

Who are Palestinian refugees?

by Terry M Rempel

Three-quarters of the Palestinian people are displaced. Approximately one in three refugees worldwide is Palestinian. More than half are displaced outside the borders of their historic homeland.

“By far the most protracted and largest of all refugee problems in the world today is that of the Palestine refugees, whose plight dates back 57 years. The UN General Assembly’s Resolution 181 of November 1947 recommending the partition of Palestine led to armed clashes between Arabs and Jews. The conflict, which lasted from November 1947 to July 1949, led to the expulsion or flight of some 750,000-900,000 people from Palestine, the vast majority of them Arabs. The General Assembly’s subsequent Resolution 194 of December 1948 stating that those ‘refugees wishing to return to their homes and live in peace with their neighbours 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 loss or damage to property,’ was never implemented. Israel refused to allow the repatriation of Arab refugees, most of whose villages had been destroyed.”

“UNHCR’s mandate does not extend to the majority of Palestinian refugees by virtue of Paragraph 7 (c) of the organization’s Statute which excludes persons who continue to receive from other organs or agencies of the United Nations protection or assistance. A similar provision excludes these refugees from the scope of the 1951 UN Refugee Convention.”

The State of the World’s Refugees 2006, UNHCR Chapter 5¹

Despite international recognition of the gravity of the problem, there remains a considerable lack of popular knowledge and/or misinformation about the world's largest refugee population. A recent study of TV news coverage of the Israeli-Palestinian conflict in the UK discovered that most British viewers were unaware that Palestinians were uprooted from their homes and land when Israel was established in 1948.

Many of those familiar with the Palestinian case tend, as the authors of a working paper developed by the Refugee Studies Centre for the UK Department of International Development (DFID) noted, "to see them as a case apart from other refugees in the region and, indeed, the global context generally."² This can be ascribed, in part, to the contentious debate that envelops this refugee question, particularly the right of return. It is also due to the unique aspects of Palestinian displacement:

- The UN General Assembly Resolution 181 of 1947 recommending the partition of Mandate Palestine into two states contributed to the initial forced displacement of Palestinians.
- The universally-accepted definition of a 'refugee' – Article 1A (2) of the 1951 Convention relating to the Status of Refugees – does not apply to the majority of Palestinian refugees.
- The UN established separate international agencies (UNCCP and UNRWA – see below) to provide protection and assistance and to seek durable solutions for this refugee population based on principles elaborated in relevant UN resolutions.
- Most Palestinians today are both refugees and stateless persons.
- While voluntary repatriation remains in principle and in practice the primary durable solution for refugees worldwide, Israel – as the state of origin for the majority of the refugees – and key members of the international community, including the US and the European Union, continue to view host country integration and resettlement as the primary durable solutions for Palestinian refugees.

Palestinians and Israelis both make claims about the uniqueness of Palestinian refugees. Many Israelis, for example, claim that the

separate regime established for Palestinian refugees (combined with the reluctance of Arab host states to resettle the refugees who cannot exercise their right of return) prevents a solution to the long-standing refugee problem. Palestinians argue that while the UN continues to affirm, in principle, the right of Palestinian refugees to return to their homes of origin, member states have failed to muster the political and material resources that have made refugee return possible in other contexts.

Root causes of displacement

Israelis and Palestinians, generally speaking, do not agree on the root causes of Palestinian displacement. Many Israelis argue that Palestinians fled during the 1948 war on orders of Arab commanders or that the mass displacement of the local Arab population was simply, in the words of Israeli historian Benny Morris, the unfortunate by-product of a war foisted upon the new Jewish state. Palestinians, on the other hand, describe 1948 as a *Nakba* (catastrophe) during which they were expelled by Israeli military forces and fled in fear, hoping to return to their homes once hostilities ceased.

The rival nature of Israeli and Palestinian narratives can be explained, in large part, by concerns about future refugee claims. Many Israeli Jews, for example, worry that an Israeli admission of responsibility will strengthen Palestinian demands for a right of return and for housing and property restitution. Nevertheless, archival research by Israeli historians like Morris, Tom Segev, Avi Shlaim and Ilan Pappé has tended to affirm central tenets of the Palestinian narrative of the 1948 war previously documented by Palestinian researchers such as Qustantin Zurayk, 'Arif al-'Arif and Walid Khalidi and in the oral testimonies of Palestinians who lived through the war.

