



THE REFUGEE QUESTION AND INTERNATIONAL LAW

The refugee question - specifically the right of return - is one of the most controversial issues in the ongoing Arab-Israeli conflict. International law and resolutions, however, leave no doubt that Israel is legally required to permit the repatriation of the Palestinians displaced in 1948 and that Palestinian refugees are entitled to full restitution, including the right of return, the right of return of properties, and the right to compensation for material and moral losses.

The most famous source of reference in this regard is UN General Assembly Resolution 194 of 1948 (see Box), which has been affirmed by the UNGA over 110 times so far. However, Israel continues to dispute the legality of the Palestinian claim based on Res. 194 and refuses to repatriate refugees.



“No settlement can be just and complete if recognition is not accorded to the right of the Arab refugee to return to the home from which he has been dislodged (...) It would be an offence against the principles of elemental justice if these innocent victims of the conflict were denied the right to return to their homes, while Jewish immigrants flow into Palestine, and, indeed, at least offer the threat of permanent replacement of the Arab refugees who have been rooted in the land for centuries.”

UN Mediator Count Folke Bernadotte,
Report (UN Doc A/1.648), 1948

REFUGEES IN INTERNATIONAL LAW AND UN RESOLUTIONS

The Universal Declaration of Human Rights, Art. 13 (2) (1948): “Everyone has the right to leave any country, including his own, and to return to his country;” and Art. 17 (2): “[n]o one shall be arbitrarily deprived of his property.”

UN General Assembly Resolution 194, Para. 11 (11 Dec. 1948): “Resolves that the 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 compensation should be paid for the property of those choosing not to return and for the loss of or damage to property which, under principles of international law or in equity, should be made good by the governments or authorities responsible.”

Fourth Geneva Convention, Art. 49 (12 Aug. 1949): “Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.” And Art. 53: “Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.”

The International Covenant on Civil and Political Rights, Art. 12 (1966): “No one shall be arbitrarily deprived of the right to enter his own country.”

REFUGEES TODAY

The Palestinian refugee problem is the oldest refugee problem in the world. Today, there are over 5 million Palestinian refugees, constituting two-thirds of the total Palestinian population and making Palestinians the largest single group of refugees in the world (with a 3%-increase annually).

Three different groups of 'refugees' are differentiated: **refugees** of the 1947-1949 period; **displaced persons** as a result of the 1967 War; and **expired permit-holders** (or "latecomers"), i.e., residents of the West Bank and Gaza who overstayed their permits while abroad and were denied re-entry.

Some 3.7 million of the total 5 million refugees are registered with UNRWA, and about a third of these live inside one of the 59 UNRWA camps (see map p. 6), most of which were established between 1948-1953. For over 50 years now UNRWA has been responsible for providing health, rehabilitation, schooling, training, and other services to the camp population; in 2000, its budget amounted to US\$300.9 million.