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Palestinian displacement: a case apart?



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The eight-metre-high concrete Wall surrounds the West Bank town of Qalqilya.
Paul Jeffrey/ACT International

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Regular readers of FMR will receive, with this issue, a **Guide to International Human Rights Mechanisms for IDPs and their Advocates**, courtesy of the Brookings-Bern Project on Internal Displacement. For more copies, email brookings-bern@brookings.edu



from the editors

This issue of FMR was planned long before the humanitarian crisis which has displaced 20% of the Lebanese population. Articles look beyond the current events to what most international observers regard as the root causes of conflict and displacement in the Middle East. The protracted nature of the displacement, the complexity of the means used to dispossess Palestinians and the apparent double standards of the international community do indeed make this a case apart.

From high points in the West Bank it is possible to see across Israel/Palestine – from the Dead Sea to the Mediterranean. The articles in this issue discuss how displacement from this tiny sliver of land has had and continues to have far-reaching global consequences. The great majority of the seven million Palestinian refugees still live within 100km of the borders of Israel, the West Bank and the Gaza Strip where their homes of origin are located. They are refugees because Israel – committed to a permanent Jewish majority and granting citizenship to any member of the Jewish diaspora – denies Palestinians their basic human right to return to their homes of origin. Palestinians may be the world's largest refugee population, yet hardly any of them register on the global refugee tally kept by UNHCR as their initial displacement predates the 1951 Geneva Convention and the establishment of the refugee agency.

The fact that the Palestinian refugee crisis continues to fester represents perhaps the gravest failure of the UN since its foundation. The international community has not exerted sufficient political will to advance durable solutions consistent with international law and Security Council resolutions requiring Israel to withdraw from occupied Palestinian territory. Durable solutions for displaced Palestinians have been discussed without reference to the legal norms applied in other refugee cases. Refugee rights, entitlements to compensation or restitution and the rights to protection of those Palestinians living under continued military occupation were not central to the now-moribund Oslo peace process – nor are they part of the subsequent US-sponsored 'Performance-Based Roadmap to a Permanent Two-State Solution'. In the absence of progress towards a durable solution, creeping annexation continues unchecked. Upon completion of Israel's Wall, Palestinians in the West Bank and Gaza Strip will be restricted to a series of non-contiguous enclaves which constitute an eighth of the area of historic Palestine. Despite pro-democracy rhetoric, Western response to the internationally-validated Palestinian legislative elections in January 2006 has sparked a politically-induced crisis and crippled the Palestinian economy. Ordinary Palestinians are suffering as donors freeze funding required to maintain humanitarian assistance and development programmes.

It has been considerably harder than usual to raise funds for this FMR – even before the Lebanon emergency. We are therefore all the more grateful for financial support from the A M Qattan Foundation, DanChurchAid, Interpal, Jews for Justice for Palestinians, Norwegian Ministry of Foreign Affairs, Save the Children (UK), the Sir Joseph Hotung Programme on Law, Human Rights and Peace Building in the Middle East, the Sultan of Oman, the UN Relief and Works Agency for Palestine Refugees (UNRWA) and the Welfare Association.

We owe a debt of gratitude to all the authors, especially those who found time to write for us and consider our editing suggestions whilst responding to humanitarian crises in Gaza and Lebanon. This issue – and the funding which has enabled us to get this copy to you – would not have been possible without assistance from Jennifer Loewenstein, Abbas Shiblak, Angela Godfrey-Goldstein and Elizabeth Cabal.

The theme of the next issue of FMR – to be published in English in November – will be 'Sexual violence in conflict and beyond'. The April 2007 issue will include a feature section on 'Strengthening Southern protection and assistance capacity'. See www.fmreview.org/forthcoming.htm. We would welcome articles on Lebanon.

Some of you may be receiving FMR for the first time. We publish in English, Arabic, Spanish and French. If you would like to receive future issues – or to receive more copies – please contact us (using details opposite or the form on the back cover).

With our best wishes

Marion Couldrey and Tim Morris
Editors, Forced Migration Review

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Lebanon: civilians pay the price

by Tomas C Archer

As this issue of FMR goes to print, thousands of IDPs and refugees are heading home following the announcement of the UN-brokered ceasefire which came into force on 14 August.

Some 1,110 people in Lebanon, mostly civilians, and 156 Israelis, including 116 soldiers, have been killed in the conflict that flared up after Hizbollah captured two Israeli soldiers on 12 July. Approximately 900,000 Lebanese – out of a total population of less than four million – have been internally displaced. IDPs have sought refuge in schools, public buildings and parks, and with host families. Eighty-eight schools in Beirut alone have been converted into shelters with up to five families living in each classroom. Many have fled to relatives in safer areas north of Beirut. Some families became separated during flight, and are still searching for information about their family members' whereabouts and safety.

The Norwegian Refugee Council has joined many international agencies such as the International Committee of the Red Cross (ICRC) in deploring the fact that civilians have been the main victims in the conflict between Israel and Hezbollah – and criticising the lack of respect shown by both sides for the rules governing the conduct of hostilities, such as the distinction between military objectives and civilian persons and objects. After recent incidents where Lebanese Red Cross ambulances have been hit and medical staff killed, the ICRC has urged medical missions to be respected and has underlined the urgency of gaining humanitarian access to towns and villages in southern Lebanon. Access to Tyre by sea, for example, has become particularly urgent

after the destruction of the main roads and bridges leading south.

NRC echoes Human Rights Watch's call for an international investigation of documented instances of violations of international human rights and humanitarian law by both Israel and Hezbollah [see box]. Human Rights Watch's research¹ shows that Israeli forces consistently launched artillery and air attacks with limited or dubious military gain but excessive civilian cost. The organisation also documented systematic violations of international humanitarian law by Hezbollah, including deliberate and indiscriminate firing of thousands of rockets into civilian areas of Israel.

NRC's country office in Beirut will focus on developing programmes in education, rehabilitation, reconstruction, distribution of non-food items and the provision of information, counselling and legal assistance. In the coming months, a large number of people will remain displaced due to damaged houses and the collapse of infrastructure in the affected areas. As people start to return, one of the dangers they will face is that of unexploded ordnance. The Mines Advisory Group – a British-based conflict recovery organisation² – estimates that around 10% of the 4,000 explosive items dropped daily in Lebanon will fail to explode, posing a serious threat to civilians.

NRC is gravely concerned about the safety and humanitarian situation of those displaced and other civilians who are trapped in areas outside the reach of aid agencies and who may remain exposed to violence. NRC has called for assurances of safe passage for humanitarian convoys to deliver supplies to people in need and is also seconding staff to UN agencies through its emergency standby force NORSTAFF.

Most importantly, it is vital now – if the ceasefire is to be sustainable – to support intensive diplomatic efforts to tackle the root causes of conflict in the Middle East. "The backdrop to this sudden escalation of conflict is six years of diplomatic neglect," says Gareth Evans of the International Crisis Group.³ "Today, the region – and most of all the Lebanese, Palestinian and Israeli peoples – are paying the price."

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Human Rights Watch has urged the UN Human Rights Council to:

- request the UN Secretary-General to establish an International Commission of Inquiry to investigate violations of international human rights and humanitarian law by all parties to the conflict
- call for all parties to ensure safe passage for humanitarian relief and for humanitarian evacuations
- call for all parties to protect civilians from arbitrary displacement, to ensure the physical safety and material well-being of all those displaced by the current conflict, and to establish conditions that allow them to return voluntarily, in safety and dignity, to their homes
- insist that all parties cooperate with and provide access to the four special rapporteurs of the Human Rights Council who have announced plans to travel to Lebanon and Israel.

Full statement at www.hrw.org/english/docs/2006/08/11/lebanon13967.htm

1. www.hrw.org/
2. www.mag.org.uk/
3. www.crisisgroup.org/

ICRC workers pass boxes of aid supplies intended for southern Lebanon across the Litani river, 8 August 2006.



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.

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 the *Nakba* (catastrophe) during which they were expelled by Israeli military forces and fled in fear, hoping to return to their homes once hostilities ceased.

"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

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 650km-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

there is no comprehensive definition of a Palestinian refugee

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

– 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

Quadrupartite 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.”

Terry Rempel was a founding member of BADIL where he was Coordinator of Information and Research between 1998 and 2004. An independent consultant, he is completing a PhD at the University of Exeter. Email: t.rempel@exeter.ac.uk. A longer version of this article, containing more detailed endnote references, is online at: www.fmreview.org/pdf/rempel.pdf. For further information, see: www.badil.org/Refugees/refugees.htm

1. www.unhcr.org/cgi-bin/texis/vtx/publ/openssldoc.htm?tbl=PUBL&id=444d3c92f
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



Paul Jeffrey/ACT International

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 organisations 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

Stateless Palestinians

by Abbas Shiblak

Palestinians are the largest stateless community in the world. Statelessness has dominated and shaped the lives of four generations of Palestinian refugees since their exodus in 1948.

One of the main objectives of the Zionist scheme in Palestine was eradication of Palestine from the map, both as a political entity and a basis of nationality. Today more than half of the eight million or so Palestinians are considered to be *de jure* stateless persons. These fall broadly into three categories:

- holders of the 'Refugee Travel Document' (RTD) issued by Syria, Lebanon, Egypt, Iraq and some other Arab countries
- holders of nationalities of convenience – mainly temporary Jordanian passports
- holders of the Palestinian passport issued by the Palestinian Authority (PA) which is considered as a travel document pending formation of a fully-fledged Palestinian state.

All persons legally resident and registered, born or naturalised in Palestine under the British Mandate (1919-1948) were British Protected Persons, holders of British (Palestine) passports. Citizenship in both Jewish and Arab states – proposed by the Partition Plan set out in UN Res. 181 in 1947 – was meant to be granted to all inhabitants. However, when Britain promptly ended its mandate on 15 May 1948, it was left to the successor state, Israel, to determine entitlement to nationality.

Israeli policy has been, and still is, is to reduce the number of Palestinian Arabs while increasing the number of Jewish immigrants, who, it must be remembered, were the minority, even in the areas originally demarcated for the Jewish State under the Partition Plan. To ensure Judaisation, Israel issued three laws within four years of its foundation: the Absentees' Property Law, the Law of Return and the Israel Citizenship Law. These nullified the rights of the displaced

non-Jewish population to return to their homes while endorsing the right of any Jew – regardless of place of origin – to unrestricted immigration and automatic citizenship.

Similar policies were pursued following occupation of the West Bank in 1967. In defiance of international law, Israel considers all Palestinians inhabitants of the occupied Palestinian territory (OPT) as non-citizens and foreign residents. The 250,000 Palestinians who happened to be outside the OPT when they were occupied were not allowed to return. Israeli military rule (the ironically-named Civil Administration) issued a series of orders withdrawing IDs from thousands of Palestinians as a result of the expiry of exit visas they were required to obtain each time they travelled abroad. Israel's illegal annexation of East Jerusalem in 1967 and the Golan Heights in 1981 led to the application of Israeli civil legislation in these occupied territories. Their residents found themselves declared to be permanent residents – but not citizens – of Israel. The Israeli Ministry of the Interior has complete discretion over approval of citizenship applications. Israel has employed a 1974 regulation as a 'legal' instrument to deprive many Jerusalemite Arabs of their IDs and residency rights if they are absent from the city for more than seven years, have acquired other citizenship or been granted permanent residency rights elsewhere. This can only be described as administrative 'ethnic cleansing'.

Arab policies maintain status quo

Arab governments have consistently focused on keeping alive the issue of Palestinian displacement and preventing primary responsibility being shifted from the source

country (Israel) to host states. Two main principles – set out in an Arab League protocol signed in Casablanca in 1965¹ – have determined the treatment of Palestinian refugees in host Arab states: granting Palestinian refugees full citizenship rights – but denying them naturalisation – and issuing them with Refugee Travel Documents (RTD) in order to maintain their refugee status.

The pan-Arab national brotherhood of the 1950s and 1960s has faded away, to be replaced by a self-centred agenda of fragmented, sub-national states and narrow interests. Syria is the only country that upholds its commitment. Some states, including Lebanon and Saudi Arabia, expressed reservations in 1965 and have showed no interest in applying the Protocol. Egypt, once fully committed, has effectively withdrawn from the Protocol.² On more than one occasion rifts between the leadership of the Palestine Liberation Organisation and Arab governments have resulted in collective punishments being imposed on ordinary Palestinians. Palestinians were expelled en masse from Kuwait in 1991 and from Libya in 1995. Palestinians in Iraq have recently had to endure acts of vengeance including killings, evacuation and deportation.

Institutional discrimination against Palestinian refugees in Arab countries has had a devastating impact on the lives and well-being of entire communities. The legal status, residency and civil rights of Palestinian communities in the Arab World are increasingly uncertain, particularly in Lebanon and Egypt where they are denied rights to secure residency, employment, property, communal interaction and family unification. Procedures to allow non-residents to apply for naturalisation in Lebanon, Egypt and Saudi Arabia do not apply to stateless Palestinians.

Palestinian refugees in Jordan, the largest community in any of the host countries, have Jordanian nationality but are denied equal political participation and subjected to subtle forms of discrimination. Jordanian authorities refuse to offer

naturalisation to those Palestinians who at the time of their displacement in 1967 did not hold Jordanian passports. Some 60,000 stateless Palestinians, mainly from Gaza and original holders of Egyptian RTDs, were allowed to stay but have been denied any civil rights and most are confined to a camp near the northern city of Jarash.

Impact on Palestinians

The right to nationality is a fundamental human right. Article 15 of the Universal Declaration of Human Rights of 1948 declares that “everyone has the right to a nationality.” It is the right from which other rights and entitlements can flow – to education, medical care, work, property ownership, travel, state protection – in short, to full participation in a world composed of nation states.

Changing the status of people to non-citizens or threatening the security of their residency status with little or no consideration of the rule of law generates insecurity and has a devastating long-term social and psychological impact. Stateless communities are the first to pay the price for political instability and insecurity in the countries where they find themselves. Without access to education or employment, stateless communities are exposed to political manipulation, exploitation and poverty. The effect on host societies, the region and the world cannot be ignored. Impoverished and marginalised refugee communities – notably the Palestinians – constitute the major destabilising factor in the Middle East.

Statelessness is a major ‘push’ factor leading to large-scale irregular migration. There is a clear correlation between statelessness and asylum seeking in industrialised countries. The large numbers of stateless people from the region – Syrian Kurds, Kuwaiti ‘Bidoon’ stripped of nationality, denaturalised Iraqi Shiites and Palestinians – ready to risk their lives on the shores of the Mediterranean and South East Asia illustrate the strength of determination to escape the humiliation and uncertainty that statelessness brings. The majority of the estimated 200,000 Palestinians

living in Europe today are stateless holders of Lebanese and Egyptian RTDs or expired Israeli ‘laissez-passer’ documents. They sought asylum in Europe when their residency status in the host countries became increasingly insecure and, in most cases, they were denied the right to go back to these countries. Eighty per cent of the 80,000 stateless Palestinians thought to be in Germany are RTD holders from Lebanon.

The political argument commonly used by Arab regimes to justify discrimination against Palestinian refugees often conceals a sinister domestic agenda: maintaining a political system based on racism and sectarianism in which ‘outsiders’ are seen as security risks and fear is used to control people. Such policies have had the perverse effect of furthering a key Zionist objective by dispersing Palestinians even further away from their homeland. In recognition of the misery and hardship affecting his stateless compatriots, Palestinian President Mahmoud Abbas broke with the leadership’s long-established policy when, in July 2005, he welcomed the naturalisation of Palestinians “if any of the host countries choose to do so.” An opinion poll found most Palestinians agreed with him.

Protection and international law

The legitimacy of the decision taken in 1951 to exclude Palestinians from the international protection regime on the basis that they were already being assisted by UNRWA [see previous article] is being increasingly challenged by scholars, jurists and advocacy groups. There is wider awareness of the need to make the international refugee regime relevant for Palestinian refugees and to formally acknowledge the impacts of statelessness.³

Takkenberg notes that being a refugee, stateless, dispossessed, lacking the passport of a state, not having even the theoretical option of returning to one’s country – in other words, not having even the right to have rights – “has been at the very heart of the Palestinian refugee problem.” He argues that the element of statelessness has been more significant than the refugee

aspect in detrimentally affecting the position of the Palestinian people.⁴ Unlike other aliens, stateless Palestinians are not admissible in any other country. If expelled from a country they are at risk of finding themselves in ‘perpetual orbit’ as stateless individuals. It is worth noting that the deportation of stateless or other persons who will not be received elsewhere may raise issues under Article 3 of the European Convention on Human Rights. That is why Takkenberg and others have pointed out that when such protection or assistance has ceased for any reason, without the position of such persons being definitely settled in accordance with the relevant resolutions of the General Assembly of the United Nations, these persons shall, *ipso facto*, be entitled to the benefits of the Convention.

More significant perhaps is the position apparently adopted by UNHCR in October 2002 on the applicability to Palestinian refugees of Article 1D of the 1951 Convention Relating to the Status of Refugees. The refugee agency adopted the view that the Convention should apply to Palestinian refugees beyond the five areas of UNRWA operation – Jordan, Syria, Lebanon, the West Bank and the Gaza Strip.⁵

A sovereign Palestinian state within 1967 borders would act as a catalyst to resolve the refugee issue and put an end to Palestinian statelessness. Such an objective cannot be achieved without a regional framework based around a comprehensive peace settlement that includes all host Arab countries and which gives Palestinian refugees the options of repatriation, compensation and full citizenship rights in their countries of residence.

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1. www.badil.org/Documents/Protection/LAS/Casablanca-Protocol.htm

2. www.fmreview.org/FMRpdfs/FMR20/FMR2013.pdf

3. www.badil.org/Publications/Briefs/Brief-No-01.htm

4. Takkenberg, L (1998), *The Status of Palestinian Refugees in International Law*, New York, Clarendon Press

5. www.unhcr.org/cgi-bin/texis/vtx/publ/openssl.pdf?tbl=RSDLEGAL&id=3da192be4&page=publ

UNRWA: assisting Palestine refugees in a challenging environment

by Greta Gunnarsdóttir

UNRWA is the largest UN operation in the Middle East, with over 27,000 staff, almost all of whom are refugees themselves. Originally envisaged as an organisation with a temporary mandate, UNRWA's programmes have evolved to meet the changing needs of the 4.3 million Palestine refugees living in the Gaza Strip, the West Bank, Jordan, Lebanon and Syria.

UNRWA began operations on 1 May 1950. Its first priority was to secure a reasonable standard of living for refugees by providing basic food rations, shelter and social welfare facilities. UNRWA's first decade of work established the blueprint for its present four priorities: education, health, relief and social services, and microcredit. UNRWA currently operates over 700 schools, clinics and other facilities for Palestine refugees in Jordan, Lebanon, Syria and the OPT.

With more than 50% of the Palestine refugee population under the age of 25 there is constant pressure on public services, including education, which has always been considered as a tool to empower future generations of Palestine refugees. To this day

UNRWA's Education Programme is its largest, accounting for over 70% of all UNRWA staff and over half of its budget. UNRWA provides elementary, preparatory and (in Lebanon only) secondary education to almost half a million registered Palestine refugee children in 663 schools. Vocational and technical education and training, as well as pre-service teacher training, are provided in eight vocational training centres. UNRWA encourages refugees to become self-reliant, productive members of their communities and to maintain their cultural heritage. UNRWA aims to foster a spirit of tolerance, in particular by raising awareness of fundamental human rights, including those outlined in the UN Convention on the Rights of the Child (CRC).¹

UNRWA's Health Programme – its second largest programme – focuses on primary healthcare services, with special emphasis on maternal and child healthcare as well as disease prevention and control. Two thirds of patients receiving integrated non-communicable disease care at UNRWA primary healthcare facilities are women. UNRWA has helped bring vaccine-preventable diseases under control and has achieved universal immunisation coverage of children and women. It provides assistance to women during delivery and runs programmes to prevent and control iron deficiency anaemia among Palestine refugee women and children, as well as tuberculosis. Emergency food aid is provided to Palestine refugee children, who are nutritionally vulnerable, as well as to pregnant Palestine refugee women and nursing mothers. UNRWA also has several projects to promote environmental sustainability in refugee camps. Its emergency environmental health programme in the Gaza Strip helps municipalities hosting refugee camps to maintain vital public utilities such as water treatment plants, waste disposal systems, water wells and pest control. Since March 2006, there have been serious shortages of fuel and other supplies for the operation of water pumps and sanitation facilities, and also of chemicals needed to purify water and eliminate vermin and mosquitoes.