Historical records – corroborated by UN and Red Cross archives – paint a picture of military practices that were, at best, questionable under existing principles governing the laws of war. Just before his assassination by Jewish extremists in September 1948, Count Folke Bernadotte, the UN Mediator for Palestine, reported “large-scale

pillaging and plundering, and instances of destruction of villages without apparent military necessity.” Even so, Pappé writes that the existence of a master plan to expel Palestinians is irrelevant: what mattered was “the formulation of an ideological community, in which every member, whether a newcomer or a veteran, knows only too well that they have to contribute to a recognised formula: the only way to fulfill the dream of Zionism is to empty the land of its indigenous population.”

While the displacement of Palestinians from the West Bank and Gaza Strip during and after the 1967 war can be ascribed to a similar pattern of violations, the debate about why Palestinians fled in subsequent wars is arguably less contentious because prospective remedies – e.g. return to the 1967 Occupied Palestinian Territories (OPT) – do not challenge the sovereignty and nature of Israel as a Jewish state. That is not to say that Israelis and Palestinians agree on remedies for refugees from the 1967 war and those displaced by nearly 40 years of military occupation. Israel’s quarrel with the July 2004 Advisory Opinion of the International Court of Justice on the legal implications of the construction of the 650 km-long wall/barrier in the West Bank underscores the depth of disagreement between the two parties.

Who is a refugee?

Israelis and Palestinians also do not agree on who is a Palestinian refugee. During numerous negotiation sessions in the 1990s the parties failed to achieve consensus on a refugee definition. While Israel argued for a narrow definition restricted to first generation refugees – those actually displaced in 1948 and in 1967 – Palestinians advocated an inclusive or expanded definition that included children and spouses of refugees, and others in refugee-like conditions, including those deported from the OPT by Israel, persons who were abroad at the time of hostilities and unable to return, individuals whose residency rights Israel revoked and those who were not displaced but had lost access to their means of livelihood.

This disagreement is exacerbated by the fact that there is no comprehensive definition of a Palestinian refugee. The most

commonly cited definition is that used by the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), the UN agency set up in 1949 – two years prior to the formation of UNHCR – to provide relief and assistance to the refugees in the West Bank, Gaza Strip, Jordan, Lebanon and Syria. Unlike Article 1A (2) of the 1951 Refugee Convention, however, the UNRWA definition merely establishes criteria for assistance – it does not define refugee status. A UN initiative in the 1980s to issue identity cards to all refugees, irrespective of whether or not they were recipients of international aid, failed due to the lack of cooperation among host states.

In the early 1950s, the UN Conciliation Commission for Palestine (UNCCP), which was established by General Assembly Resolution 194(III) to facilitate a solution to all aspects of the 1948 conflict, prepared a working definition of a Palestine refugee to identify those persons in need of international protection. The definition would have covered all persons displaced in Palestine during the 1948 war irrespective of ethnic, national or religious origins. In light of the intractable differences between Israel, the Arab states and the Palestinians, however, the Commission's protection mandate was greatly reduced and the definition was never adopted. The UN failed to provide the UNCCP with the machinery or resources to carry out its mandate in the context of a protracted conflict. The Commission reached the conclusion that it was unable to fulfill its mandate due to the lack of international political will. Today it has no budget and no staff.

Most Palestinian refugees fall under the scope of Article 1D of the 1951 Refugee Convention, which was inserted during the drafting process of the Convention to address the specific circumstances of Palestinian refugees. This took note of the fact that the UN had already set up specific agencies to protect and assist this refugee group. Only those Palestinians displaced for the first time after 1967 fall within the scope of Article 1A (2) of the Convention because they are not covered by the mandate of another UN agency. Nevertheless, Article 1D of the 1951 Refugee Convention is commonly misapplied in Palestinian asylum cases around the world.

How many refugees are there?

Not surprisingly, Israelis and Palestinians fail to agree on the number of Palestinian refugees. This is further complicated by lack of a universally-accepted refugee definition, a comprehensive registration system and frequent migration. But it also relates to security and political concerns in host countries like Jordan and Lebanon, fears about repatriation in the country of origin (Israel) and international concerns about capacity to deliver services and the impact on humanitarian aid budgets and to asylum claims. This explains the vast discrepancy in estimates of the Palestinian refugee population.

