Jewish refugees would be wrong in principle and unworkable in practice.

There is a chick/egg question here. What is the cause of the noise about Palestinian refugees and the silence about Jewish refugees? Is it the fact that the Jewish refugee problem, at least in terms of local integration and international resettlement, has been solved and the Palestinian refugee problem, in those same terms, has not been solved? Or is it the fact that there has been a political will to solve the Jewish refugee problem but an opposite political will, borne out of anti-Zionism, to keep the Palestinian refugee problem alive?

The silence about the Jewish refugee problem answers that question. If the true concern were refugees, we would have heard, at least when the Jewish refugee problem first arose, as much concern about Jewish refugees as Palestinian refugees. If the true concern were refugees, Palestinian refugees would have locally integrated and internationally resettled as quickly and calmly as Jewish refugees were.

The only lasting peace is a just peace. A just peace means justice for all the victims of the conflict, not just one set of victims.

Justice requires that like cases be treated in like fashion. It would be unjust for one set of refugees to be granted redress and another set of refugees generated by the same conflict to be ignored.

VIII) CONCLUSIONS

- The plight and flight of Jews displaced from Arab countries is an historical injustice that must be rectified.

- No just, comprehensive Middle East peace can be reached without recognition of, and redress for, the uprooting of centuries-old Jewish communities in the Middle East and North Africa by Islamic regimes hostile to the State of Israel.

- It would be appropriate for all relevant bi-lateral and multi-lateral Middle East discussions and documents to refer to the multiple refugee populations arising from the Arab-Israeli conflict. Therefore, any explicit reference to Palestinian refugees should be balanced by a similar explicit reference to Jews displaced from Arab countries.

Biographies of Co-Authors

The Honorable Irwin Cotler, P.C., O.C., M.P. is a Canadian Member of Parliament and Opposition Critic for Human Rights. He is the former Minister of Justice and Attorney General of Canada, and a Professor of Law (on leave) at McGill University.

He has testified as an expert witness on human rights before Parliamentary Committees in Canada, the United States, Russia, Sweden, Norway, and Israel, and has lectured at major international academic and professional gatherings in America, Europe, Asia, Africa, and the Middle East.

An international human rights lawyer, Professor Cotler served as Counsel to former prisoners of conscience in the Soviet Union (Andrei Sakharov), South Africa (Nelson Mandela), Latin America (Jacobo Timmerman), and Asia (Muchtar Pakpahan). He later served as international legal counsel to imprisoned Russian environmentalist Aleksandr Nikitin; Nigerian playwright and Nobel Laureate Wole Soyinka; the Chilean-Canadian group Vérité et justice in the Pinochet case; and Chinese-Canadian political prisoner, Professor KunLun Zhang. More recently, he served as Counsel to Professor Saad Edin Ibrahim, the leading democracy advocate in the Arab world.

David Matas is a lawyer in private practice in refugee, immigration and human rights law in Winnipeg, Manitoba, Canada. For B'nai Brith Canada he was Chair League for Human Rights 1983-85, and Vice-President 1996-1998. He has held the position of Senior Honorary Counsel 1989 to the present.

Mr. Matas was a member Canadian delegation to the United Nations General Assembly 1980; Task Force Immigration Practices & Procedures 1980-81; member Canadian delegation to the United Nations Conference on an International Criminal Court 1998; member Canadian Delegation to the Stockholm International Forum on the Holocaust, 2000; Director of the International Centre for Human Rights & Democratic Development (Rights and Democracy) 1997-2003; Canadian delegation to the Organization on Security and Cooperation in Europe Conferences on Anti-Semitism and Intolerance Vienna 2003, Berlin 2004, and Bucharest 2007.

Mr. Matas has authored six books including "Justice Delayed: Nazi War Criminals in Canada" Summerhill Press, 1987 with Susan Charendoff; "Closing the Doors: The Failure of Refugee Protection" Summerhill Press 1989 with Ilana Simon; "No More: The Battle Against Human Rights Violations" Dundurn, 1994,; "Bloody Words: Hate and Free Speech" Bain & Cox, 2000.

Stanley A. Urman is Executive Director, *Justice for Jews from Arab Countries*, an international coalition seeking rights and redress for Jews displaced from Arab countries.

Previously, he served as Executive Director of the Centre for Middle East Peace & Economic Cooperation, Executive Vice President, America-Israel Friendship League; Executive Director of the Canadian Human Rights Foundation; and National Executive Director of the Canadian Jewish Congress.

Having received a Bachelor of Arts from Sir George Williams University, and a Masters of Science in Social Studies from Boston University, Mr. Urman is currently as PhD Fellow in Middle East Affairs at Rutgers University's Centre for Global Change and Governance.

JUSTICE FOR JEWS FROM ARAB COUNTRIES

I) WHO WE ARE

Founded in 2002, ***Justice for Jews from Arab Countries (JJAC)*** is a coalition of Jewish communal organizations operating under the auspices of the *Conference of Presidents of Major American Jewish Organizations* and the *American Sephardi Federation* in partnership with the *American Jewish Committee*, the *American Jewish Congress*, *Anti-Defamation League, B'nai Brith International*, the *Jewish Public Council for Public Affairs* and the *World Sephardic Congress*.

II) OUR MISSION

To ensure that justice for Jews from Arab countries assumes its rightful place on the international political agenda and that their rights be secured as a matter of law and equity.

III) OUR LEADERSHIP

The Founding Chairman of ***JJAC*** is S. Daniel Abraham. Currently, the following serve as Honorary Chairmen: Hon. Irwin Cotler, Canada; Hon. Shlomo Hillel, Israel; Ambassador Richard Holbrooke, USA; Leon Levy (A'H), USA; James Tisch, USA; Lord George Weidenfeld, UK; and Mortimer B. Zuckerman, *USA*

IV) MANDATE

1) International Rights and Redress Campaign (IRRC)

Objective: To register family narratives, and document communal and individual losses, suffered by Jews displaced from Arab countries in order to provide a credible and valuable data base for historical and legal purposes.

2) Representation

Objective: To ensure that the rights of Jews displaced from Arab countries are recognized and addressed in any political discussions on 'Middle East refugees'.

3) Public Education

Objective: To expand upon public education efforts targeting the media; Jewish communal leadership and schools; as well as to digitally record oral history testimonies on the heritage, plight and subsequent flight of Jews from Arab countries.

4) Links to Arab World

Objective: To serve as an effective interlocutor in building bridges to the Arab world in matters relating to maintaining shrines and holy sites; cemeteries; preservation of Jewish heritage; disposal of community assets; etc. remaining in Arab countries.

5) Redress

Objective: To examine all potential political and legal options that might assist in the pursuit of rights and redress for Jewish refugees from Arab countries.