Fatmeh Abu Ghlieh is sixteen weeks pregnant. Before the erection of the barrier by Israel, Fatmeh's journey from her home in Abu Dis to UNRWA's Jerusalem clinic took fifteen minutes. Now it can take an hour and a half, mostly on foot. Fatmeh's one-year-old daughter needs vaccines that she can only get at UNRWA's clinic as Abu Dis has no public health facilities. Women like Fatmeh face a difficult choice:

Amal is eleven years old and attends Shatie Elementary School, one of 187 UNRWA-funded schools in the Gaza Strip. Its students, aged from six to twelve, are from the nearby Beach Camp, just outside Gaza City. The camps in which Amal and most of the other students live are among the most densely populated places on earth and have few open spaces. School offers the opportunity to play and interact freely with other children. "I wake up happy in the morning because I am going to school," says Amal. The constant threat of violence pervades the camps. Since twelve-year-old Najah's brother was killed in the neighbouring streets, she has not dared to play outside. "I feel safe at school," she says. "They teach non-violence – that's why I like it. I'm afraid outside but at school I'm not scared anymore."

As the population of the camp rapidly grows, so does the number of children needing education. There are now so many children that the school has to be divided into two shifts with more than one thousand children in each session. At lunchtime, a new session begins as a fresh set of children and teachers start their school day. Despite the growing numbers and logistical challenges UNRWA will not turn any child away. "We can't say 'no' to anyone," says headmistress Al-Madhoun. "I have all the records and I personally check with the families to make sure that no one is missing out on their education."

delaying a check-up could jeopardise the health of mother or baby but so too could a long wait at a checkpoint or a hazardous journey to the clinic.

It is because of access issues like these that numbers attending the Mother and Child clinic have fallen drastically. UNRWA's Dr Zakaria estimates that attendance has decreased by 30-40%: "Before the barrier we would have two to three hundred people every day from the western villages. Now we have 10% of that. And they will climb over the mountains rather than go through a checkpoint."

UNRWA's Relief and Social Services Programme provides assistance to Palestine refugees who suffer from acute socio-economic hardship. It aims – through activities such as training and microcredit provision – to reduce poverty within the refugee community and to promote self-reliance among its less advantaged

members, particularly women, youth and disabled persons. The Programme serves as the custodian of refugee historical records, which are used to determine eligibility for all UNRWA services. It administers UNRWA's Special Hardship Programme, providing the most impoverished refugee families with basic food support, shelter repair or reconstruction, cash assistance and/or preferential access to other UNRWA services. It also administers the Youth and Children Programme whose objectives include enhancing the well-being of children and youth and promoting their participation in constructive activities consistent with the objectives of the CRC. UNRWA mentors a network of 104 community-based organisations managed by volunteers, 63% of whom are women.

UNRWA's Microfinance and Microenterprise Programme – the largest of its kind in the

OPT – provides credit facilities to support small businesses and micro-enterprises, helping to create jobs, economically empower women and alleviate poverty. With its market share, the programme is now the primary financial services mainstay for a large segment of the poorest microenterprises, including businesses run by women and young people.

New challenges

UNRWA has been working in increasingly difficult circumstances to meet the needs of Palestine refugees struggling to cope with ever greater insecurity, food and energy shortages, the knock-on effects of the foreign aid freeze to the Hamas-led Palestinian Authority (PA) and tighter restrictions on movements of people and goods. The PA has faced financial crisis since foreign aid was



frozen after Hamas won the January 2006 elections. Prolonged closures of the Karni commercial crossing between Israel and the Gaza Strip have caused serious disruption to the provision of assistance to Palestine refugees living in Gaza, over 700,000 of whom depend on UNRWA's food distribution of flour, oil, sugar and other basic items.

The deterioration in the Palestinian economy has led to a dramatic increase in the demand for UNRWA's services to Palestine refugees in Gaza and the West Bank. Approximately 302,000 Palestine refugee families live in the OPT: 187,000 families in Gaza and 115,000 families in the West Bank, representing approximately 66% and 30% of the total population of these areas respectively. UNRWA estimates that as many as 28,000 of these families depend on a PA salary, of which over 22,000 have already come forward to claim food rations from UNRWA.

The bulk of public services in the OPT are delivered by the PA and the task of substituting for these services cannot be performed by UNRWA. UNRWA has experienced an enormous increase in demand for employment through its emergency job creation programme with over 100,000 refugees currently on waiting lists for these programmes in Gaza.

The Agency's largest donors are the European Commission, the United States and some of the member states of the European Union. UNRWA's General Assembly-approved core budget for 2005 was \$339.3 million. This figure does not include funds required for projects or for emergency activities. Based on a scenario of optimism following the disengagement of Israel from Gaza in August 2005, the Agency's Emergency Appeal for 2006 comprised activities worth some \$91 million. In May this year, the Appeal was revised to \$171 million on account of the grave deterioration in living conditions in the OPT caused by a reduction in PA revenue, the non-payment of PA salaries and further restrictions on labour and trade. In June the already dire situation became even worse



following the resumed fighting and Israeli military operations in Gaza.

UNRWA's emergency activities aim to:

- provide additional temporary work opportunities for unemployed refugees (30% for female-headed households)
- include 23,000 new refugee families in Gaza in its food distribution programme. A 2005 survey found that UNRWA's emergency food assistance was the primary source of food for two thirds of those surveyed.

In over half a century of conflict, the positions of the parties to the Palestinian-Israeli conflict have essentially remained the same in respect of the Palestine refugee issue. While UNRWA is not mandated to conciliate and influence the political positions of the parties on the refugee question, it remains an important stability factor in the region. In the

absence of a solution to the Palestine refugee problem, the General Assembly in December 2005 extended the mandate of the Agency to 30 June 2008, reaffirming the importance of UNRWA's services for the well-being of the Palestine refugees. UNRWA remains committed to assisting Palestine refugees in accordance with its mandate. It expects the international community to support this role, including by trying to do its utmost to prevent the further deterioration of the already bleak humanitarian situation on the ground in the OPT and Lebanon.

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To donate to UNRWA's Emergency Appeal, visit www.un.org/unrwa/emergency/donation/index.html

Palestinian refugees in Lebanon

by Sherif Elsayed-Ali

When the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) was established it was only intended to offer a temporary solution, not one that would last for 56 years.

As noted in preceding articles, UNRWA was created in the aftermath of the 1948 Arab-Israeli conflict. After fleeing or being expelled, over 900,000 Palestinians sought refuge in Jordan, Lebanon and Syria, while others were displaced to the West Bank or the Gaza Strip. While there have been other waves of displacement, mainly in 1967, only those displaced in 1948 and their descendants are considered 'Palestine refugees'¹ and thus fall under UNRWA's mandate.

The Palestinian refugee problem is uniquely complex, protracted and significant. One of its peculiar aspects is that most Palestinian refugees want to return to their homes and/or lands but are unable to do so not because of a fear of persecution – commonly found in other refugee situations – but because they will not be allowed to enter the Occupied Palestinian Territory (OPT) or Israel by the Israeli authorities. The three durable solutions for refugees are resettlement in a third country, local integration in the country of asylum, and voluntary repatriation. Voluntary repatriation – or return – is often referred to as the preferred solution for refugees. The right to return is also a right guaranteed under international law and, in the case of the Palestinians, has been affirmed by several UN bodies including the General Assembly and the Committee on the Elimination of Racial Discrimination. It applies not just to those who were directly expelled and their immediate families but also to those of their descendants who have maintained what the Human Rights Committee calls "close and enduring connections" with the area.

Arab states, and host states in particular, have adamantly defended the Palestinians' right to return while publicly committing themselves to protecting their well-being until such time this becomes possible. However, as noted earlier, the main instrument protecting the rights of

Palestinian refugees – the Casablanca Protocol – has been patchily implemented. Lebanon is perhaps the most visible example of where political and historical conditions have created extremely difficult conditions for Palestinian refugees.

Palestinian population of Lebanon uncertain

Shortly after the 1948 events, about 100,000 Palestinians sought refuge in Lebanon. Today, there are several hundred thousand Palestinian refugees in Lebanon. Exact figures are not available. UNRWA has a total of 400,582 Palestinian refugees registered in Lebanon.² However, many are thought to have left Lebanon to seek a better life elsewhere but are still registered as refugees in Lebanon. Unofficial estimates put the real number closer to 250,000. One reason for the lack of precise figures is that Lebanon has not carried out a census since 1932.

In addition to the UNRWA-registered refugees, there are between 10,000 and 40,000 Palestinians who do not fall under UNRWA's mandate but who, like UNRWA-registered refugees, have identity cards issued by the Lebanese authorities. The third, and smallest, group is one that is neither recognised by the Lebanese authorities nor falls under UNRWA's mandate – commonly referred to as non-ID Palestinian refugees. They number between 3,000 and 5,000 individuals whose status in Lebanon is akin to that of irregular migrants, despite most of them having lived there for decades. As they do not possess valid identification they suffer from wide-ranging restrictions on their human rights.

Rola is a 42-year-old Palestinian refugee. Her family came to Lebanon in 1948 and is registered with UNRWA. Her husband (whom she divorced) had a Jordanian passport;

however, he lost his passport and the Jordanian authorities allegedly refused to renew it. Rola does not have a civil certificate for her marriage, only a religious one. Despite being registered with UNRWA, her children lack such registration; they are non-IDs. They all went to non-UNRWA paying schools. They were not able to continue their education after the 9th grade as they could not sit the state exams (*brév *).

UNRWA has registered 210,952 inhabitants living in the 12 Palestinian refugee camps often referred to as 'official' camps. UNRWA offers services ranging from the maintenance and development of basic infrastructure to schools, clinics and property registration. In addition to the camps, there are dozens of informal unofficial camps spread throughout Lebanon. Some accommodate hundreds of refugees and others thousands. UNRWA does not provide services to these communities but registered Palestinian refugees who reside within them are permitted to access UNRWA services provided in the official camps.

Housing is one of the most serious problems affecting Palestinian refugees in Lebanon. The land area occupied by the 12 official refugee camps has remained mostly unchanged since 1948, despite substantial growth in camp populations. Often, refugee families build additional rooms and, in many cases, additional storeys to their houses in order to accommodate increasing numbers. Some households visited by Amnesty International in 2005 had families of up to ten people sharing a single room. UNRWA describes the camps as suffering "from serious problems - no proper infrastructure, overcrowding, poverty and unemployment."³

Lebanese government policies are largely responsible for the poor housing conditions. The official refugee camps have houses built of bricks and concrete, and have streets, shops and sometimes paved roads. All of these require regular maintenance. However, since the

late 1990s the authorities have prohibited the entry of building materials into official camps in the south of Lebanon, where the largest camps are located. This has led to deterioration of the state of houses and the physical infrastructure.

Government policy targets refugees living in unofficial camps. Houses are more rudimentary than those in the official camps. Many have walls and ceilings made of corrugated iron that fail to provide protection from the elements and which become excessively hot during the summer. Replacing corrugated iron sheets with bricks would substantially improve the quality of housing but Lebanese authorities prevent the refugees from doing so. In some cases when refugees attempt to replace corrugated iron sheets they have been fined or had their ceilings and walls demolished by police. In one case, a woman was arrested by police and detained until the brick wall her husband had built was pulled down.

Legislation specifically targeting Palestinians was introduced in 2001 to prevent them from owning property. The law prohibits *Tawteen* (settlement), a reason often given for denying Palestinians their rights in Lebanon. This implies that a link is being made between non-competing rights: the right to adequate housing or to own property, and the right to return. In reality, neither right negates the other.

Severe restrictions on their right to work and their rights at work prevent Palestinians from improving their lives. Dozens of professions and trades are restricted to Lebanese nationals. For many years, Palestinians could not legally work as accountants, secretaries, salespersons, pharmacists, electricians, guards, drivers, cooks or hairdressers. They are also barred from owning a business involved in trading, currency exchange, gold, printing, publishing, car repair, engineering or health services. Palestinians are generally able to practice most professions or own businesses inside the 12 official camps but the restrictions apply elsewhere in Lebanon.

In June 2005 Lebanon's Minister of Labour announced that Palestinian refugees would be permitted to work in various occupations that

were previously barred to them by law, though not those governed by a professional syndicate (such as engineering, medicine and pharmacy). However, in order to qualify, Palestinian refugees are still required to obtain a work permit. It remains unclear whether Palestinians will be able to do so and whether this decree will actually reduce restrictions on Palestinians' employment rights.

Interviews conducted by Amnesty International with Palestinian refugees suggest that employers are more likely to employ Palestinian refugees in jobs that do not require a work permit such as construction work or cleaning. In such cases, Palestinians compete mainly with other foreign nationals. In some cases, Palestinian refugees are employed in jobs that require a work permit but without having one. Such employees are paid less than their Lebanese counterparts and do not have the benefits and protection provided by a work contract.

Restrictions on employment have a direct effect on other human rights. They magnify the various restrictions on housing rights and negatively affect standards of living. Education is also affected. In many cases, Palestinian families interviewed by Amnesty International said that children dropped out of school as they believed that spending many years of education to finish school or university would be wasted as they would be unable to use their education to gain a living.

Even more restrictions apply to non-ID Palestinian refugees. Their freedom of movement is severely restricted as they are not lawfully resident in Lebanon. Their children are not officially registered at birth, they are not able to take exams for the intermediary school certificate and thus continue their education and they cannot register marriages.

Miryam is 20 years old and a non-ID Palestinian refugee. She has been engaged for five years to a Lebanese man. However, she has not been able to get married as her marriage would not get a civil recognition because she has no documents. Her family has been working on the papers for years but there seems to be nothing that they can do. She is very depressed.

Generations of Palestinian refugees have lived and continue to live in Lebanon. They should be able to enjoy a wide range of human rights, including economic, social and cultural rights. Lebanon has obligations under international treaties that it has ratified – including the International Covenant on Economic, Social and Cultural Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Convention on the Rights of the Child – to protect and respect the human rights of Palestinian refugees. Enjoying human rights in the host country, be it in Lebanon or in other host countries such as Egypt, does not in any way prejudice Palestinian refugees' right to return to their homes and lands. Until they are able to exercise this right, they should be able to enjoy access to essential services and exercise their rights to work, education, healthcare and property ownership.

In accordance with the principle of international burden and responsibility sharing, which recognises that "the grant of asylum may place unduly heavy burdens on certain countries",⁴ the international community should play a greater role in encouraging and assisting Lebanon to extend the highest possible level of enjoyment of human rights to its refugee population. Realising the right to return remains the most obvious way to redress the situation of Palestinian refugees. Concerned states and the international community should make serious efforts to ensure that the right to return can be practicably and effectively exercised by Palestinian refugees.

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1. UNRWA uses the phrase 'Palestine refugees', rather than 'Palestinian refugees', due to the fact that a small number of the residents of Palestine who lost their livelihoods and residence in 1948 and initially received UNRWA assistance were of Greek, Armenian or other non-Arab ethnicity.

2. www.un.org/unrwa/publications/pdf/tuif-dec05.pdf

3. www.un.org/unrwa/refugees/lebanon.html

4. Preamble to the 1951 Convention relating to the Status of Refugees

No freedom, no future: undocumented Palestinian refugees in Lebanon

by Cynthia Petrich

With support from the European Commission's Humanitarian Aid Department (ECHO), the Danish Refugee Council (DRC) is working to give a human face to the under-reported, unrepresented and marginalised group of Palestinians living in Lebanon without any form of identity.

Since DRC established an office in Lebanon in August 2004 we have identified around 3,000 individual non-ID refugees living in informal refugee camps in the south and the Beq'a valley. Unlike 1948 refugees, most are not settled in camps with support from networks of kin and neighbours but have arrived individually or in small groups. Many have complex experience of multiple displacements.

Some were already registered as 1948 refugees with UNRWA in Gaza, the West Bank, Jordan or Syria but were exiled a second time. Some were expelled from the West Bank or Gaza by the Israeli occupation authorities. Others are former Palestinian Liberation Organisation (PLO) combatants forced to leave Jordan in 1970 following the 'Black September' confrontation with the Jordanian government. Israel's expulsion of the PLO from Lebanon in 1982 left ex-fighters without any official protection. After the end of the Lebanese war in 1990 most militias

were dismantled and the government gradually regained control of the country. This positive outcome has,

however, brought new difficulties for undocumented refugees as Lebanese army checkpoints have limited their ability to move in search of employment.

In addition to the difficulties encountered by all Palestinian refugees in Lebanon [see article by Sherif Elsayed-Ali on 12-14] non-ID refugees face further restrictions.



They are unable to move outside camps for fear of being arrested. They cannot travel, own property, register

marriages, graduate from high school or enrol in either public or private higher education. They find it difficult to access UNRWA services and cannot afford to pay for healthcare in a country with an expensive and largely privatised medical system.

The greatest burden they carry is the fact their children do not have any legal existence. Three decades after their arrival most non-ID refugees have got married – either to a registered Palestinian refugee or, in some instances, to a Lebanese citizen. Under Lebanese law, the children of non-ID refugees, even when born in Lebanon, and even if their mother is

a registered refugee or a Lebanese citizen, are not legally recognised and hence do not possess any personal documentation attesting to their existence. A whole generation of undocumented persons is now coming of age with no prospect of participation in social and economic life.

Young undocumented refugees studying. This photograph was taken by non-ID refugees as part of the empowerment and advocacy activities run by DRC.

Assisting the undocumented refugees

In March 2005, DRC began legal counselling, advocacy and assistance activities to support the undocumented refugees. We have interviewed more than 150 families and compiled dossiers which we have submitted to relevant

local and international authorities – including UNRWA, UNHCR, the Palestinian Authority and the

governments of Lebanon, Egypt, Jordan and Syria. Each case is unique and requires an individual approach towards a solution.

One option we have proposed is the transfer of UNRWA files if the refugee has been registered with UNRWA in another field of operation. DRC has been advocating for the files of such refugees to be transferred to Lebanon in order to have them officially present in the country and to give their family a legal status. Unfortunately the Lebanese authorities have not been supportive. We have been unable to take up test

cases as other stakeholders have indicated they cannot move forward without the approval of Lebanon.

We are also advocating for renewal of expired third-country passports as many non-ID Palestinians once held passports, mainly Jordanian or Egyptian. The government of Egypt has been cooperative and has accepted to renew passports when we could prove a former link. Jordan has turned down all of our requests.

DRC has met with various Lebanese stakeholders and agencies to see if cases could be solved in Lebanon.

The issue remains sensitive but there seems to be a growing willingness to acknowledge the need to improve the humanitarian situation of Palestinians in Lebanon. DRC has supported cases to obtain stay and work permits for non-ID refugees who hold foreign passports and who have met other criteria set by the Lebanese authorities during an amnesty period for illegal aliens. Seven families have now obtained such documents.

DRC additionally supports the issuance of stay permits to spouses and children of Lebanese female citizens, who can only reside in Lebanon on the condition that they do not hold any occupation. DRC has started lawsuits in partnership with a Lebanese law firm in order to establish the identity of some of the non-ID refugees. These include underage undocumented children recognised by a registered father and children of a widow whose husband was undocumented. Finally, DRC supports the efforts of a national coalition for the right of Lebanese women who are married to a foreigner to extend their citizenship to their children. If this change were made, about 15% of the non-ID refugees' cases could be solved.

Some claimants may have a well-founded fear of persecution and could be in need of international protection. In cases where a legal solution cannot be found in Lebanon, DRC has approached UNHCR.