Israeli and Palestinian estimates of the total numbers of Palestinians displaced in 1948 range from a low of several hundred thousand upwards to nearly a million. The total numbers of Palestinians displaced for the first time from the 1967 OPT range from just over 100,000 to nearly 300,000. Demographic studies that compare the size of the pre-war Palestinian population to the number of Palestinians that remained after the end of both wars tend to confirm estimates in the higher range. Some estimate that around 20,000 Palestinians were displaced per annum after 1967.

Academic studies and popular media often cite UNRWA registration figures as the total size of the Palestinian refugee population. Latest UNRWA figures cite a total Palestinian refugee population of 4.25 million (Jordan 1.78m; Gaza 0.96m; West Bank 0.68m; Syria 0.42m and Lebanon 0.4m).³ While UNRWA registration data provides a basic starting point, agency data excludes: 1948 refugees who did not register or meet UNRWA's eligibility requirements; 1967 refugees; those displaced after 1967 and IDPs. UNRWA registration files for IDPs inside Israel became inactive in 1952 and it is yet unclear if UNRWA will be asked to assume responsibility for new IDPs in the OPT.

Additional sources of information include UNHCR statistics for Palestinian refugees outside the five UNRWA areas of operation and in need of international protection, government statistical surveys,⁴ independent demographic studies (carried out by organizations such as FAFO Institute for Applied Social Science⁵) and civil society estimates (such as those by Civitas⁶). Assuming a broad definition

descriptive of the scope of displacement and the number of potential claimants – i.e. not necessarily all persons in need of day-to-day protection and including 1948, 1967 and post-1967 refugees – it is estimated that up to three-quarters of the Palestinian people have been displaced since 1948. The Bethlehem-based BADIL Resource Centre for Palestinian Residency and Refugee Rights⁷ estimates the total number of displaced Palestinians to be over seven million.

Approaches to the Palestinian refugee question

There have been only two periods of official negotiations on the Palestinian refugee issue: early UN-facilitated negotiations in Lausanne (1949) and Paris (1951) and more recent talks held under the auspices of the Oslo peace process. The latter include the Quadripartite talks (1990s) to resolve the question of 1967 refugees and US-guided bilateral talks in Camp David (2000) followed by a short round in Taba (2001) addressing the question of 1948 refugees. All three sets of talks were elite-driven – with only minimal input from civil society – and ended without a solution.

Beginning in the 1990s Palestinian refugees began organising popular conferences, workshops and demonstrations demanding recognition of their rights and a more inclusive process. Recent research has begun to examine places like Bosnia for the problem of abandoned property laws, Guatemala for the experience of refugee participation, and South Africa for truth and reconciliation. Some refugees travelled to places as close as Cyprus and Bosnia and as far away as South Africa to see if anything could be learned from other refugee cases and pursuit of claims for property restitution.⁸ Official approaches to find permanent solutions nonetheless still tend to view this refugee group as unique and thus in need of a unique solution. International law and the voices of refugees themselves have been marginalised, if not excluded, by this approach.

Above all the Palestinian refugee case is contentious because of the degree to which it poses a challenge to what Barbara Harrell-Bond refers to as the “tidy system of sovereign states.” She argues that refugees represent “a fundamental challenge to sovereignty, by forcing international actors to consider ethical principles and issues

of fundamental human rights, which are part of their international obligations.” At the heart of this challenge is the question of how to respect the individual rights of Palestinian refugees in the context of Israel’s collective demand to maintain its Jewish majority.

This is not just a theoretical or legal question. It is also about fundamentally different Israeli and Palestinian conceptions of the conflict and its solution. “How to overcome this abyss,” writes American Professor of International Law Richard Falk, “is a challenge that should haunt the political imagination of all those genuinely committed to finding a just and sustainable reconciliation between Israel and Palestine.”

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¹ www.unhcr.org/cgi-bin/txis/vtx/publ/opendoc.htm?tbl=PUBL&id=4444d3c92f

² www.rsc.ox.ac.uk/PDFs/Policy%20Approaches%20to%20Refugees%20and%20IDPs%20RSC-DFID%20Vol%20II.pdf

³ www.un.org/unrwa/publications/pdf/rr_countryandarea.pdf

⁴ Complicated by the fact that some states do not recognise ‘Palestinian’ as a category.

⁵ www.fao.no/ais/mideast/palestinianrefugees/index.htm

⁶ www.civitas-online.org

⁷ www.badil.org

⁸ See www.badil.org/Campaign/Study_Tours/study-tours.htm and www.fmreview.org/FMRpdfs/FMR16/fmr16.14.pdf