The work for the undocumented refugees in Lebanon remains difficult. It demands patience, perseverance and preparedness to accept many rebuffs and enjoy few successes. We have explored various avenues towards solutions. It is important that NGOs and UN agencies should continue their efforts to act as intermediaries between refugees and the Lebanese authorities and seek to solve individual cases. A comprehensive solution, however, requires regional dialogue between the Lebanese, Egyptian, Jordanian, Palestinian and Syrian authorities.

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Inam, a Lebanese woman, is married to Mahmoud, a Palestinian refugee who fled Gaza in 1967 when it was occupied by Israel and who registered with the Egyptian authorities. In the mid 1970s Mahmoud travelled to Syria legally and then continued without proper documentation to Lebanon. Inam and Mahmoud's lives are blighted by his continued non-ID status. Their children cannot graduate from school and the family is not entitled to access UNRWA services. Their eldest child Fadia, 12, is very ill and without access to healthcare the family is struggling to survive. Inam recently paid \$300 to process registration papers for her children to a man purporting to be from the Ministry of Interior. Inam has not seen the man again and her children remain unregistered. Through DRC intervention, the family has now obtained new Egyptian passports and recently received a stay and work permit in Lebanon.

Nada, born in Lebanon in 1958, was registered with her parents as a 1948 Palestinian refugee. In 1979, she married Murad, a Palestinian refugee registered with UNRWA Jordan. Although Nada and Murad are both registered refugees, their documents, like those of many other families who have moved residence, have been mislaid by bureaucratic error. Nada, Murad and their nine children now live as non-ID refugees in a one-room house in southern Lebanon. DRC has provided legal aid to try to secure identity papers and is providing vocational training for the couple's older children.

Hassan was born in 1967 in Wahdat camp in Jordan and, like the rest of his family, is an UNRWA-registered 1948 refugee. His family arrived in Lebanon in 1970 as a result of Black September. His father, a PLO combatant, died in 1973 and Hassan lived in an orphanage until he was 15. In 1982, he was arrested by the Lebanese authorities and deported to Jordan where he was tortured and forced to remain to complete military service. Fearing further persecution, he fled Jordan and on arrival in Syria applied to UNHCR for refugee status. His claim was rejected due to his status as an UNRWA-registered refugee. On return to Lebanon, he was re-arrested by the Lebanese authorities for lacking documentation. After again contacting UNHCR in Damascus he was arrested by Syrian intelligence services in Lebanon who then contacted the Jordanian authorities. The Jordanians revoked his Jordanian nationality and invalidated his passport. Fearing imprisonment in Syria, Hassan travelled to Iraqi Kurdistan where he survived by selling his blood.

In 1999 he travelled clandestinely through Syria back to Lebanon. Both UNHCR and UNRWA said they were unable to offer him any assistance. He now lives in Beirut, in constant fear of re-imprisonment and with little hope for a future. DRC has provided Hassan with legal aid to attempt to secure identity papers to permit travel and residency.

Immobile Palestinians: ongoing plight of Gazans in Jordan

by Oroub El Abed

Jordan's decision not to legally integrate ex-residents of Gaza has led to long-term neglect of their civil rights and denied them opportunities to secure decent livelihoods. Statelessness leaves many in a permanent state of legal limbo.

Palestinians who arrived in Jordan in the immediate aftermath of the *Nakba* (catastrophe) of 1948 were granted Jordanian citizenship. As Jordanian citizens they and their descendants hold passports valid for five years, enjoy the right to vote and have full access to government services. Each *muwatin* (citizen) has a 'national number', a civil registration number accorded at birth or upon naturalisation which is recorded on national ID cards and on the family registration books which are issued only to citizens.

Gazans in Jordan are doubly-displaced refugees. Forced to move to Gaza as a result of the 1948 war, they fled once more when Israel occupied the Gaza Strip in 1967. Guesstimates of the number of Gazans in Jordan range between 118,000 and 150,000. A small number have entered the Jordanian citizenship scheme via naturalisation or have had the financial resources to acquire citizenship. Many Gazan non-citizens live in Amman and other Jordanian cities. A significant proportion live in two camps run by UNRWA. Most of the 30,000 residents of Gaza (also known as Jerash) camp are Gazans while a few thousand of the residents of Hittin camp are 1948 refugees, subsequently displaced from Gaza.

On arrival in Jordan, the ex-residents of Gaza were granted temporary Jordanian passports valid for two years but were not granted citizenship rights. The so-called 'passport' serves two purposes: it indicates to the Jordanian authorities that the Gazans and their dependents are temporary residents in Jordan and provides them with an international travel document ('laissez-passer') potentially enabling access to countries other than Jordan.

Gazans are treated by Jordan as Arab foreigners and pay taxes whenever they interact with the state. The 'passport' they hold is in effect simply a residency permit, the renewal of which is left to the discretion of the state. Gazan men cannot renew their residence without clearance from the Jordanian security authorities. Their administrative vulnerability can lead to curtailment of rights to political participation and membership of trade unions enjoyed by Jordanian citizens. Some who have been active in Islamic political groups have found themselves stripped of ID.

The 'passport' – which is expensive – has value as an international travel document only if receiving states permit the entry of temporary passport holders. Few countries admit them, because they have no official proof of citizenship. Syria, Lebanon, Egypt and some Gulf States are among those who refuse to honour the document. Any delay in renewing the temporary passport or in applying for one puts an individual at risk of becoming undocumented.

As noted in earlier articles, Arab countries refuse to grant Palestinians citizenship in order to preserve their Palestinian identity and to remind Israel of its responsibility towards those it expelled. Jordan, however, stands out by view of the fact that the majority of Palestinians living within the borders of the Hashemite Kingdom of Jordan were granted fully-fledged citizenship when Jordan formally annexed the West Bank in 1950. The Gazans, perceived and labelled by law and administrative practice as Palestinians, are therefore an anomaly.

UNRWA provides Gazan refugees with relief, health and education

services but cannot meet all their needs. Since 1986 it has been harder for Gazans to compete for places in Jordanian universities as they must secure places within the 5% quota reserved for Arab foreigners. Entry to professions is blocked as Gazans are not allowed to register with professional societies/unions or to establish their own offices, firms or clinics. Only those with security clearance can gain private sector employment. Those who work in the informal sector are vulnerable to being exploited. Many Gazans are keen to leave Jordan to seek employment elsewhere but are constrained from doing so. Some have attempted to leave clandestinely.

Press articles indicated in 2005 that the Arab League and the Palestinian Authority have explored the possibility of facilitating the return of Gazans to their first place of exile, the Gaza Strip. However, with Gaza besieged and attacked by Israel and in the grip of a worsening humanitarian crisis, this is not a viable option.

Rami was brought up in Jordan, studied law and worked for over two years for a law firm in the West Bank city of Hebron. Lacking a West Bank Israeli-issued ID, he was forced to return to Jordan every three months to renew his visitor's visa. Due to the high cost of living he returned to Jordan in 1999 only to find himself stripped of his Jordanian temporary passport. Now without any form of identity, he notes that "being Gazan in Jordan is like being guilty."

In Jordan, as in most other Middle-Eastern countries, women cannot pass on their citizenship to their children. Neither is citizenship granted to a child born on the territory of a state from a foreign father. Married women are forced to depend on their fathers or husbands to process documents related to their children. Because of this patriarchal conception of citizenship, children of Jordanian

women married to Gazans are at risk of being left without a legal existence.

Heba, a Jordanian national, married Ahmad, a Gazan with an Egyptian travel document. A year after their marriage, Ahmad was arrested for being in Jordan without a residence permit. Deported from Jordan, he was refused re-entry to Egypt and ended up in Sudan. Heba had a child but has been unable to register the birth due to the absence of

her husband. She cannot afford to go to Sudan to be with him.

Over half a century has passed since a British colonial officer noted that he could not “see that there is any hope of finding a suitable home for the unfortunate Gaza refugees”.¹ Resolutions of the UN, protocols of the Arab League and expressions of concern from the international community have led to nothing. Until

such time as a Palestinian state is established, stateless Gazans should not be forced to live in limbo, left outside conventions which should ensure their human and civil rights.

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1. Public Records Office, Foreign Office, Correspondence No 119/3/9, from T C Rapp of the British Middle East Office to J Creswell, British Embassy, Cairo, 1952.

Is Gaza still occupied territory?

by Iain Scobbie

Once Israeli troops and settlers were withdrawn from Gaza in August 2005 did it cease to be occupied?

According to the Israeli Foreign Ministry's Revised Disengagement Plan of 6 June 2004,¹ the evacuation of Gaza means that there will be no permanent presence of Israeli security forces within Gaza. The Plan, however, also provides that “Israel will guard and monitor the external land perimeter of the Gaza Strip, will continue to maintain exclusive authority in Gaza air space, and will continue to exercise security activity in the sea off the coast of the Gaza Strip”. Principle Six stated that “completion of the plan will serve to dispel the claims regarding Israel's responsibility for the Palestinians within the Gaza Strip.”

Principle Six is ambiguous: it refers to the termination of Israel's responsibility for the population of Gaza but says nothing about the status of the territory itself. In the initial draft of this plan, it was expressly stated that withdrawal would terminate Israel's occupation of Gaza. This language was removed from the final and definitive plan.

The test employed by international law to decide whether territory is occupied by an adverse party is contained in Article 42 of the 1907 Hague Regulations Respecting the Laws and Customs of War on Land. It is essentially a question of ‘effective control’. If an invader intends to retain control of hostile territory, at least temporarily, then that territory is

occupied. Traditionally, this required the occupant to create some kind of administration. In December 2005, however, the International Court of Justice ruled that a Ugandan occupation of Congolese territory would be established if its forces “had substituted their own authority for that of the Congolese Government”, and that it was irrelevant “whether or not Uganda had established a structured military administration of the territory occupied.”

The Hague Regulations link occupation to the law of land warfare, and thus it has been argued that occupation requires the physical presence of troops in the territory. These Regulations, however, were adopted before the first flight of the Wright brothers. Today, air power and aerial surveillance are paramount. As Major General Amos Yadlin, an Israeli air force officer, noted: “Our vision of air control zeroes in on the notion of control. We're looking at how you control a city or a territory from the air when it's no longer legitimate to hold or occupy that territory on the ground.”

The ‘effective control’ test has been interpreted by various courts. In 1983, the Israel Supreme Court decided the Tsemel case which arose during the occupation of southern Lebanon. It ruled that occupation forces do not need to be in actual control of all the territory and population,

but simply have the potential capability to do so. This ruling is in accordance with decisions of other courts, including the Naletili and Martinovi case in which the Yugoslav Tribunal referred to an occupant having “a sufficient force present, or the capacity to send troops within a reasonable time to make the authority of the occupying power felt.”

Under the Disengagement Plan, Israel retains absolute authority over Gaza's airspace and territorial sea. It is manifestly exercising governmental authority in these areas. When we also take into account the views that have been expressed on control of the territory from the air, it is clear that Israeli withdrawal of land forces did not terminate occupation. This view is only reinforced by the ease with which Israeli land forces re-entered Gaza in June 2006.

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1. www.israel-mfa.gov.il/MFA/Peace+Process/Reference+Documents/Revised+Disengagement+Plan+6-June-2004.htm

Can Palestinian refugees in Iraq find protection?

by Gabriela Wengert and Michelle Alfaro

Many of the approximately 34,000 Palestinians in Iraq have been living in the country since 1948 and have known no other home. Stereotyped as supporters of Saddam Hussein, and prime candidates for the insurgency, many today face harassment, threats of deportation, media scapegoating, arbitrary detention, torture and murder.

Palestinian refugees came to Iraq in several waves. The first group, some 5,000 persons from Haifa and Jaffa, came in 1948. Others arrived after the 1967 War and a third group arrived in the aftermath of the 1991 Gulf War when many Palestinian refugees were forced to leave Kuwait. A UNHCR registration exercise in July 2003 accounted for more than 22,000 Palestinians in Baghdad. Additional numbers are known to be present in Basrah, Mosul and other parts of Iraq but the precarious security situation prevents their registration.

Iraq is not a party to the 1951 Refugee Convention. Despite the adoption of the Political Refugee Act (Law No. 51) in 1971, which provides the legal basis for the provision of asylum for “political or military reasons” (Article 1[3]), Palestinian refugees were never given formal refugee status by the Iraqi authorities. Instead, Palestinian refugees were entirely assisted by the Iraqi Ministry of Defence and, later, by the Ministry of Labour and Social Affairs. Palestinian refugees were provided protection by successive Iraqi governments and enjoyed a relatively high standard of treatment, mainly guided by the Casablanca Protocol ratified by the League of Arab States in 1965.¹ Palestinians were issued special travel documents, had the right to work and were given full access to health, education and other government services. In addition, they were provided with government-owned housing or fixed, subsidised rent in privately-owned houses and apartments. In effect, Palestinians enjoyed many of the same rights and relative prosperity as Iraq citizens. However, in the aftermath of wars, Palestinians, like

the Iraqis among whom they live, have witnessed dramatic declines in their standards of living.

The fall of the former regime in April 2003 left Palestinians particularly vulnerable, given their uncertain legal status and the loss of benefits previously provided to them. They have been harassed by segments of the Iraqi population and armed militias who resent their perceived close affiliation with the Ba’athist regime. The ongoing insurgency, which has taken the lives of thousands of Iraqis, is blamed on foreign agents, Palestinians and other refugees of Arab origin, who are accused of acts of terrorism.

When the former regime fell, hundreds of Palestinian families were evicted from their homes by landlords resentful that they had been forced to house subsidised Palestinian tenants. There was an intense climate of hostility to Palestinians and many received verbal or physical threats. In May 2005, Palestinians were widely blamed in the media for a bombing incident in the al-Jadida area of Baghdad after a televised ‘confession’ by four Palestinians. They bore visible signs of beating and according to their lawyer had undergone torture while in detention. Palestinians increasingly became subject to arbitrary arrest, detention and house raids by the multinational and Iraqi security forces. UNHCR was given information on approximately 60 Palestinians who were believed to be in detention at one time.

Access to persons in detention remains problematic as it appears that the International Committee

of the Red Cross (ICRC) does not have access to detainees in Iraqi custody. Given the numerous reports of arbitrary detention, torture and killings by Iraqi security forces, such detainees fall into a black hole, with little or no possibility to inform their families, gain access to lawyers or apply for legal review of their detention.

Palestinians, like other refugees in Iraq, complain about the increasingly difficult and sometimes humiliating process of renewing their residence permits. Under the previous regime, Palestinians were not required to have residence permits but now have to face intimidation when renewing them every two months. A lack of valid residency documents puts them at risk of harassment and arrest when requested to identify themselves at the many checkpoints in Baghdad. UNHCR was concerned in October 2005 by a statement from the Ministry of Displacement and Migration, the government body responsible for refugee issues in Iraq, calling for the expulsion of Palestinians from Iraq to Gaza.

The situation further worsened after the 22 February 2006 bombing of one of the holiest Shi’a shrines, the al-Askariyya Mosque, in Samarra. This sparked a wave of sectarian violence and resentment towards foreigners of Sunni Arab origin perceived to have been close to the previous regime and to support the predominantly Sunni insurgency. Acts of discrimination and violence against Palestinians escalated. Ten Palestinians are believed to have been killed in an attack by militias in the Baghdad suburb of Baladiyat. In June 2006, UNHCR became aware of the reported killing of eight Palestinians in Baladiyat, four killed in an attack on the neighbourhood by militia. Some members of the Palestinian refugee community in Baghdad claim that at least 150 Palestinians have been killed since May 2005. While this information cannot be independently

confirmed, UNHCR has collected credible reports about Palestinians being abducted, tortured and killed in Baghdad. Gruesome stories circulate through the Palestinian community, heightening the sense of fear as refugees receive written and verbal death threats, demanding that they leave. It is becoming increasingly difficult to dismiss these attacks as arbitrary and random but rather that this group is targeted on the basis of its political and ethno-religious background. Some attacks have reportedly been carried out with knowledge and/or participation of elements associated with the Iraqi security forces. Lack of security and valid residency documents restricts Palestinians' freedom of movement and access to employment and education. Many Palestinians in Iraq have stopped sending children to school or going out in search of work and feel trapped in their homes.

"These Palestinians are refugees twice over. Israel denies them their right to return to their homeland but Iraq has become a country where they are targeted for violence."

Sarah Leah Whitson, director, Human Rights Watch, Middle East and North Africa division.²

In response to the deteriorating security situation, groups of Palestinians have sought protection in neighbouring countries – despite the dangers of travelling with forged or invalid travel documents. Around a thousand Palestinians fled Iraq in the aftermath of the fall of the former regime and were stranded in 'no man's land' – neutral territory in the desert border between Iraq and Jordan – and in Ruweished camp inside Jordan. In August 2003, Jordan admitted a group of 386 persons from mixed marriages. A number of Palestinians returned to Baghdad, driven back by the harsh living conditions in the desert. On 29 May 2005, those persons stranded in the 'no man's land' were moved to Ruweished, where today, more than three years after they fled from Iraq, 148 Palestinians still remain.

A group of 19 Palestinians moved to the Syrian border in October 2005 where they were stranded before being allowed to enter Syria one month later. They are temporarily hosted in El Hol Camp

in Hassakeh Province, originally set up by UNHCR in 1991 to host Iraqi refugees fleeing Iraq after the suppression of popular uprisings in the aftermath of the Gulf War.

A total of 181 Palestinian refugees, including many children, fled Baghdad towards Jordan in March and April 2006. Denied entry to Jordan, they were temporarily accommodated at an Iraqi border post. UNHCR interviewed a number of them. Four families reported that family members had been murdered. One bore marks of a beating he had reportedly received the previous week. Others claimed to have been former detainees and survivors of torture at the hands of the Iraqi authorities. According to Bill Frelick, refugee policy director at Human Rights Watch, "Jordan is slamming the door in the face of a small but desperate group of people, who have seen their relatives murdered in Baghdad. Jordan should not treat Iraqi Palestinians fleeing persecution more harshly than other Iraqis fleeing violence, who have generally been allowed to enter Jordan."³

On 28 April 2006, the Syrian government officially confirmed earlier reports that it would welcome the group into Syria under the auspices of UNRWA. By the time the group departed on 9 May, their number had grown to 250 as more Palestinians moved towards the Jordanian border in the hope of being admitted to Syria. Furthermore, another 37 persons had travelled to the Syrian border. The entire group of 287 was accommodated in El Hol Camp. It is not yet clear what legal status the refugees will be granted in Syria.

As of 26 July 2006, there were some 266 new arrivals – including pregnant women and children – in no man's land between Syria and Iraq and being denied entry to Syria. The Palestinians say they are determined to stay until they are officially authorised to enter Syrian. There are reports that three busloads of Palestinians were forced to return to Iraq in early June and that Iraqi security forces briefly crossed into the border zone, accusing the Palestinians of being terrorists.

Addressing protection needs of Palestinian refugees in Iraq

UNHCR contacts with representatives of the Palestinian community in Baghdad confirm that the vast majority wish to leave Iraq. Many have turned to people smugglers. In order to minimise their reasons for leaving, the Iraqi authorities must guarantee them effective legal and physical protection. UNHCR has been working with the Ministry of Interior to address some of the factors seen as most negatively affecting their situation. While the Ministry appears receptive, it remains to be seen whether the Palestinian community will be sufficiently reassured to risk remaining in Iraq.

The international community needs to provide advice and training to enhance refugee protection in Iraq. It is unfortunate that constant reshuffling in the Iraqi government has taken its toll on building the institutional capacity of the relevant Iraqi authorities to deal with refugee issues. Strong statements are needed from the Iraqi authorities and other actors that Palestinian refugees are welcome and that they should enjoy rights guaranteed by domestic and international law. It is encouraging that Grand Ayatollah Sayyid Ali al-Sistani issued a religious ruling (*fatwa*) on 30 April 2006 forbidding attacks on Palestinian refugees.

The Iraqi authorities should:

- clarify the legal status of Palestinian refugees in Iraq and issue residency permits and travel documents with a validity of at least one year
- permit the eventual return of Palestinians who have fled Iraq, given that most have lived there for most of their lives or were born there: UNHCR is concerned about 121 Palestinians in Yemen being denied return by the Iraqi Embassy in Sana'a
- enter into a productive and constructive dialogue on refugee matters.

Given that both the Iraqi population as a whole and refugee groups suffer serious security and human rights problems, it is of utmost

importance that any such measures do not single out the Palestinians as a group deserving special treatment, for this could further increase their protection problems.

Bearing in mind the high level of violence in Iraq and the fact that hundreds of thousands of ordinary Iraqis have fled Iraq since 2003, it would be unwise to expect the Iraqi authorities to be able to ensure the physical security of any residents of Iraq. Nevertheless, more can and should be done to protect the rights of Palestinians in Iraq and reduce their anxiety. If Palestinians continue to perceive that the Iraqi government has failed to adequately protect them, new movements to Syria and Jordan are likely. Appropriate contingency plans must be prepared by relevant regional authorities, humanitarian organisations, the Arab League and the international community.

They need to:

- improve capacity to forecast and monitor refugee movements
- remind regional states of their obligations under international law to admit to safety persons fleeing persecution
- identify safe sites inside Iraq to temporarily host refugees should borders remain closed to them
- share burdens and primarily consider humanitarian needs, not political considerations
- advocate for Israel to admit those who wish to return/relocate to the OPT.

Arab governments in the region, as has been done by Jordan and Syria to some extent, should demonstrate solidarity and hospitality and offer

some Palestinians the opportunity to temporarily relocate. Given that both Syria and Jordan already host large numbers of refugees (Iraqis, Palestinians and others), they should be offered a financial package by the international community to relieve the additional burden.

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The views expressed are the personal views of the authors, and are not necessarily shared by the UN or UNHCR.

1. www.badil.org/Documents/Protection/LAS/Casablanca-Protocol.htm
2. <http://hrw.org/english/docs/2006/05/12/syria13372.htm>
3. <http://hrw.org/english/docs/2006/04/07/jordan13136.htm>

Refugee camp in Baghdad for Palestinians forced from their homes by Iraqis resentful of the special treatment the Palestinians have received during a half-century of exile in Iraq. 2003



Jonathan Frerichs LWR/ACT International

Territorial fragmentation of the West Bank

by David Shearer

A combination of checkpoints, physical obstacles and a permit system has cut the West Bank into three distinct areas – in addition to East Jerusalem. Within these areas, sub-enclaves have been created, isolating many Palestinian communities, restricting their access to services and stifling commerce.

The closure system in the West Bank refers to a series of restrictions placed by the Israel Defense Forces (IDF) to control the movement of more than 2.3 million Palestinians living there. The Israeli government states that these closure measures are required to prevent Palestinian militant attacks on Israeli civilians.

The closure system has become steadily more sophisticated and has increasingly channelled Palestinian traffic onto smaller, local roads, leaving main – often recently purpose-built – routes reserved exclusively for

Israeli settlers to travel to settlements inside the West Bank. There are now approximately 430,000 settlers living in the West Bank.

Restrictions on movement are at the heart of the Palestinian economic decline. Poverty rates for

Palestinians have soared to 56% and are predicted to rise to 74% by the end of 2006. Commerce and trade depends on the free movement of goods and services. But in the West Bank economic activities have become severely restricted due to the closure system.

Closure is imposed by one or a combination of methods:

- Manned checkpoints and a series of physical obstacles such as road blocks, road gates, earth mounds

and trenches. The total number of these has steadily risen since last year, from 376 in August 2005 to 535 in June 2006 – a 25% increase.

- The Barrier that Israel has constructed loops inside the West Bank and has created a number of enclaves between the Barrier and the Green Line that are difficult to access.
- There are increasing numbers of ‘flying’ or random checkpoints – averaging more than 160 a week – throughout the West

One key impact of the closure system is the way it has isolated residents of the West Bank from East Jerusalem, the traditional centre of Palestinian religious and cultural life and where important health and education services are located. Reaching the Al-Aqsa mosque in Jerusalem, one of the most holy sites for Muslims, for example, is no longer possible for most West Bank Palestinians.

The construction of the Barrier has meant that Palestinians can no longer travel through Jerusalem but instead have to take a winding road around the city. Once the Barrier is completed this road will pass under the Barrier through specially constructed tunnels thereby preventing Palestinians from using Israeli roads that go to settlements.

The urban and manufacturing hub of the main towns of Nablus, Ramallah, Hebron and Jericho, that are critical for Palestinian jobs and the economy, are also difficult to access because of tight restrictions. Jericho, for example, is encircled by a ditch on three sides and all traffic is funnelled through two checkpoints that frequently close.

Prior to the start of the second *intifada* in September 2000 more than 150,000

Palestinians worked in Israel. Nearly 90% of those people have now lost their jobs. Many have turned to farming as one of the few economic alternatives for the increasing number of unemployed. But movement restrictions prevent good returns. Increasingly, vendors of perishable products such as vegetables and fruit have no access to markets.

The Jordan Valley has long been an important Palestinian agricultural area. Today, no Palestinian who is not originally from that area can



Israeli checkpoint near Qalandiya refugee camp

Paul Jeffrey/ACT International

go there unless they have a permit to work in an Israeli settlement. Jordan Valley farmers cannot rely on moving their goods to markets and often spend hours at checkpoints resulting in substantial losses of highly perishable agricultural crops.

As the closure system becomes more institutionalised it has a myriad of other impacts. Many communities depend on water tankers for domestic water supplies during the summer but the closures can make it impossible for water trucks to reach their destination and meet community needs. Families often find themselves separated by a checkpoint, earth wall or the Barrier from relatives and friends who live close by or from their regular schools or health clinics.

Economy spiralling downwards

The economy is predicted to contract by a further 25% in the coming months if Palestinian Authority (PA) employees continue not to receive salaries. Following the Hamas victory in the January elections, PA revenues dried up. Half of the PA's income came from taxes on Palestinian goods that entered through Israeli ports. Israel has suspended passing on those revenues, as it is obligated to under the Protocol on Economic Relations between the Government of Israel and the PLO it signed in 1994.¹ Donors have also halted payments to the PA. Instead their attention has focused on the private sector as an alternative to maintain services and economic opportunities for

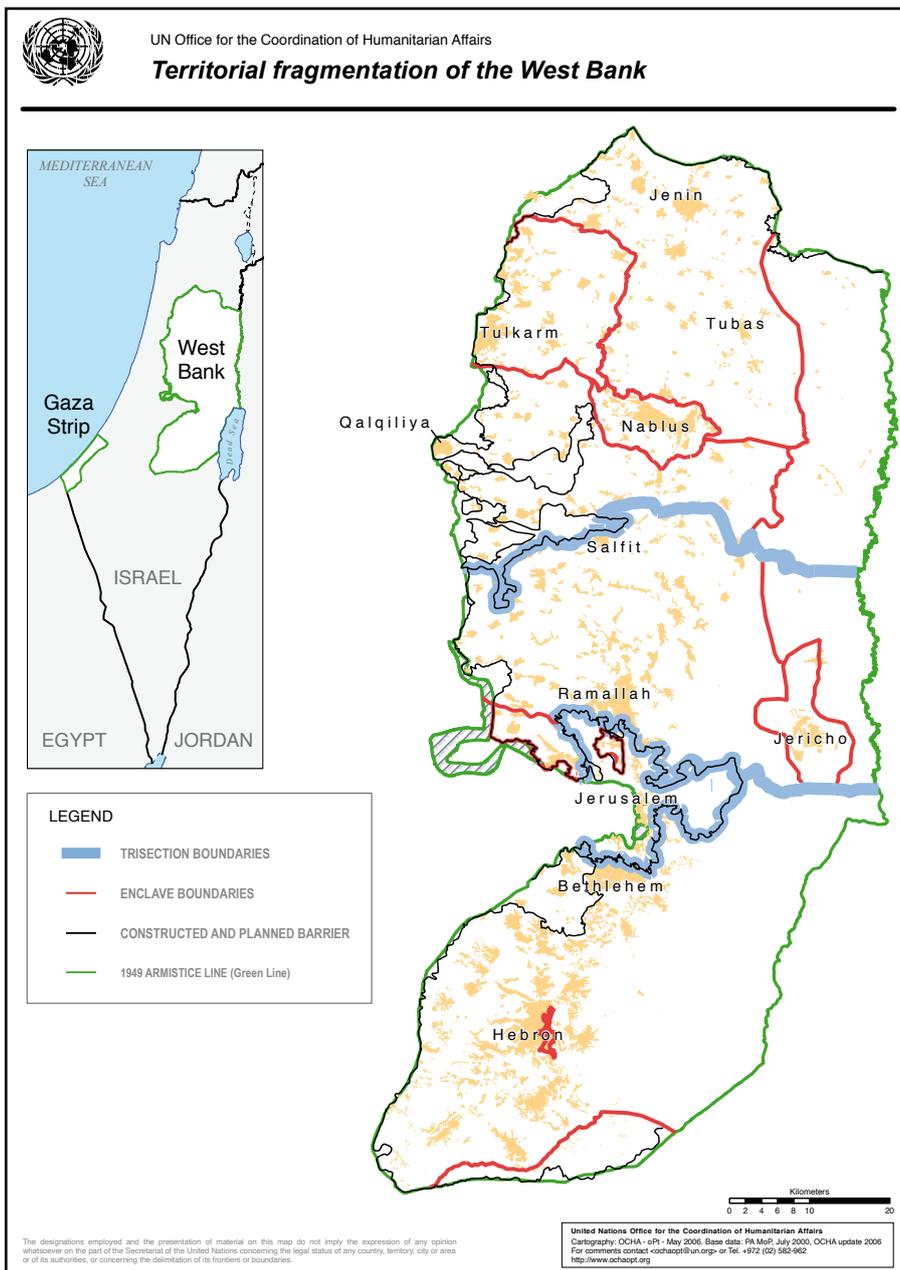
Palestinians. But the private sector relies on the free movement of goods and labour – and both are severely curtailed by the closure system.

As the economic crisis deepens, humanitarian aid is increasingly being looked upon as a primary support mechanism for Palestinians. But it is insufficient and aid alone is not capable of maintaining PA institutions. Furthermore, vital access by humanitarian agencies is becoming increasingly difficult. International humanitarian organisations report increased access incidents in the form of delays and denials of access at IDF checkpoints throughout the West Bank. UN staff can no longer be guaranteed to get to their places of work and are being asked to adhere to a variety of unpredictable checking procedures, despite previous agreements with the Israeli authorities.

The Government of Israel states that the closure regime is to protect its citizens from terrorist attacks. But the regime has separated off sections of the West Bank from each other and created tiny enclaves where people struggle to pass through an increasing array of obstacles just to move around their communities.

As the Israeli settlements in the West Bank expand, so too does the sophistication of the restrictions to protect them, all at a cost to Palestinian livelihoods. Increasingly, affluent settlements protected behind walls, fences and an array of obstacles sit side-by-side with impoverished and increasingly embittered Palestinian communities. Just that reality alone is fuel for an ongoing conflict.

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1. www.palestinecenter.org/cpap/documents/economic.html

Identity and movement control in the OPT

by Jennifer Loewenstein

Israel rigorously controls the identities of the four million Palestinians living under its control in the West Bank, the Gaza Strip and East Jerusalem. The occupying authorities have ingeniously engendered statelessness for an entire population.

Since it occupied the OPT in 1967 – and regardless of the Oslo process – Israel has reserved exclusive power of civil registration and issuing of IDs for Palestinians. It unilaterally administers entry visas and work permits for the tens of thousands of Palestinian non-ID holders in the OPT and for foreign visitors. Israel controls all access to and from the OPT, to and from enclaves/cantons it has established within it and – despite ‘disengagement’ – has total control over all human and vehicular traffic into and out of the Gaza Strip.

In September 1967 Israel conducted a snap census in the territories it had just occupied. Anyone not registered had their residency rights revoked. Tens of thousands of Palestinians who were studying, working or travelling abroad immediately lost any entitlement to residency and today have no official identity. Some of this group arbitrarily dispossessed of any nationality later applied to return through a ‘family reunification’ programme. Some were granted the right to live in the OPT as temporary visitors or tourists but even this right has been difficult to obtain or to sustain.

Prior to the creation of the Palestinian Authority in 1994, the

Israeli government – through the military occupation bureaucracy euphemistically known as the Civil Administration – issued identity cards to the residents of territory occupied in 1967. Those living in the West Bank had orange cards, those in the Gaza Strip had maroon ones and East Jerusalemites carried blue cards which indicate Israeli residency but not citizenship. It made

As a result of the Oslo Accords the act of issuing identity cards passed to the Palestinian Authority. Nonetheless, because Israel retained – and continues to retain – control over the Palestinian population registry, it is Israel that determines the rights and status of all Palestinians living on occupied land. The PA has no power to intervene on behalf of its people. Information on the name, age, date and place of birth, political affiliation and security record of all individuals are stored on a computer database accessed by Israeli officials at checkpoints and border crossings.

Today, ID-holding residents of the West Bank and Gaza are entitled

to change the colour of their ID cards to green, the colour of ID cards issued by the PA, though some still carry the older Civil Administration versions. East Jerusalemites still hold blue ID cards. The PA-issued ID cards contain a photograph and relevant personal information. While they appear to be identity documents issued by a sovereign authority, in fact



no difference whether they had lived for generations in Palestine, whether they were refugees, ‘official’ returnees (who accompanied officials of the Palestinian Authority back from exile following the 1993 Oslo Accords) or IDPs. Such terms are essentially meaningless within an Israeli-dominated administrative landscape in which Palestinians are either legitimate or illegitimate residents whose status can be altered at whim.

they are still directly linked to the Israeli-controlled population registry and corresponding information database. The information printed on the cards appears in Hebrew, Arabic and English. ID-card holders legally reside in the OPT but are citizens of no land, hence encounter constant obstacles using their ‘passports’ for international travel and the constant difficulties that accompany stateless persons across the globe.

Adnan is a Palestinian living in Gaza and married to an Algerian woman, Fatima. More than a decade ago they applied for legalisation of her residence but are still awaiting a response. Fatima cannot leave Gaza because she has neither an ID card nor passport. If she leaves, she may never be allowed back.

Particularly vulnerable are Palestinians who were born in the Gaza Strip but grew up in, went to school in, found work in, or married and moved to the West Bank. (Such movement was relatively easy prior to the mid 1990s.) Gazans in the West Bank may be deported back to the Gaza Strip as Israel refuses to change their place of residence on the registry records. Gazan students studying at West Bank universities have been prohibited from returning to study after making brief visits home. Israeli authorities have now begun preventing Gazan students accepted for study at West Bank universities from even enrolling. Travel to and from the Gaza Strip and the West Bank is banned except for a small number of Palestinian 'VIPs'.

Palestinians living in the diaspora who may have hoped to get into Gaza following 'disengagement' have been prevented from doing so. Foreigners aiming to travel to Gaza, but weary of the lengthy security checks at Tel Aviv's Ben Gurion airport, discovered that they, too, are prohibited from entering through the Rafah Crossing.

Many Palestinians without Israeli-validated IDs have had to regularly leave the OPT to renew their tourist visas in order to continue living together with their families. Many have been travelling outside the OPT – typically to Jordan, Egypt or Cyprus – every three months simply in order to immediately return and obtain a new Israeli visa. Israel has made no formal announcement about a policy change but since April has been systematically denying return to the OPT via the international Israeli borders at Ben Gurion Airport, Allenby Bridge, Sheikh Hussein Bridge and Eilat.

Those affected include:

- naturalised Palestine-born citizens holding Western – and particularly American – passports who have

- been forced by circumstances to acquire a nationality somewhere in the world or else be left with no national identity
- those who lost their entitlement to East Jerusalem residency as a result of study/employment abroad in 1967 and/or were victims of 'quiet transfer' policies designed to reduce the Palestinian population of the city
- former residents of Kuwait, expelled in 1991 after Yassir Arafat backed Saddam Hussein in the first US-Iraqi war, who returned to the OPT but who overstayed their temporary (tourist) visas as they had nowhere else to go. As they are not included on the Palestinian population registry they are considered illegal residents and can be deported at will by the Israeli authorities.

Foreign wives living in Palestine with their husbands and children for many years are now detained on arrival at Ben Gurion Airport and forced to purchase a ticket back to the country of embarkation. One Western woman married to a Palestinian is languishing in Jordan after 33 years of exiting the West Bank every three months. To make matters worse, her husband is being denied the right to exit the West Bank to visit her, a tactic routinely used to punish Palestinian activists since the occupation began.

The policy is affecting professionals and academics – of both Palestinian and Western origins – who are in the OPT for teaching, development programmes, research or international activism. Israel is determined to reduce the international presence in the West Bank and Gaza. When Palestinians protest on their own, the Israeli forces can and do use live ammunition against them. The presence of internationals is a deterrent to such violence.

The Ad-hoc Committee for the Protection of Foreign Passport Holders Residing in and/or Visiting the Occupied Palestinian Territory (CPFPH), launched in June 2006, is a support group of individuals and families affected by the new Israeli policy to deny entry to foreign passport holders to the OPT. CPFPH seeks to:

- contact the thousands of people still in Palestine and at risk of being denied re-entry to advise them not to leave and to share experience about ways of proactive legal action
- collect information and document cases of entry and re-entry denial
- urge consulates and embassies of affected citizens to formally protest and protect their nations victimised by these Israeli practices.¹

Israel has ingeniously engendered statelessness for an entire population living under its control and increasingly denies them any freedom of movement. Because they would not be allowed to return to their homes if they left, those without IDs are effectively held prisoner by the Israeli state through a permit system that restricts even the most legitimate residents of these areas from crossing into another zone. 'Dispossession' has taken on a new significance as millions have lost not only their land but also any internationally-recognised validation of their identities.

Even those fortunate enough to have legitimate residence ID cards still face a permit regime which is even more complex and ruthlessly enforced than the pass system of the apartheid regime. Spontaneous movement from place to place has ground to a halt. Israeli ID policies are tearing apart families, ruining livelihoods and preventing access to property. Individual members of families – including parents of young children – are capriciously being prevented from returning to their homes. The silence of the international community in the face of these violations of humanitarian law is ominous.

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1. For further information, visit <http://electronicintifada.net/bytopic/443.shtml>

‘Quiet transfer’ in East Jerusalem nears completion

by Elodie Guego

Israel is close to implementing a long-term plan to transform the demographic structure of annexed East Jerusalem. Policies to revoke the residency permits of Palestinian Jerusalemites and to Judaise the city have been described as ethnic cleansing.

After victory in the 1967 Six Day war, Israel annexed East Jerusalem – that part of the city that had been under Jordanian rule since the end of the British Mandate in 1948 – together with an additional 64 square kilometres which had been part of the West Bank. Jerusalem thus became Israel’s largest city and was declared to be its ‘united and eternal capital’. The international community, led by the UN, has continuously denounced this act of unilateral annexation, arguing it is a violation of the fundamental principle in international law prohibiting the forcible acquisition of territory. The international community has consistently considered East Jerusalem to be an occupied territory, thus akin to the West Bank and Gaza.

Their support of the Palestinian claim to East Jerusalem was bolstered by the fact that at the time of occupation Palestinians constituted the majority of residents in this sector of the city. Israel has engaged in a demographic battle to secure Israeli sovereignty over the whole city. For almost four decades successive governments have implemented policies designed to transform the city’s population structure and ensure the numeric superiority of Jews. Until the construction of the Wall in and around East Jerusalem, these objectives were pursued through a series of discriminatory regulations to reduce the Palestinian population by rendering their lives increasingly intolerable and encouraging the growth of Israeli settlements in Palestinian neighbourhoods. Today the approximately 230,000 Palestinian Jerusalemites represent around 30% of Jerusalem’s total population.

Under the post-1967 plan designed by Israeli military commanders, heavily populated Palestinian areas were not included, but land belonging to several Palestinian villages was incorporated into Jerusalem. Those who were left outside the new municipal boundaries, or who happened to be outside Jerusalem in 1967, remained residents of the West Bank and, as such, subject to military rule. The Israeli government conducted a census of the Palestinian population living within the city’s new administrative boundaries and granted permanent residency status to the Palestinians residents of the annexed areas. They were entitled to become Israeli citizens provided they agreed to swear allegiance to the State of Israel. Mass refusal to recognise Israeli sovereignty over occupied Jerusalem meant that only 2.3% of Palestinian Jerusalemites became Israeli citizens. The others became permanent residents of Israel subject to Israeli law and jurisdiction, just as foreigners who voluntarily settle in Israel.

Jerusalem permanent residency status differs significantly from citizenship. Permanent residents of Israel are entitled to live and work in Israel without special permits, to receive social benefits from the National Insurance Institute and to vote in local elections. Permanent residency is not automatically granted to the holders’ children or spouses, however, and permanent residents, unlike Israeli citizens, do not enjoy the right to return to Israel at any time.

Between 1967 and 1994 Israel confiscated 24.8 square kilometres of land in East Jerusalem, 80% of it belonging to Palestinians. Land

expropriation is continuing. Today a mere 7% of the area of East Jerusalem remains available to Palestinians. Confiscated land has mostly been used for the construction of Jewish settlements and settlers’ bypass roads, in violation of international humanitarian law prohibiting an occupying power from transferring part of its own population into territory it has occupied. The Jerusalem Municipality has expediently used zoning restrictions to establish ‘green areas’, supposedly set aside for environmental and recreational purposes, but actually deployed as a tactic to remove the land from Palestinian use and create a reserve for Jewish housing.¹

The Town Planing Scheme (TPS), another key instrument of ‘quiet transfer’, restricts building permits in already built-up areas, the only areas available for Palestinian use. TPS has been used to restrict the development of Palestinian neighbourhoods. Palestinians are only permitted to build one- or two-storey buildings while adjacent Israeli housing units may have up to eight floors. Palestinians must go through a complex and time-consuming administrative process to obtain a building permit. These cost around \$25,000 – a considerable obstacle as Palestinian incomes are significantly below those of Israelis. Palestinians obtain a disproportionately small percentage of the building permits issued every year by the Jerusalem Municipality. Only 7.5% of the homes legally built during the period 1990-1997 belong to Palestinians.

Centre of life

In 1995 the Israeli Interior Ministry introduced a new regulation requiring Palestinian residents to prove they had continuously lived and worked in Jerusalem during the preceding seven years. The standard of proof demanded is so rigorous that even persons who have never left

Jerusalem have difficulties in meeting it. Palestinians who fail to prove that their 'centre of life' is Jerusalem risk having their residency status revoked and their requests for family reunification and child registration rejected. The number of Jerusalem residency ID cards confiscated after promulgation of the 'centre of life' policy rose by over 600%. Suburbs on Jerusalem's outskirts, to which many East Jerusalemites had moved as a result of earlier discriminatory policies, were declared to be outside Jerusalem, thus removing the residency rights of over 50,000 people. In order to defend their claims to residency and the social rights which go with it, some 20,000 Palestinians returned to live within Jerusalem's municipal boundaries.

Israel's 'centre of life' policy seriously affects Palestinians' entitlement to health and social benefits, to family reunification, child registration and membership of the Israeli national insurance scheme. The 'centre of life' is verified for each annual renewal of spouses' residence

permits. Thousands of Palestinian children born in Jerusalem of parents who do not both hold a Jerusalem ID have been denied registration and are unable to exercise their basic rights, including their right to education. While the 'centre of life' policy had been officially discontinued, the outbreak of the Al Aqsa *intifada* in September 2000 led to its reactivation. Since May 2002, Israel has refused to accept applications for family unification and refused to register the children of permanent residents who were born in the OPT.

The Wall consolidates the objectives of the 'centre of life' policy. It not only isolates East Jerusalem from the West Bank and effectively incorporates it to Israel but also divides Palestinian neighbourhoods of East Jerusalem. The Wall is being erected to the west of neighbourhoods previously part of the municipality of Jerusalem (the Shu'afat refugee camp and West Anata with a population of 55,000), most of whose inhabitants hold Jerusalem IDs. It also separates from

Jerusalem neighbourhoods which are entirely dependent on the city for their survival and the approximately 50,000 Palestinian permanent residents forced to relocate due to the discriminatory tax regime and the building permits' restrictions imposed by Israeli authorities.

Palestinians holding Israeli permanent residency permits who now find themselves on the West Bank side of the Wall, particularly those living outside Jerusalem's boundaries, are set to lose their residency status under the 'centre of life' policy. The Wall makes many unable to reach their places of work and basic



The Dome of the Rock, East Jerusalem

services inside Jerusalem which they must do to retain Israeli residency status. Family members who do not hold permanent residency cards will now be unable to circumvent Israeli regulations on residency and their spouses holding an Israeli ID will have to choose between living on a different side of the Wall or losing their jobs and residency rights in Jerusalem. According to the UN Special Rapporteur on the Situation of Human rights in the OPT, "Israel hopes to further reduce the Palestinian population of East Jerusalem by compelling spouses to move to the West Bank side of the wall."²

The housing crisis and the level of overcrowding of Palestinian neighbourhoods are such that Palestinians have been forced outside the city's municipal boundaries or compelled to build homes in violation of Israeli laws. By building illegally they expose themselves to high fines and the threat of house demolition. In recent years, the

number of houses demolished for lack of building permits has grown significantly. According to the Israeli human rights organisation, B'tselem, between 1999 and 2003 in East Jerusalem 229 houses and other structures were demolished while in 2004 and 2005 alone 198 houses were demolished, displacing 594 people.³ This acceleration coincides with new land expropriations and plans for the development of new Jewish settlements in the heart of Palestinian neighbourhoods such as in Ras-al-amud or the Mount of Olives.

The construction of the Wall along and inside Jerusalem's municipal borders will definitively prevent the return of Palestinians expelled from Jerusalem by land confiscations, house demolitions or pressure from extremist settlers' groups. They will lose their rights to permanent residency in Jerusalem under the 'centre of life' policy and will no longer be able to enter the city without special permits. The properties that they have abandoned in Jerusalem

risk being seized under Israeli's Absentee Property Law.

This eight-metre-high Wall has given Israel a pretext to achieve long-established goals under the guise of security. Jerusalem is at the heart of all the antagonisms in the Middle East. International silence and failure to speak out against Israeli's transfer strategy are likely to have irreversible consequences and destroy regional prospects for peace. The transfer of Palestinians will soon be an undisputed reality but should not remain 'quiet'.

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The message of the bulldozers

by Jeff Halper

House demolitions reflect the refusal of Israel to acknowledge that there is another people living in the country with legitimate claims and rights of their own

Israel's policy of demolishing Palestinian homes is part and parcel of an overall policy of displacement in which 80% of the Palestinians have been pushed from what has become Israel. Almost half of the entire Palestinian people (those living in the Occupied Territories) are being confined to a truncated Bantustan. Millions of refugees continue to languish in camps and 'Israeli Arabs', Palestinian citizens of Israel, find their own status increasingly threatened.

"In our country there is room only for the Jews. We shall say to the Arabs: Get out! If they don't agree, if they resist, we shall drive them out by force."

Professor BenZion Dinur, Israel's First Minister of Education, from *History of the Haganah* (1954)

House demolitions have stood at the centre of Israel's approach to 'the Arab problem' since the state's conception. Between 1948 and 1954, Israel systematically demolished 418 Palestinian villages – 85% of all Palestine's villages. Demolitions have been at the heart of the broad process of displacement (euphemistically dubbed 'transfer' by Israelis). The policy of house demolitions serves to confine Palestinians to small islands or is used to enhance Israeli 'security'. It is also used as a form of collective punishment, either for 'deterrence'

(demolishing homes of people accused of security offences) or for purposes of intimidation. Throughout Israel proper, in the 'unrecognised' Palestinian and Bedouin villages, and in the Palestinian neighbourhoods of Ramle, Lod and other Arab Israeli towns and cities, houses continue to be demolished.

After 1967, the process – and message – of displacement was carried across the Green Line into the occupied territories of the West Bank, East Jerusalem and Gaza. Israeli bulldozers have demolished more than 11,000 Palestinian homes since 1967.

- At least 2,000 houses were demolished in the aftermath of the 1967 war – including four entire villages in the Latrun area (now known as 'Canada Park') and the Mughrabi Quarter in front of the Western Wall.
- In 1971 Ariel Sharon ordered 2,000 houses in the Gazan refugee camps to be razed to the ground.
- At least 2,000 houses were destroyed in the course of putting down the first *intifada* in the late 1980s and early 1990s.
- In April 2002 massive D-9 Caterpillar bulldozers laboured for three days to demolish over 300 homes at the heart of the densely-packed Jenin refugee camp.

has become more difficult and because data published by the Israeli Defense Force (IDF) lacks credibility.

By expropriating land, blocking preparation of town planning schemes for Palestinian neighbourhoods and restricting building permits, the Jerusalem Municipality has caused a severe housing shortage. Many Palestinian residents of East Jerusalem are forced to build without permits, only to find their houses are demolished by the Ministry of Interior and the Municipality. Forced to relocate to homes outside the city, they then lose their Jerusalem residency and are banished from the city forever.

Nour Eldin Domiry spent 28 years working for the Israeli Civil Administration as a police officer in Jerusalem. He has a large plaque and a shelf full of commendations for his faithful service. In April 2003, two months after retiring, his home – which he had financed from his life savings and a loan – was demolished. He had not obtained a permit for the house he had built as he could not afford the \$20,000 fee demanded. The demolition team was led by his old boss. Amidst the wreckage of his old house he built a rickety, tin-roofed two-room house so he and his family would have a place to stay. He still owes the balance of the loan from his first house and also owes a fine of \$50 per square metre of his old house – the municipality's standard demolition fee. His new dwelling now has a demolition order against it. He is unable to afford a lawyer as his new job as a security guard is so badly paid. His entire professional career was spent with an overwhelmingly Jewish organisation, the Jerusalem Police Department. If this is how Israel treats those who collaborate, what is it like for people who resist?

Many of the thousands of Palestinians in the OPT facing demolition of their 'illegal' dwellings began building during the early years of the Oslo process in the mid 1990s. Encouraged by the prospects of peace, many returned to their home towns and

Data concerning house demolitions in the West Bank is problematic because there are no international agencies working systematically in the field, because accessibility for Israeli organisations

A Palestinian girl searches through the rubble of her house in Nablus.



villages and invested in new homes. At the time, many thought the policy of demolitions would cease. Indeed, the Civil Administration gave them to believe that since most of the land was going to be handed over to Palestinian control they would face no demolition problems – even if the process had not formally changed.

Today there are over 2,000 demolition orders outstanding. The day of reckoning arrives without warning. When demolitions take place they are carried out seemingly at random. The wrecking crews, accompanied by soldiers, police and Civil Administration officials, usually come in the early morning just after the men have left for work. The family is sometimes, but not always, given up to an hour to remove their belongings before the bulldozers move in. As family members and neighbours usually put up some kind of resistance – or at least protest – they are often removed forcibly from the house. Their possessions are then thrown out of the house by the wrecking crews (often foreign guest workers). In addition to the demolition of the house, the destruction of their personal property is a serious financial blow – not to mention the emotional suffering of people seeing their most personal possessions broken and thrown out into the rain, sun and dirt. Then the bulldozer begins its work of demolition, taking between one and six hours depending on the size of the house. Sometimes demolition is resisted amidst great violence: people are beaten, jailed, sometimes killed, always humiliated.

The work is overseen by a supervisor from one of the respective government authorities (the Civil Administration in the OPT, the Jerusalem Municipality or the Ministry of Interior in Jerusalem). The supervisors of the Civil Administration, most of whom are settlers, are known to be particularly brutal. They play a major role in the psychological warfare of intimidation that is such an integral part of the planning and enforcement processes. Their white Toyota jeeps, usually accompanied by military vehicles, strike fear as they tear through villages looking for ‘violations’ of building codes. They will often speed up to a house, slam on the brakes, jump out yelling and waving their

rifles as they enter with impunity families’ living rooms, taking pictures, climbing to the roof or searching the house or yard. They humiliate the adults, terrify the children.

While all countries and cities have planning regulations, zoning and enforcement mechanisms, Israel is the only Western country and Jerusalem the only city that systematically deny permits and demolish houses of a particular national group. These actions, reminiscent of apartheid-era South Africa and the Serbs in Kosovo, clearly violate international covenants of human rights:

- Under the Hague Regulations of 1907 and the Fourth Geneva Convention, Israel is required as an occupying power to protect and ensure the needs of the Palestinian population.
- The Universal Declaration of Human Rights states that “Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing.” (Article 25.1)
- The International Covenant on Economic, Social, and Cultural Rights “recognize[s] the right of everyone to an adequate standard of living...including adequate food, clothing, and housing.” (Article 11.1)
- The International Convention on the Elimination of All Forms of Racial Discrimination obligates state parties “to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law... in particular the right to housing.” (Article 5)
- The Global Strategy for Shelter to the Year 2000, adopted by the UN General Assembly (Resolution 43/181, 20 December 1988), declares that “The right to adequate housing is universally recognised by the community of nations. Governments [must] accept a fundamental obligation to protect and improve houses and neighbourhoods, rather than damage or destroy them.”

Fear that the displaced might yet rise again and claim their patrimony prevents Israelis from enjoying the fruits of their power. The country has been seized by rising xenophobia

and national-religious fanaticism. Polarisation characterises the relations between right and left, Jewish and Arab citizens, Jews of European and Middle East origin, the working and middle classes, religious and secular. Israelis are increasingly isolated from the world. Young Israeli men and women are themselves brutalised as they are sent as soldiers to evict Palestinian families from their homes. Even the beauty of the land is destroyed as the authorities rush to construct ugly, sprawling suburbs and massive highways in order to ‘claim’ the land before Palestinians creep back in. Aesthetics, human rights, environmental concerns, education and social justice cannot coexist with displacement and occupation. ‘Fortress Israel’, as we call it, is by necessity based on a culture of strength, violence and crudity.

The bulldozer deserves to take its rightful place alongside the tank as a symbol of Israel’s relationship with the Palestinians – the tank as symbol of an Israel ‘fighting for its existence’ and for its prowess on the battlefield, and the bulldozer for the dark underside of Israel’s ongoing project of displacing Palestinians from the country altogether.

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The Israeli Committee Against House Demolitions (ICAHD) www.icahd.org is a non-violent, direct-action group resisting Israeli demolition of Palestinian houses, land expropriation, settlement expansion, by-pass road construction and policies of ‘closure’ and ‘separation’. ICAHD comprises members of many Israeli peace and human rights organisations. ICAHD’s work is coordinated with local Palestinian organisations. ICAHD aids Palestinians in filing police claims, in dealing with the Israeli authorities, in arranging and subsidising legal assistance and coping with the traumas and tribulations of life under occupation. ICAHD mobilises Israelis and Palestinians to rebuild demolished houses as acts of resistance.

Just a wall?

by Tim Morris

According to Israel the West Bank Barrier is a security measure. Opponents argue that it is set to become a de facto border, pre-empting final status negotiations between Israel and the Palestinians and incorporating illegal settlements into Israel.

The Israeli government began building the Separation Wall in June 2002. Now half-completed, it is projected to run for almost 700km. Almost 75% of its total length is inside the West Bank, rather than along the Green Line, the internationally-recognised border between the state of Israel and the West Bank. In some areas – notably in occupied East Jerusalem and around the Palestinian city of Qalqilya – the Wall is an eight-metre-high structure of solid concrete. Twice the height of the Berlin Wall, many of these sections have armed sniper towers every 300 metres. Elsewhere it is part concrete, part fence. It is surrounded by a buffer zone with trenches, barbed wire, electrified fencing, thermal imaging, video cameras, aerial drones and other security measures.

The Wall cuts deep into the West Bank – one section penetrates 14km into Palestinian territory – in order to envelop Israel's extensive network of settlements and their planned expansion areas. Fifty-six Jewish settlements – home to over 170,000 settlers – will lie between the Wall and the Green Line. When the additional Jewish settlements in East Jerusalem are taken into contact, three quarters of the 425,000 settlers will be living behind the Wall. If current plans are implemented the Wall will annex 10% of the territory of the West Bank. The total construction cost is over \$2 billion – six times the annual budget of UNRWA.

The Wall has been the subject of four UN resolutions, one – vetoed by the US – in the Security Council and three in the General Assembly. In July 2004 the General Assembly overwhelmingly reaffirmed the judgement of the International Court of Justice that the wall is in violation of international law and called on Israel to demolish it or relocate

it to the Green Line. However, the international community has taken no substantive action to stop the construction of the Wall in occupied Palestinian territory.

The lands between the Wall and the Green Line have been declared by Israel as a 'seam zone' where all residents and landowners must obtain a permit to remain in their homes and on their lands. When the Wall is finished some 65,000 Palestinians will require permits to cross the Wall into the rest of the West Bank. In areas where it is completed, schoolchildren living in the seam zone and attending schools on the Palestinian side and farmers wishing to go to market have to queue up awaiting the arrival of an Israeli military jeep to come and open the gate. Gates generally close at four o'clock in the afternoon. Palestinian ambulances are not allowed to enter the seam zone. Some Palestinians who have not renewed their Israeli-issued ID cards are now permanently trapped inside the seam zone, afraid that if they go through the gate into the West Bank they will be barred from returning to their families. Fearful for their security, some parents have stopped sending their daughters to school on the other side of the Wall. Because the

ICJ declared not just the Wall but the gate system and the permits illegal, the UN and NGOs are not applying for permits for their local staff, thereby jeopardising their ability to continue mobile health services and supplementary food distribution.

If, as many suspect, Israel intends the Wall to become its permanent international border, the seam zone will be formally annexed by Israel. There is speculation that, instead of offering seam zone residents Israeli citizenship, they will be exchanged for an equal number of Jewish settlers who will relocate behind the Wall.

The Wall itself takes the West Bank's most valuable agricultural lands and water resources, along with Palestinian East Jerusalem. Settlement expansion to the east of the Wall and Israeli control over the Jordan Valley will take more of the lands and resources necessary for a future Palestinian state. Without access to these vital land and water resources, or the Palestinian capital East Jerusalem, there can be no viable Palestinian state. Without a viable Palestinian state, there can be no viable peace.

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Information in this article is derived from:

- Humanitarian Emergency Policy Group www.humanitarianinfo.org/opt/docs/UN/OCHA/OCHABarRprt-Updt6-En.pdf
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Paul Jeffrey/ACT International

Wall mitigation efforts: legal and practical tensions

by Chareen Stark

Assisting communities affected by the Wall often involves difficult decisions. Does assistance contribute to the permanence of the Wall or legitimise its existence?

Under international humanitarian law an occupying power is solely responsible for providing humanitarian assistance to the people of the territory it occupies. In the occupied Palestinian territory, this responsibility lies with Israel. However, the reality is that since 1967 the international community has largely borne this burden. Today many donor and humanitarian aid agencies are engaged in mitigating the effects of the Wall through humanitarian and development projects.



In July 2004, in response to a UN General Assembly (GA) request, the International Court of Justice (ICJ) found that the Wall and its associated régime constitute a violation of international human rights and international humanitarian law.¹ The Court called for the immediate cessation and dismantling of the Wall and for Israel to make reparation

for the damage caused by its construction. The ICJ's 'advisory opinion' requires all states "not to recognize the illegal situation resulting from the construction" of the Wall and "not to render aid or assistance in maintaining the situation created by such construction." The GA's adoption of Resolution ES-10/15² affirms the legal obligations of Israel – as well as those of High Contracting Parties to the Fourth Geneva Convention³ – to respect these findings.

In the wake of the ICJ advisory opinion, many donor and humanitarian aid agencies do not want to create infrastructure such as roads or schools that would not be necessary were it not for the Wall. However, the advisory opinion does not give clear guidelines to states vis-à-vis acceptable Wall mitigation projects. This topic has been the subject of debate and remains unclear. Some states refuse to engage in Wall mitigation projects at all, while the trend is to respect the advisory opinion by funding short- rather than long-term Wall mitigation projects – such as mobile health clinics in lieu of permanent health facilities.⁴ These issues beg a broader concern: how governments can respect international law while helping to provide for the humanitarian needs of Wall-affected communities.

As they are not states bound to the ICJ advisory opinion which reaffirms customary international law, some NGOs tend to have more leeway with Wall mitigation projects. For example, two Palestinian NGOs – the Palestinian Agriculture Relief Committees⁵ and the Union of Agricultural Workers Committee – partnered with an Arab-Israeli NGO, Al-Ahali, in an innovative mitigation project which includes

the replanting of trees destroyed during the construction of the Wall. Hundreds of families on both sides of the Wall benefit from this project in which Arab-Israelis in Israel assist West Bank Palestinians in an effort to prevent confiscation of 'unused' land by Israel.

UN agencies' approaches to Wall mitigation vary. The 2005 annual report of UNRWA's Commissioner-General to the GA notes that the Wall has caused deteriorating conditions for refugees in its vicinity.⁶ UNRWA does not have a special programme exclusively targeting Wall-affected refugee communities. However, some are directly or indirectly included for humanitarian assistance as they meet eligibility criteria set by the Agency. WFP includes Wall-affected communities among its targeted beneficiaries. UNICEF ensures that Wall-disadvantaged children are prioritised for remedial education support.

Wall mitigation projects are problematic in terms of implementing projects that address the lack of access to basic services due to the Wall while respecting international law. The socio-economic crisis induced by the Wall and the occupation requires the implementation of serious long-term solutions rooted in international law. The ICJ advisory opinion and the ensuing General Assembly Resolution remind Israel and other states of their obligations under international law.

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1. www.icj-cij.org/icjwww/idocket/imwp/imwpframe.htm

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4. See Hampson A and Abou Azzam J, *Wall Mitigation: Implications for Donors and Implementing Agencies Operating in Areas Affected by the Separation Wall*, www.reliefweb.int/library/documents/2005/lacc-pse-30jan.pdf

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Emergency assistance for farmers affected by the Wall

by Saed Essawi and Emily Ardell

Construction of the Wall in the occupied Palestinian territories has had a harsh impact on Palestinian farmers, separating many from their land. Catholic Relief Services Palestine¹ has initiated a project to try to mitigate the impact.

The Wall follows a zig-zag path, in some places deviating up to 14km from the internationally recognised Green Line which separates Israel from the OPT. The Wall comes very close to several Palestinian towns and villages. In many cases this means farmland next to or near these towns has been 'moved' to the Israeli side of the Wall. Many Palestinian farmers are now physically separated from both their land and water sources – and risk losing their only source of income in an already struggling economy. In the northern districts of Tulkarem and Qalqilya at least 6,000 farms have been directly affected. These districts represent some 20-25% of total Palestinian agricultural production. Many irrigation networks have been destroyed by military and Wall construction vehicles.

The Wall, surrounding Qalqilya in the West Bank.

Catholic Relief Services (CRS), in partnership with the Mennonite Central Committee (MCC)² and the Palestinian Hydrology Group (PHG)³, has initiated a project for 'Emergency assistance to farmers affected by the separation wall'. An initial meeting with farmers provided a forum for discussion of the project's budget, the technical role of PHG and the farmers' own involvement prior to and during project implementation. Priorities were identified and farmer committees established and approved by municipal or village councils. Agreements were signed with each beneficiary to clearly outline the responsibilities of everyone involved in the project. The construction company was chosen partly on the basis of having permission from the Israeli authorities to work along the Wall.

Efforts focused on improving existing systems. The contractor and local farmers worked together to rehabilitate or replace existing machinery and install new irrigation pipes. Eight cement pools were constructed to store water in areas where the primary water source was inaccessible during certain hours of the day. Project teams repaired buildings housing the wells. Whenever possible, PHG engineers and MCC and CRS staff visited the locations despite the difficulty in passing from one side of the Wall to the other. Farmers contributed to the project in cash or in kind (or both) and took responsibility for following up on the implementation of project activities in cooperation with the PHG engineers.

Project staff encountered several challenges. It was very difficult to transfer materials and tools from the Palestinian side of the Wall to farmlands. Israeli soldiers controlling entry/exit gates often refused to allow the contractors to transfer





Paul Jeffrey/ACT International

materials or large tools. The teams have had to find alternate routes to reach fields, necessitating long and time-consuming journeys. Many farmers still find it impossible to take agricultural tools from their homes to their fields. We have not been able to find a way around the restrictions preventing farmers transferring their crops through the Wall to reach West Bank markets or to challenge the long-established prohibition on sale of Palestinian agricultural products in Israeli markets. Whether or not goods are allowed through gates depends on decisions made by Israeli soldiers, at their discretion and without predictability. Facilitating this process was not one of the primary objectives of this project but is vital to sustaining agricultural livelihoods. Substantial advocacy is needed to guarantee farmers the rights to transport agricultural tools, machinery and harvested goods through the Wall.

Project results and conclusions

The technical assistance succeeded in improving water volume flow and reduced operating costs. The end result is a much larger area of land irrigated with adequate amounts of

water, at a greatly reduced cost to farmers. A total of 5,901 farmers have benefited from these improvements in the Tulkarem and Qalqilya areas. Beneficiaries whose lands are located behind the Wall have been encouraged to continue planting and looking after their lands, rather than abandoning them. With the improved irrigation system in place, the farmers now have a much greater incentive to stay and to continue investing in their land. Stemming migration of Palestinians away from fertile areas helps to maintain the equilibrium of populations in these areas, a necessary factor in ultimately establishing a just resolution.

Another positive result has been improved relations between farmers working on neighbouring plots of land. Previously, plastic pipes connected directly to the water source criss-crossed neighbours' lands, creating tension between the farmers. The new network allows each farmer to access one of several branch pipes, eliminating the need to cross over each other's land. Preventing tension and improving communication between local farmers promote cohesiveness and strengthen capacity for future advocacy.

The Wall is a source of extreme economic, social and political tension for communities in the West Bank. While CRS is pleased with the positive impact of an initiative to provide farmers with income and incentives to remain on their land, we also recognise that the existence of the Wall has broader consequences that cannot be resolved by the programme alone. There are many complex issues that require international attention if there is to be economic and social justice in the West Bank. By reducing the negative impact of the Wall on local populations, we have only addressed one small component of the problem: the Wall itself. In the words of the late Pope John Paul II, "the Holy Land does not need walls, but bridges!"

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1. www.crs.org
2. www.mcc.org
3. www.phg.org

Impressions from a visit to Palestine

by Julian Gore-Booth

In November 2005 I returned to Palestine for the first time in over a decade. I knew that a lot of things would have changed for the worse. Restrictions on daily life are now even harsher than I remembered but one change in particular left me speechless.

Israel's so-called Separation Barrier is monstrous, a political and humanitarian catastrophe that threatens any final negotiated settlement, cuts Jerusalem off from its hinterland, separates farmers from their fields, divides families and provides yet another source of humiliation for the Palestinian people.

The Wall reaches deep into the heart of the West Bank. Settlement blocks, rather than being part of negotiations, are clearly expected to expand and the route of the Wall

Bank aquifer which runs close to the surface along much of this area.

Life in the ghetto

Farmers wanting to work their fields can only cross into them with permits and only at strictly designated 15-minute 'opening times' early in the morning or late afternoon. Permits once given are then taken away, as yet another form of punishment. Villages that used to be viable thoroughfares are now silent. Israelis

All major towns are surrounded by permanent checkpoints. At the entrances to Jerusalem from Ramallah and from Bethlehem, the scene resembles the grimmest of international borders with queues stretching for hundreds of metres under the watchtowers and concrete slabs of the Wall. It can take three or four hours for Palestinians to reach their places of work. The West Bank is now divided into at least five areas with movement between the regions easy for settlers and internationals but frustratingly difficult – and soon likely to be impossible – for Palestinians.

The most famous of the newly created ghettos is Palestinian Jerusalem, and it is perhaps here that the signs are the most sinister. West Bankers can no longer come into the city without endless permits and checkpoints and Jerusalemites are cut off from their hinterland. Palestinians in Jerusalem feel increasingly isolated and increasingly desperate. From 1992-1994 I lived in two different flats in East Jerusalem about 100 metres apart. One of these is now inside Jerusalem; the other, in Abu Dis, is cut off from Jerusalem in the West Bank. Shops and families that I used to visit by crossing the road are now cut off from each other; old men who have prayed at Al Aqsa all their lives can no longer do so; and children cannot reach schools.

As an international I breezed through the checkpoints, pretended I was a tourist or simply waved my passport at incredulous soldiers. As an international I got on a plane and came home. As an international I am embarrassed and ashamed.

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gives them ample room to do so. On the western axis of the West Bank there are areas where the Wall reaches across the Green Line for no apparent reason other than to expropriate some of the most fertile land that the Palestinians had left and, perhaps even more importantly for the Israelis, the water of the West

themselves, including retired army generals, have spoken out against the Wall – and yet construction persists. The Wall, checkpoints, earth barriers and endless permits confine Palestinians to ghettos. Towns have become isolated and villages cut off from their markets, with essential services – such as hospitals – frustratingly difficult to reach.



Gore-Booth

Democratic choice punished

by Ibrahim Hewitt

The victory of Hamas in the January 2006 Palestinian legislative elections, Israel's subsequent decision to withhold tax payments and the refusal of donors to provide funds to the Palestinian Authority (PA) have grave implications for the welfare of individuals, for democracy and for Palestinian civil society.

Palestinian incomes have fallen by 40% over the last four years. The economy has been shattered by sieges, curfews, restrictions on movement of people and goods, and targeted destruction of infrastructure.



Intimidation by settlers and the Israeli army, the construction of the Wall and arbitrary taxes, fines and levies have bankrupted businesses. The 110,000 Palestinians (22% of the working population) who worked in Israel or in Israeli settlements before the second *intifada* have been replaced by migrant labour. Tourism has collapsed now that Bethlehem is hemmed in on all sides and cut off from Jerusalem.

Palestine has thus become the most foreign-aid dependent society on earth. With only a negligible local tax base, in 2005 the PA's budget of approximately \$1.9 billion came from three main sources: \$570 million provided by nations of the European Union, \$363 million by the US and approximately \$55m per month remitted by Israel from taxes and customs revenues collected from Palestinians by the occupation authorities. Eighty per cent of

households now depend on some form of humanitarian assistance. Over two thirds have an income of less than \$2 per person per day.

Employing 140,000 people, the PA is the largest single employer in Palestine. The PA employs 37% of those with employment in Gaza and 14% of the working population of the West Bank. The PA will not be able to pay their salaries and provide adequate public sector services, such as those provided by hospitals and schools, with an empty coffer. The UN fears that prolonged suspension of the salaries on which a million Palestinians depend will encourage criminality and lawlessness.

Throughout the occupation Christian and Muslim faith-based institutions have helped plug gaps. In the OPT a range of Islamic schools, orphanages, hospitals and clinics work with the PA. In Islamic schools children use PA textbooks and the PA curriculum (with additional classes on Islam). Islamic schools are licensed by the PA Ministry of Education. Without Islamic institutions for the blind, deaf and handicapped, these groups of children would receive no education at all. Many Islamic societies fund and support fatherless children or those abandoned by their fathers. Some of these are orphans of 'martyrs' – a term used to describe anyone killed by the Israelis whether involved in resistance or as a bystander – but they also fund orphans of collaborators, and children whose fathers die of disease or accidents. Support can include food parcels, school bags of books and funding for education or residential care in an orphanage. Most of these projects are funded

locally through Zakat Committees which are themselves licensed and audited by the PA Waqf Ministry.

"Although the Palestinian economy is soaking up huge levels of aid from the international community, that aid is simply mitigating the effects of the Israeli blockade. Not only is the international community effectively subsidising the costs of the occupation and relieving Israel, as the occupying power, of the need to provide for the Palestinians; the Israeli economy actually benefits from those donor funds because 45% of every dollar of aid for the Palestinians is spent in Israel. From 2000 to 2004, the aid doubled to almost \$1 billion a year, but because of the curfews and closures actual personal incomes in Palestine fell by 40%. The economy can recover only if external borders are opened, internal borders between Gaza and the West Bank are relaxed and Palestinian labour is allowed into Israel. However, Israel continues to control completely all the borders of Gaza, including that with Egypt and the sea and the air borders ... the current Israeli government is creating facts on the ground that will completely rule out a viable and contiguous Palestinian state ... a series of disconnected Bantustans, totally under the control of Israel and totally dependent on it...

Israeli strategy is leaving ordinary Palestinians with no hope for any improvement for their future and is undercutting moderates in the Palestinian community who want to find a negotiated solution. People such as President Abbas have almost nothing to show to Palestinians as an example of what has been delivered through the negotiation route. Instead, negotiation seems to have delivered a worse and worse lifestyle for Palestinians. ... the temptation is for more and more Palestinians to conclude that violence is the only answer."

Dr Phyllis Starkey MP, Hansard
26 Oct 2005 : Column 94WH



Dov Weisglass, an adviser to Ehud Olmert, the Israeli Prime Minister, reflected Israeli policy when he said: "The idea is to put the Palestinians on a diet, but not to make them die of hunger." Hunger pangs are supposed to encourage the Palestinians to force Hamas to change its attitude towards Israel or force Hamas out of government. Some Western countries are planning to completely bypass the PA, channelling aid through other channels such as UNRWA, the World Bank and NGOs. Both UK-based and Palestinian NGOs oppose these plans. NGOs have a vital role to play in augmenting state services but lack the capacity to undertake the colossal task of maintaining the civil service and providing public services. NGOs are not elected bodies. It is neither appropriate nor desirable for NGOs to step into the shoes of local authorities and take on massive responsibilities for which they are not equipped.

Interpal, like many other British NGOs, feels that the PA should have international support no matter which party is at the helm. It is important to raise public awareness of the plight of the Palestinian people and to counter the negative perceptions of Islam and Muslims induced

by the global war on terror. The democratic process dictates that any party elected fairly and judiciously by the majority of the people has the legitimacy to rule and must be accorded the courtesies and rights befitting an elected government. All the Western governments which used to work with the previous Palestinian administration should engage in dialogue with, and financially support, the current PA. Failure to do so would only penalise the Palestinians for participating in the democratic process – an extraordinary irony considering that the Palestinian election was encouraged by the West, produced an electoral turn-out rate considerably higher than in recent elections in the US and most of Europe and was unanimously endorsed by a massive team of international observers.

The international community must realise that foreign aid would not be necessary if it were not for Israel's occupation of Palestinian lands. PA ministers have pledged that they will not take their own salaries until PA employees are paid. This selflessness should remind Western governments that there was a strong element of altruism

motivating the 45% of the Palestinian electorate who voted for Hamas.

The humanitarian situation in Palestine is so dire that government-to-government aid alone will not be enough to ensure that the basic needs of the people are met. Civil society must also shoulder the responsibility of providing help to the needy. For Muslims this is not just a responsibility but an obligation. It is an inherent Islamic duty that Muslims must pay *zakat* (tax on income) and they are strongly encouraged to also give *sadaqah* (charitable giving). The politically-motivated impoverishment and dispossession of Palestinians should not just be a concern for Palestinians, the Arabs or Muslims but a crisis which must be addressed in the name of humanity by the international community – regardless of nationality, race or creed.

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Can the IDP label be used in Israel/Palestine?

by Dina Abou Samra and Greta Zeender

Identifying IDPs in Israel and in the OPT – on the basis of the definition provided by the Guiding Principles on Internal Displacement¹ – is difficult. UNRWA considers all those who lost their homes in 1948 as refugees, yet the Guiding Principles define IDPs as those who have fled their homes but who have not crossed an internationally recognised border.

Palestinians who fled or were driven from their homes during and after the 1948 war but who remained within what became the state of Israel are clearly identifiable as IDPs. Tens of thousands of Arab villagers were displaced within Israel on the destruction of their communities. Bedouin communities suffered several further waves of internal displacement after the war, and continue to live in particular hardship, particularly in the Negev.² Lack of data on the numbers displaced in 1948 complicates estimation of IDP numbers. The National Committee for the Rights of the Internally Displaced in Israel (a Nazareth-based organisation) estimates the number of IDPs – in the Galilee, in the mixed Arab/Jewish cities of Haifa, Akka and Jaffa and in the Negev – to be around 250,000.³ The Badil Resource Centre for Palestinian Residency and Refugee Rights estimates there are 275,000 IDPs.⁴ IDPs constitute around a quarter of Israel's Arab population.

IDPs have not been registered in either Israel or the OPT, generally live among the rest of the population and cannot easily be identified. The most complex group to define methodologically are Palestinians displaced from their homes in Gaza and the West Bank as a result of evictions, house demolitions or confiscation of property. While it seems logical to consider them as IDPs, some of them are also refugees under the UNRWA operational definition, as they or their descendants were displaced during the 1948 war. Thus there are Palestinians in the OPT who, uniquely, can be considered both as IDPs and refugees.

Unlike the refugee status defined in the 1951 Refugee Convention or the UNRWA operational definition of a refugee, the IDP definition in the Guiding Principles is purely descriptive and does not grant special rights. The main purpose is to draw attention to the IDP's particular situation and to the rights this person should enjoy but which are often violated in a displacement situation.

Palestinian NGOs, international organisations and the media generally call Palestinians displaced as a result

The IDP label identifies rights and guarantees ... whereas the term 'homeless' does not.

of house demolitions and evictions as 'homeless' people, rather than IDPs. Some UN representatives working to assist Palestinians see no benefit in applying the IDP label to Palestinians, given that the UNRWA refugee status confers some level of assistance and the IDP label is purely descriptive. They also point to the similar needs of the displaced and of the local population, since most Palestinians have been affected by displacement and statelessness. In any case, they say, IDPs in the OPT make up only a very small group compared to the approximately 1.7 million UNRWA-registered refugees.

IDMC argues, however, that the IDP label brings visibility to displaced Palestinians who are not refugees and to those refugees affected by secondary displacement which may

exacerbate their vulnerability and exhaust their coping mechanisms. The IDP label identifies rights and guarantees under international human rights and humanitarian law, whereas the term 'homeless' does not. We advocate for recognition of internally displaced populations in Israel/Palestine based on the UN Guiding Principles on Internal Displacement. These give visibility to people whose specific plights may well otherwise be forgotten by authorities as well as by local and international humanitarian organisations. The UN should take a clear and official position on displacement in Israel and in the OPT. The Office for the Coordination of Humanitarian Affairs (OCHA), as well as OCHA's Internal Displacement Division, and the Representative of the UN Secretary-General on the Human Rights of IDPs, could issue a position paper on the case of internal displacement in the Israeli-Palestinian context from a legal and operational point of view.

Further research needs to be undertaken on population movements within Israel and the OPT and the psychosocial impact of long-term displacement. Methodologies and standards developed to document displacement as well as to achieve durable solutions for IDPs in other conflict-affected countries, including compensation schemes, may provide useful models to draw on.

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1. www.unhcr.ch/html/menu2/7/b/principles_lang.htm
 2. See article by Kathrin Koeller, pp38-39
 3. www.reliefweb.int/library/documents/2005/gidp-isr-2jun.pdf. ADRID, winner of the 2002 Body Shop Human Rights Award, can be contacted at adridd@palnet.com or idpalestine48@yahoo.com
 4. www.badil.org/Refugees/facts&figures.htm

The Bedouin of the Negev: a forgotten minority

by Kathrin Koeller

The barrage of news on the Israeli-Palestinian conflict obscures attention from the Arab population living as internally displaced Israeli citizens on Israeli territory. Particularly forgotten are the approximately 186,600 Bedouin of the Negev in southern Israel who constitute 12% of the country's Arab population.

Before the establishment of the state of Israel, the Bedouin of the Negev – who are culturally distinct from the Bedouin of the Galilee – were the vast majority of the population of the region and lived as nomadic pastoralists in the desert. During, or in the immediate aftermath of, the 1948 conflict, most Negev Bedouin either had to flee or were expelled and displaced. The Negev became an integral focus for Jewish settlement. The Bedouin lost access to almost all their rangeland and were given little choice but to settle and give up large parts of their traditional way of life.

The remaining tribes were rounded up and driven into an 'Enclosed Zone', an area in the north-east of the Negev which covered only 10%

of their former territory and which remained under military law until 1966. All movement in and out of the zone depended on written permission from the Israeli military. Israel appointed 19 sheikhs and officially recognised their tribes. In order to acquire Israeli citizenship, each Bedouin had to affiliate with a recognised tribe regardless of their original genealogy. They have subsequently been forced to sedentarise and relocate to seven officially-sanctioned state-planned townships. The Bedouin are offered subsidised plots of land, access to water, electricity, roads, medical facilities and schools – under the condition that they agree to locate to the approved townships and abandon claims to land elsewhere in the Negev.

Despite these intense pressures only half of the Bedouin population have agreed to move into the towns. The rest remain in 'illegal' settlements in the Enclosed Zone, which are not recognised by the state even if they already existed prior to 1948 and/or are inside an area formerly designated for Bedouin use. Residents of these villages face the permanent threat of house demolition and prosecution for 'illegal' use of state land. Access to public services such as water, electricity, roads, infrastructure, education and health care is highly restricted. As they reside in areas not under municipal jurisdiction they are unable to apply for construction permits. Even though in 1998 the development plan for Beer Sheba (now Israel's sixth largest conurbation) defined the city and its hinterland as a 'binational metropolis', there are no plans for future development for those Bedouin villages. Their areas are either left blank on maps or 'over-zoned' with other settlements planned on top of the existing villages.



Sedentarisation and the surveillance of illegal settlements are further promoted by an environmental paramilitary unit established by Ariel Sharon in 1976. The 'Green Patrol' has a mandate to pull down 'illegal' Bedouin tents, tightly control herd sizes and grazing areas, seize flocks, destroy crops planted without the appropriate permit as well as impose fines and evict inhabitants of 'illegal' settlements. Green Patrol raids have resulted in substantial damage to property and led to fatalities on several occasions. When aerial surveillance identifies unauthorised new construction, owners may be served with a demolition order. If they fail to comply – and many do – they may be prosecuted. Homeowners are turned into criminal defendants, fined and forced to reimburse the state for the costs of demolition. According to the Association of Forty, there are currently 22,000 unrecognised houses in the Negev. All are at potential risk of demolition.

The plight of those living in recognised towns is almost equally difficult. They are amongst the poorest in Israel and face enormous social and economic problems – high unemployment, crime, drug abuse, social disintegration and low education levels. Infrastructure such as street lights, pavements or sewage systems is incomplete in almost all the towns. Israeli planning authorities have given little consideration to Bedouin cultural needs, particularly their preference for grouping the extended family together in order to retain traditional kinship structures in a settled environment, sharing resources and responsibilities as well as regulating conflict and exercising social control. Future expansion of the houses is virtually impossible as not enough land was set aside to accommodate population growth. Today the average annual Bedouin birth rate of 7% per annum is amongst the highest in the world. Tents and additional structures built behind the houses for social gatherings, housing guests and outdoor kitchens are commonplace. Sections of the houses are converted into shops and used for keeping livestock. Israeli authorities regard this as a violation of zoning regulations prohibiting commercial activity in residential neighbourhoods. For

many Bedouin families, however, this is the sole source of income.

"We should transform the Bedouin into an urban proletariat in industry, services, construction and agriculture ... the Bedouin would not live on his land with his herds, but would become an urban person who comes home in the afternoon and puts his slippers on... The children would go to school with their hair properly combed. This would be a revolution, but it may be fixed within two generations ... this phenomenon of the Bedouins will disappear."

General Moshe Dayan, 1963

Assimilationist and sedentarist projects have been inflicted on pastoralists throughout the world. The sedentarisation programme and the general Israeli attitude towards the Bedouin can be viewed as part of this wider trend. Israeli identity is to a large extent constructed in (hierarchical) opposition to the Arab population within and surrounding the country. Being Israeli carries connotation of being 'Western', democratic, modern, rational and educated – while Arabs, and particularly Bedouin, are pre-modern, autocratic, emotional and undeserving of a place in the modern state of Israel unless they show willingness to be 'reformed'. This sedentarisation/modernisation of the Bedouin is thus central to Israel's self-image as a 'modern democratic' state in an 'under-developed' region. Less overtly articulated is Israel's determination to accumulate as much land as possible for the exclusive use of Jewish residents of Eretz Yisrael.¹

In order to acquire the maximum amount of Arab land for Jewish settlement of the Negev, Israel has denied almost all pre-existing land rights or ownership. Israel regards the Negev as a vacuum domicilium or terra nullius, an empty space yet to be used for settlement. The Bedouin are seen as rootless nomads without territorial connection or rights. Similar legal tools used to justify the internal displacement of indigenous populations and invalidate traditional land ownership are found in other settler states. Israel justifies its acquisition policies by selective interpretation of historical land laws. Israel argues that all desert

land belongs to the state by virtue of the *mawat* ('dead') category of land title introduced in 1858 by the Ottoman authorities. Israel will only acknowledge land ownership in the Negev if a landowner can present a document issued by the British mandate administration in 1921 – a period when hardly any Bedouin registered their landholdings due to a combination of traditional reluctance to cooperate with external authorities, fear of taxation and lack of concern that anybody would pose a challenge to their continued use of the land.

A recent survey conducted in the Negev shows that the overall experience of settlement and urbanisation is described by the Bedouin as negative and unsatisfactory. Bedouin are dissatisfied with the settlement incentives they have been offered, the paucity of opportunities for education and democratic governance and the persistent denial of equal access to health, education, housing and other services of a kind enjoyed by their fellow Israeli citizens. The protracted struggle for control of the Negev and for democratic freedoms has consequences not only for the livelihoods but also the very essence of modern Bedouin identity. The future of the Bedouin of the Negev remains uncertain and problematic.

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For further information, see:

- Centre for Bedouin Studies and Development, Ben-Gurion University of the Negev: <http://w3.bgu.ac.il/bedouin>
- Mossawa Advocacy Center for Arab Citizens in Israel www.mossawacenter.org/en/about/about.html
- Negev Coexistence Forum <http://dukium.org>
- Arab Organisation for Human Rights www.arabhra.org/factsheets/factsheet3.htm
- Association of Forty www.assoc40.org

1. Hebrew for 'the land of Israel'

Breaking the cycle of violence

by Lucy Nusseibeh

For much of the past hundred years the hallmark of Palestinian resistance has not been violence but non-violence. In light of the victory of Hamas in the recent Palestinian elections, Palestinians risk more than ever being collectively dismissed as violent and impossible to talk with. In fact, new forms of active non-violence are alive and growing.

Palestinians have consistently used strikes, appeals and demonstrations – all standard non-violence tactics – since the beginning of the struggle,

farm their traditional fields. Most Palestinians practise forms of active non-violence every day, simply by managing to survive, or going to

also be viewed more broadly as an assertion of humanity and as the development of potential in spite of the odds against it. Just as violence breeds hatred and leads to a vicious and inhuman cycle, non-violence can be used to break that cycle. Non-violence, therefore, is a form of assertiveness and empowerment that enables people to stand up – even in the face of overwhelming violence – and retain their humanity.



Paul Jeffrey/ACT International

Non-violence training

Increasing numbers of local organisations are specialising in non-violence training and/or non-violent action. Middle East Nonviolence and Democracy (MEND) has trained activists in eight major cities in the West Bank and others await training.

In early 2002, a group of military commanders from the Fatah movement came to MEND to ask for non-violence training in order to break the vicious cycle they had grown up with – a cycle

first against the British and later against the Israelis. Now, with the country so starved of basic necessities that children cannot take exams for want of writing paper, and with ever-palpable tensions between political factions starting to crack into civil war, Palestinian non-violence may seem a contradiction, yet nevertheless is a vibrant reality.

More than anything else, Palestinians simply want to get on with living normal lives in which they can work and provide for their families, send their children to school without fear, move freely from one place to another, see the sun rather than the Wall, look after their livestock and

work in spite of the innumerable obstacles and dangers. As the constraints on movement and on daily life have become increasingly harsh and the political situation increasingly hopeless, there has been a corresponding growth in Palestinian interest in alternatives to violence both as a way of life and as the only form of resistance that could work.

Non-violence in its classic sense involves transforming one's opponent's conscience so that the opponent perceives that his/her actions are immoral and therefore stops them. When this does not work, outsiders (from another country) can play a role. Non-violence can

of activism, prison, more activism, more prison – and to give their children a future. Since that time, their numbers have been growing. The head of Fatah in Qalqilya (one of the most conservative of all Palestinian towns) is also the head of the MEND active non-violence group there. Tulkarem, Nablus and Hebron – all major Palestinian towns – now have mainstream community activists organising workshops, trainings and youth camps that promote democracy (although in some of these places democracy is equated with heresy) and alternatives to violence. Youth across the nation listen avidly to a MEND-produced radio soap opera focusing on



nonviolence has become my way of life and I am proud of it

Palestinian issues which promotes non-violent choices in relation to every aspect of life, from gender issues within the family to non-violent resistance to the occupation.

For the past three years MEND has also been training school counsellors in non-violence and conflict resolution and developing a curriculum for them. The conflict has created a huge need for counsellors yet there are only two for every three schools. MEND is also involved in 'Core Values' curriculum development in a joint project with the Hebrew University, focusing on promoting core values within the education system. Some of the curriculum workshops will be run with Israelis doing parallel work.

The Israeli occupation use of excessive force against Palestinian people, and being born at times of occupation, has made me absorb many violent actions. I was among the most prominent leaders of the first intifada; it strengthened my concepts of violence even when it came to my relationship with other people. During the second intifada I was introduced to MEND. At that time I did not believe in non-violence. However, I joined a training course, run by MEND, about alternative resistance. I had rows with the trainer. As time went by and as I became familiar with the concepts of non-violence, I was convinced that I had been wrong. I apologised to the trainer

violence but to no avail. The [Palestinian] use of violence made us violent deep inside; this is a threat to the state-building phase because we need a democratic state. Now non-violence has become my way of life and I am proud of it.

Noor al Deen Shihada, coordinator, Tulkarem MEND Centre

I used to run away from school. My family would beat me so that I would go to school. I used violence against my classmates, especially those whom I felt were better than me. Since the community where I was born and bred sanctifies individual acts of heroism, I unconsciously aspired to become one of the heroes. When I became a teenager, politics, or rather political violence, became part of my life. I threw rocks at the occupation vehicles patrolling the streets of my city. I was arrested for three days when I was 14. I was badly tortured during incarceration. I became more violent against the occupation. My violence developed as a vengeful reaction. During the first intifada I was subjected to the policy of 'bone-breaking' and I was shot and wounded several times. I was almost killed in one incident. And yet I achieved what I wanted at the time: I was my people's hero. This went on and even had an impact on my social life. I would solve all my problems using violence.

Violence continued to be an important part of my life during the second intifada until I had a new experience. I joined a MEND training course in Nablus and learned about the values

and started absorbing the concepts of non-violence. Now they are part of my life. I have realised that I have to change the life I lead. Now I know that we, the Palestinians, must seek a new way of struggle especially as we have spent more than 40 years using

of non-violence. I did not expect a change to happen so fast due to old experiences. But when MEND opened a centre in Nablus, I was appointed as its head. Questions about social and political conflicts rained on me. It was the first time in my life to contemplate causes of conflicts. Since then, I have worked hard with children and the steering committee to promote democracy and non-violence in my community. Since I was a victim of violence, I do my best to help people, especially impoverished children, to avoid what I went through. I have become a role model for many young people who want to know more about me and why I chose non-violence.

Qais Aawayis, coordinator, Nablus MEND Centre

Women's voices

The history of the involvement of Palestinian women in non-violent actions within the Palestinian national struggle is almost as old as the struggle itself. As the Middle East and the world react to the violence created by men, the need for women's voices to be raised and to be heard is greater than ever.

Although there are some non-violent activities (such as marches) and some organised protests and petitions from women's organisations, it only seems to make a difference if there is international involvement and media coverage. If women from outside the Middle East could come as international observers to witness the plight of Palestinian women and talk about what they see, perhaps their voices would be heard. They might then encourage Israeli women to help vote into power a more conciliatory government. Moreover, if the media were to focus on Palestinian women far more than it does, and if women became prominent in decision making and in conflict resolution exercises, there might be hope for a viable Palestinian state and the just solution that has so far eluded men.

Role of public opinion

For a peace process to be successful, public opinion has to be encouraged to see the reality of what is happening in both societies, and to relate to the others as human beings. Negative

Summer camp for Palestinian youth from all over the West Bank – the beginning of a national non-violence youth movement of 'Menders'.

public opinion on either side feeds the conflict and perpetuates the cycle of violence. Conversely, public opinion that favours a just solution to the conflict can help encourage leadership to support a peace agreement.

Given the balance of power that so strongly favours Israel, Israeli public opinion is one of the keys to peace – and is itself strongly influenced by its perception of Palestinian public opinion. The Israeli public needs to be convinced that there is a genuine and overwhelming desire for peace among the Palestinian public.

As the restrictions of movement in the West Bank and Gaza effectively prevent any contact between all but the most determined Israelis and Palestinians, the media has a crucial role in both the broadcasting and the manipulation of perceptions and public opinion in this conflict. When all one side reads is angry statements by the other, fear and

polarisation are increased. The media must report on the common desire for peace, giving credibility to the voices that speak out against violence and exploitation of the conflict.

Shared humanity

Israelis also have economic and social problems and live with fear. If there is to be a sustainable peace it is essential to address their fear, to break down the stereotyping of Palestinians as terrorists and to work to restore to the Israeli public a human perspective regarding Palestinians. If more Israelis would allow themselves to see Palestinians as human beings they would find it much harder to shoot at children, bulldoze people's houses and prevent sick people from accessing medical care.

There is a growing commitment on the part of some courageous

Israelis to take real risks for peace, such as by refusing military service (which not only sends them to prison but blacklists them for life) and risking army roadblocks to take food or provide medical treatment for Palestinians constrained by travel restrictions.

For a peace process to work between Israelis and Palestinians, it has to work at the popular level. Commitment to working with non-violence is a way to achieve this. What is needed now is support of every kind to nurture non-violence and give it the means and the space to grow.

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Civil society responds to protection gap

by Vivienne Jackson

In the absence of mechanisms to protect the population of the OPT, and the reluctance or impotence of the 'international community', global civil society activists and human rights campaigners – working with Palestinian and Israeli actors – have stepped into the breach.

The Fourth Geneva Convention, which came into effect in October 1951,¹ represented the post-World War II aspirations of the international community to offer permanent protection to civilians living under military occupation. The breadth of Israel's derogation in relation to Palestinians living under occupation is comprehensive, with most key Convention articles sporadically or systemically breached. Arguing that the land it calls Judea and Samaria is 'disputed' and not 'occupied', Israel does not consider the Fourth Geneva Convention as a legal impediment to implementation of policies which have transformed the areas' physical and demographic landscapes.

Israeli woman watches for human rights violations at checkpoint.

The Israeli government violates international humanitarian law, the Universal Declaration of Human Rights, the Fourth Geneva Convention and decisions of the International Court of Justice with the passive acceptance of much of the 'international community'. While the UN and its members clearly view the West Bank, East Jerusalem and Gaza as 'occupied', the UN Security Council has barely urged Israel to uphold its human rights obligations. The UN General Assembly has been more vocal, expressing world opinion when it overwhelmingly endorsed the International Court of Justice's ruling on the Wall – only

Israel, the US, Australia and three micro Pacific states voted against. However, the General Assembly is unable to compel Israel to uphold its responsibilities as an occupying force since Assembly resolutions only have moral and symbolic weight and are not legally binding. As noted in earlier articles, UNRWA is not mandated to work with non-refugee victims of occupation.



Machsomwatch

Since 2002 NGOs and individual activists have taken an increasingly prominent role in trying to redress the lack of official international protection given to Palestinians in the OPT. The deaths of two members of the International Solidarity Movement (ISM)² – Rachel Corrie killed by an armoured Caterpillar bulldozer in Gaza in March 2003 and Tom Hurndall shot in the head by an Israeli Defence Force (IDF) sniper in April 2003 – drew global attention to international non-state intervention to protect Palestinians.

The ISM is but one of a host of local and national civil society groups using non-violent action to address the human rights of Palestinians living under occupation. The presence of Israeli



Israeli 'Women in Black' – who oppose Israel's occupation of Palestinian territories – during their weekly peace vigil on a Jerusalem street corner.

and international activists alongside Palestinians undoubtedly constrains the Israeli army and police in the degree of violence they use against legitimate political protest.

the Israeli Arab soldier responsible for Hurndall's death has been convicted, it remains significant that more senior commanding Israeli soldiers have escaped prosecution.

Stung by negative publicity, Israel is now acting to restrict access of external civil society actors. The deaths of Rachel Corrie and Tom Hurndall show the willingness of the Israeli state to use lethal force against direct non-violent action but have also brought closer the realisation that Israeli soldiers should not remain immune from prosecution for violations of international humanitarian law. While

These new forms of solidarity face other difficulties. Outsiders can act in ways in which Palestinians find inappropriate or presumptuous. Getting an unregulated group of activists to work with affected Palestinian communities struggling with the daily realities of occupation to jointly plan non-violent actions can be a delicate process. Nevertheless, non-violent global/local civil society networks have provided vital protective functions in a situation where official protection has been devastatingly threadbare.

Vivienne Jackson, a postgraduate student at the University of Bristol, is a member of Jews for Justice for Palestinians (www.jfjfp.org). For several months she lived as an international volunteer trying to assist inhabitants of the West Bank village of Yanoun to reclaim homes abandoned under threat from extremists from the Jewish settlement of Itamar. Email: vj6002@bristol.ac.uk

1 www.unhchr.ch/html/menu3/b/92.htm
2 www.palsolidarity.org

Human rights organisations set up by Palestinians and Israelis include:

Badil Resource Centre for Palestinian Residency & Refugee Rights	www.badil.org
Al-Haq	http://asp.alhaq.org
Addameer	www.addameer.org
The Alternative Information Centre B'tselem	www.alternativenews.org
Machsom (Checkpoint) Watch	www.btselem.org/English
Israeli Committee Against House Demolitions	www.machsomwatch.org
Ta'ayush	www.icahd.org
Rabbis for Human Rights	www.taayush.org
	www.rhr.israel.net

International groups include:

Operation Dove	www.operationdove.org
Christian Peacemakers Teams Ecumenical Accompaniment Programme in Palestine and Israel	www.cpt.org
	www.quaker.org.uk/eappi

Global civil society groups focused on long-term protection issues

mentioned in the Convention – including the right to pursue a livelihood – have sought to establish trade links with the OPT:

Olive Co-operative	www.olivecoop.com
Zaytoun	www.zaytoun.org
Freedom Clothing	http://freedom-clothing.co.uk/news

European aid to vulnerable Palestinians



by Daniela Cavini

Funds from the European Commission's Humanitarian Department (ECHO) alleviate the suffering of Palestinians in the West Bank and Gaza Strip and support projects for the three million refugees in Jordan, Lebanon and Syria whose humanitarian needs are often neglected by the international community.

The European Commission is one of the largest contributors of humanitarian aid to the Palestinian people. Since the second *intifada* began in 2000, the EC's Humanitarian Aid Department has provided over €191 million to meet the critical needs of Palestinians in the OPT and in Lebanon, Jordan and Syria.

ECHO funds are used to:

- increase access to health services in isolated areas of the OPT
- provide food aid to groups particularly affected by movement restrictions
- rehabilitate shelters for Palestinian refugees in Jordan, Syria and Lebanon
- support small-scale economic activities and employment opportunities
- provide psychosocial support for children
- update, rehabilitate and expand water networks and enable safe disposal of domestic wastewater
- support efforts by the UN and the Red Cross to protect the civilian population from the effects of the conflict and guarantee their access to essential needs, in conformity with the principles of International Humanitarian Law.

Shelter repair for refugee family

"This is the first time I have owned something in my life. These two

rooms are tiny, but habitable, and above all, ours," says Zaika Said (48), the daughter of Palestinian refugees and mother of three. After a life on the move, Zaika and her family have ended up in Homs, 160 kilometres north of Damascus. Since it was established in 1949 the population of their camp has risen substantially. Shelters have been

built on every available space, leading to severe deterioration in the standard of living. The roads are full of potholes, buildings lack natural light and ventilation, the schools are old and dilapidated and the sewerage system badly needs upgrading. Unemployment and poverty levels are high.

Zaika's story is similar to so many: "My parents left Palestine in 1948 and ended up in the Neirab refugee camp, near Aleppo, in northern Syria. That is where I was born." In search of better living conditions, her family moved to Homs, then to Damascus where she met her husband. "Living in the big city became impossible. It was too expensive so, five years ago, we decided to come back. We wanted a better and cheaper place to live." However, on their return to Homs, the family was struck by new tragedy. In 2005 Zaika's disabled husband died. Despite being confined to a wheelchair he had been a weaver, earning a meagre living to support Zaika and their three children. All of

a sudden, even this small income was gone. "Of all the difficult times I've gone through, the worst was when my husband died," Zaika continues. "I really thought I wouldn't make it."

A year has passed since she lost her husband and Zaika's worst fears have gradually given way to hope. "People helped me in a way I wasn't expecting. My children are fatherless, and in our tradition, society doesn't let such children down. I received help from many, many people." Zaika's case was classified as a 'social hardship' one. As her house was in dire need of repair she was able to join the regional



emergency shelter rehabilitation programme, financed to the tune of €2.75 million by the European Commission and implemented by UNRWA. In a few months, thanks to the cooperation of Syrian local authorities, her home was repaired, along with 334 other dwellings in Syria, Jordan and Lebanon. Around 1,700 people benefited directly from the programme. In Homs, 20 shelters were rebuilt using a 'self help' approach. Beneficiaries themselves had to complete the work. In liaison

The winners of a drawing competition organised in Homs refugee camp, Syria, to celebrate the completion of the shelter rehabilitation programme financed by the European Commission.

with UNRWA staff they purchased materials, hired workers and supervised them. This involvement is considered very important, because it empowers beneficiaries by giving them a sense of ownership.

This is what happened to Zaika. "Now that our shelter is safe and habitable, I really feel we can make it. Somehow, I have come to terms with the fact that I'm alone, and that I must keep going. My children have grown up quickly in the past few months. They are wonderful and study hard so they will be able to make a living in the future. What do I hope for? I want them to have an education, for God to help them in their lives, and for me to be close to them always."

When asked about the land of her forefathers, Zaika is silent for a few seconds. Then she whispers: "I have never seen Palestine. I have been bouncing from one place to the next for my entire life. I cannot give up the dream to return. I watch the news all the time, what happens there. I tell myself maybe my children will be able to go back to their land. But I also feel that this is our home. Most people in the world have just one home. We have two, a real one, and an ideal one."

Responding to the water crisis

Over a third of the population of the OPT have no access to piped water. The Palestinian Water Authority estimates average per capita consumption in rural areas to be a mere 15 litres – by comparison, the average US citizen uses 600 litres. Access to piped water is affected by frequent restrictions of supply to the major water networks, deliberate and collateral damage to

water infrastructure, contamination of water catchments and physical constraints (closure, curfew). As a result, there is an increased dependence on tankered water. In some rural areas prices rise in the



EC/ECHO/Daniela Cavini

dry summer months and up to 40% of household income may be spent on water for household uses. Scarcity of water for irrigation prevents proper exploitation and cultivation of agricultural land. Increasing access to water remains, therefore, a priority for the European Commission's Humanitarian Department. Since 2002, some 22 water and sanitation projects in the OPT have been funded at a cost of €15.7 million. Some 850,000 people have benefited from interventions – which have ranged from basic repairs to water infrastructure such as pipes, provision of rain water collection from roof tops and storage in underground cisterns and exploitation of alternative water resources such as springs, which are protected from external contamination.

The European Commission is concerned about the deteriorating situation in the West Bank and Gaza where 40% of the population depend on humanitarian aid. The deteriorating living conditions are a direct consequence of the conflict and its spiral of violence. The separation Wall has affected hundreds of thousands of people, cutting off

entire villages from access to water, livelihoods, farm lands, businesses and essential services like healthcare and education. A policy of closures and movement restrictions further limits reliable access to vital goods

and services and hampers the work of humanitarian actors. The considerable decline in the quality of essential services such as health and education and the economic and/or physical inability of most Palestinians to access them have combined to depress household incomes, exhaust assets and coping mechanisms, and erode basic living conditions. Between 1.7 and 2.2 million people

(47 to 60% of Palestinians) now live below the poverty line on less than \$2 (€1.54) per day. More than 600,000 people (16% of the population) cannot afford to meet their basic needs in food, shelter and clothing

European solidarity will continue to be expressed in practical assistance. Europe's commitment was underlined in November 2005 by the Commissioner for Development and Humanitarian Aid, Louis Michel, when he told refugees in Khan Yunis, Gaza: "Be sure that Europe does not forget you; we will never let you down. The agreement I just signed [providing €14 million to UNRWA's food aid programme] is a clear sign that we are and will be supporting Palestinian refugees. The EU has no other agenda than to help build sustainable peace and prosperity."

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Ceremony to celebrate completion of the shelter rehabilitation programme financed by the European Commission, Homs refugee camp, Syria.

Reparations for Palestinian refugees

by Lena El-Malak

Israel's failure to provide reparations to Palestinian refugees over the past six decades is in blatant violation of international law.

The abysmal failure of the Oslo process is in no small part due to its failure to provide some form of reparations to Palestinian refugees in accordance with principles of international law. Instead of redressing the historical injustice that is at the core of the Israeli-Palestinian conflict – the *Nakba* (catastrophe) – the Oslo process relegated the issue of refugees to final status negotiations.

Reparations may take various forms: restitution of lost property, compensation for damages incurred, an acknowledgment of the harm done or a combination of all. Under international law, “reparation must, as far as possible, wipe out all the consequences of the illegal act and re-establish the situation which would, in all probability, have existed if that act had not been committed.” Following the flight of an estimated 726,000 refugees from Mandate Palestine to neighbouring Arab countries, the Israeli Cabinet voted in July 1948 to bar the refugees’ return to their homes, and adopted legislation aimed at denationalising them en masse and expropriating their property.

The status of international legal norms at the time still allowed some scope for debate of the legality of these measures. However, the intention of the international community with regard to the Arab population of Mandate Palestine was made unequivocal by the adoption of two UN General Assembly Resolutions in 1947-48. In resolution 181 – the so-called Partition Plan – the General Assembly called on both the Jewish and Arab states-to-be to grant citizenship to the respective minority residing on their territory. Resolution 181 provided additional guarantees to the minorities in both states by

prohibiting the expropriation of land owned by an Arab in the Jewish state and vice versa, except for public purposes, and stating that “in all cases of expropriation full compensation as fixed by the Supreme Court shall be paid previous to dispossession.”¹ The subsequent denationalisation of Palestinians en masse by Israel in order to prevent them from returning to their homes and the expropriation of their property could therefore not have been condoned by the international community.

Additionally, in 1948 the General Assembly adopted resolution 194 which resolved “that the refugees wishing to return to their homes and live at 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 of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible.”²

Yet, almost 60 years later and despite an annual reaffirmation of resolution 194, Israel continues to preclude refugees from returning to their homes. It has also failed to reconstitute any of their property and provide compensation for their losses. Although the international community voted resolutions in favour of the rights of return, restitution and compensation, it has not exhibited sufficient political will to enforce these rights. The importance of providing reparations in international law must not be undermined. Beyond the moral significance of redressing a historical injustice, insistence that states have an obligation to provide reparations (restitution and/or compensation)

for giving rise to the conditions that create refugees would serve as a deterrent to states which resort to expulsion and population transfers to create or reinforce ethnically homogenous entities.

During the 1990s the Balkan Wars reinvigorated international focus on the need for repatriation and reparations, yet once again Palestinians were a case apart. For Palestinian refugees the ‘Oslo Peace Process’ simply enshrined their marginalisation. The international community’s failure or unwillingness to put pressure on Israel to provide reparations does not only have implications for the Palestinian refugees of 1948. This political impotence has given Israel the green light to displace hundreds of thousands of Palestinians over the decades – and, most recently, even Lebanese civilians – with the full knowledge that, once again, it would not be called upon to provide reparations to those it has wronged.

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See also:

- Leckie, S Peace in the Middle East: getting real on the issue of Palestinian refugee property, FMR 16 www.fmreview.org/FMRpdfs/FMR16/fmr16.14.pdf
- Lee, Luke T, The Issue of Compensation for Palestinian Refugees www.arts.mcgill.ca/MEPP/PRRN/lee.html

1. UNGA res.181 (II), 29 November 1947.

2. UNGA res. 194, 11 December 1948 [www.badil.org/Documents/Durable-Solutions/GA/A-RES-194\(III\).htm](http://www.badil.org/Documents/Durable-Solutions/GA/A-RES-194(III).htm)
See also www.badil.org/Solutions/restitution.htm for more background documents.

The politics of Palestinian refugee participation

by Juliette Abu-Iyun and Nora Lester Murad

Palestinian refugees should be allowed to choose and decide, based on informed opinions, whether or not they wish to return to their homes. This is their legal and moral right. Is it also their right to participate in discussions about their future? If so, how should they participate?

Since the PLO signed the Oslo Accords in 1993, and even more so since the death of Yasser Arafat – their historic protector – in November 2004, many refugees feel vulnerable. They wonder if there is room within the Oslo framework – which recognises the right of Israel to exist while relegating the refugee issue to final status negotiations – to exercise their right of return. They fear the Palestinian Authority (PA) could give up refugee rights in exchange for a Palestinian state, limiting refugees' return only to the boundaries of a truncated Palestinian state.

Concerned by the implications of Oslo, refugee activists began to build a grassroots popular movement. Over the last decade, numerous gatherings in locations across the globe have produced sophisticated demands and recommendations with the aim of increasing refugees' participation in discussions relating to their present and future. Refugees want to participate because they believe only refugees themselves can be trusted not to compromise on – or to sign away – the right of return.

Despite calls by Palestinian intellectuals, public figures and legislators for a more central role for refugees, the views of common refugees were not solicited during negotiations with Israel. Nobody has proposed a comprehensive strategy for refugee participation. Neither international organisations, educational institutions, Palestinian political parties, UNRWA nor host countries have given refugees in Palestine or in the diaspora the information they need to evaluate political developments. No

mechanisms have been established to involve refugees in political processes.

Many refugee advocates insist that a future Israeli-Palestinian peace agreement should guarantee both the principle and the implementation of the right of return, after which refugees will be supplied with adequate information to choose among such options as voluntary repatriation, local integration or third country resettlement. Many of these advocates argue that discussing refugees' choices prior to securing their rights in an agreement might undermine realisation of refugees' rights. They maintain that the right of return is not negotiable, so 'involving' refugees prior to securing their rights is unnecessary and potentially harmful.

Innovative initiative to listen to refugees

'Time for Them to Speak and for Us to Listen' was a project implemented over 15 months in 2004-2005. It provided Palestinian refugees with impartial information about issues related to the right of return and sought to document refugees' voices about the information presented to them and to discuss the role they want to play in addressing their plight. The project involved extensive community preparation, nurtured an understanding of participatory processes and built local research capacity. Education sessions were run by trained refugees and an educational booklet was prepared and distributed. The study's findings and analysis were shared with refugee representatives, activists and experts.

When given the chance to express their informed opinions, Palestinian refugees expressed their strong desire to participate in exploring solutions to their plight. Most participants insisted that refugees' views are the most meaningful information upon which decisions about their future should be made. They saw participation as a way to raise awareness of their suffering and needs, and as a way to make refugees voices heard in the decision-making process.

Participatory processes are time consuming, difficult to implement in conflict situations and inherently politically charged. We faced significant challenges to the credibility of the project, the implementing organisation and the funders, despite the fact that all field staff were Palestinian and many were refugees. Members of the Popular Committee in the Qalandia refugee camp – non-elected leaders of various political factions – insisted that we need not solicit opinions from a random sample of refugees. Some refugee leaders in Qalandia were so suspicious of the project's objectives that, after many months of community meetings, they decided not to participate. In their opinion, the right of return is sacred and should not under any circumstances be subject to any studies or discussions with refugees. They disapproved of our insistence on involving ordinary refugees and not only political leaders. The common refugee, they argued, is not sophisticated enough to resist manipulation and should not be given information that might reduce their expectations. They want refugees educated about their right of return but without emphasis on their right to choose whether to return.

Refugees in nearby Jalazon camp did agree to participate. Research findings and the process were enlightening. The study exposed a profound lack of factual knowledge, especially among youth and female participants. They were able to articulate

complex analyses that acknowledge the difficulties of implementing the right of return but could not cite details about relevant international resolutions. They did not know the specific positions of Palestinian, Israeli and international parties on the right of return. Most were unaware that they have both the legal right to compensation and the right of return. This calls into question the benefit of opinion polls and other quantitative research that asks refugees' opinions without finding out if refugees understand the meaning of such terms as 'repatriation', 'compensation' and 'international law'.

Participants stressed that any agreement that negates refugees' right of return will be rejected: while it may bring about a sort of 'peace', it will not end the conflict. They want to be part of discussions and decision making, not simply to choose among options formulated on their behalf. They emphasised the legitimacy of the PLO as the sole representative of the Palestinian people, including refugees, but also said it was not adequately representing the opinions of refugees – either in the West Bank, Gaza or the diaspora. They were highly critical of the lack of consultation with refugees and lack of transparency in the negotiation process. They criticised the absence of democratic mechanisms to enable them to elect their leaders. They suggested that elections be held to select a trustworthy body of refugee representatives who would become the focal point within the PLO for any negotiations on refugee issues. They insisted on their right to nominate less corrupt and more competent negotiators, and emphasised the importance of involving ordinary refugees, not just intellectuals and leaders.

Based on our experiences in Qalandia and Jalazon camps it is evident that



Paul Jeffries/ACT International

mechanisms allowing refugees voices to be heard in the political process are sorely needed. The global trend towards beneficiary participation and leadership in humanitarian contexts is insufficient – refugees deserve also to participate in the political processes that determine their fate. At the end of our initiative, study participants indicated they wanted more. They called for more participatory awareness-raising campaigns for all Palestinians, better organisation within the refugee community, active and open dialogue with the Palestinian leadership, a more active role for the PA Department of Refugee Affairs and meetings between refugees and experts in international law.

We are aware that refugees were expressing their views at a specific historical moment: Arafat had just died and the PA was controlled by Fatah. Would their positions be different today after the election of a Hamas-dominated parliament? Would their positions be different if they were presented with actual options to be implemented in the context of establishment a recognised Palestinian state? Does a group-

level agreement on refugee options undermine refugees' individual rights under international law? How might participation itself transform the refugee community? How might refugee participation affect the democratic nature of a future Palestinian state? We hope that future participatory research will explore these issues.

'Time for Them to Speak and for Us to Listen' was implemented by a team of researchers at the Ramallah-based Palestinian Center for the Dissemination of Democracy and Community Development (Panorama) www.panoramacenter.org It was carried out with the aid of a grant from the Middle East Expert and Advisory Services Fund, which is managed by the International Development Research Centre (IDRC), Ottawa and financially supported by the Canadian International Development Agency (CIDA) and IDRC, in cooperation with Foreign Affairs Canada. Juliette Abu-Iyun was project director and Nora Lester Murad a researcher/ editor. To obtain the complete report, email: jabuiyun@yahoo.com or NoraLesterMurad@gmail.com

Negotiating checkpoints in Palestine

by Sheerin Al Araj

In Palestine I can never drive for more than half an hour without being stopped at checkpoints. Soldiers irritate me with the same questions, the same procedures, time and time again. No value is put on the time of a Palestinian.

Landing at Heathrow was for me like landing at any other airport in the world – lots of questions and answers, for my head scarf makes me suspect wherever I go. It is always me who is ‘randomly’ chosen to be questioned. On the day of my arrival my family called me. I told them of my amazement. I had driven for four hours without once being stopped or asked any questions!

I used to be co-director of a project where youth from the Middle East, including Palestine and Israel, were brought together to talk about what they had in common and their differences.

There are two semi-independent road networks in the West Bank: the elaborate, well-paved, well-signed, well-marked, well-lit one reserved for Israelis and the broken, potholed, blockaded one we have to use. Each morning I would leave home 90 minutes earlier than I would have had to if there had been no obstacles between my home and my office eight miles away. It was an endless process of humiliation. Every day a new rule, regulation or military order. Even an extensive knowledge of all the tricks one needs to deal with hostile soldiers, who believe they have power to do whatever they want, did not help. I knew that I should try to relax, for it would not help to play their game and get wound up. Giving the ‘wrong’ answer could cause a huge problem, not only for me but also for all the people waiting at the checkpoint behind me and those who would come along later in the day.

I saw many sent back because they did not have the ‘correct’ papers or had presented themselves at the wrong checkpoint. Frequently people were turned back simply because a soldier could not read their documents. Many were cuffed or beaten for arguing with the soldiers or for trying to understand, or explain, something. Men with long beards were cursed as soldiers tugged



Esti Tshbi/Machsomwatch

at their beards. Some were asked to take off clothing and submit to the humiliation of being sniffed by a dog. I saw many young men sent to the *jora* (pit), a West Bank purgatory, a holding pen where Palestinians can languish for hours until cleared by Israel’s internal security, the Shin Bet. Once I came across a man pleading in vain with soldiers to allow him to pass in order to collect his son’s corpse from the hospital where he had died. Every day, as we Palestinians waited in the searing heat, Israeli settlers in their air-conditioned vehicles would bypass the checkpoints in their special lanes. Many checkpoints have developed their own economies on the Palestinian side as vendors sell water and snacks.

I am one of the lucky people because I hold a blue Jerusalem ID card. I am a permanent resident – but not a citizen – of Israel. My Jerusalem ID often allowed me to pass through checkpoints when others in the queues were turned back.

At home and in my community people looked at me, for I stood out – a peace activist Muslim woman driving away each day to work on building a peace which seemed ever more elusive and a waste of time. The worst nightmare was a sudden closure when I was coming home. I had nowhere else to go so had to wait in my car at the checkpoint, hoping for a miracle. This added to the pressures in my life. I live in a traditional, conservative society. I could see the silent rebuke in people’s eyes for having stayed out for very long hours and having been with strangers in a volatile environment in which anything can happen.

Studying here in the UK – getting to understand the human rights regime, its mechanisms, successes and failures – is frustrating. It has become clearer to me that in Palestine, or rather the little that is left of it, our situation is unique. Resolutions of the General Assembly and decisions of the International Court of Justice count for nothing. Refugees are not refugees when they are Palestinians. We are foreigners in our own land.

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The turnstiles at Beit Iba checkpoint.

Policing thought on Palestine

After the terrorist attacks of 11 September 2001 academic freedom in the United States is facing its most serious threats since the McCarthy era. A new publication argues that freedom to pursue critical thinking about the Middle East, most particularly Palestine, is under sustained attack.

The storm of controversy sweeping American campuses is not a result of internal activism or clashes. The escalating tensions are a product of professionally organised external interventions by well-funded special interest groups intimately tied to the coalition of forces in the Bush Administration – militaristic nationalists, Israeli lobbyists, the evangelical Protestant Zionist electoral base of the Republican Party and the military industries that promote the US-Israeli alliance as a business asset. They attempt to depict ‘Islamic terrorism’ as the primary evil and source of fear and propose phrases like ‘war on terrorism’, ‘clash of civilisations’ and ‘axis of evil’ as serious explanations for what is happening in the contemporary Middle East.

Universities and colleges have been a particular target of policing what may be thought and said about the Middle East because they are among the few institutions where intelligent political discourse remains possible in the United States. The Middle East Studies Association of North

America has been subjected to a barrage of intemperate attacks by neo-conservative pundits determined to shield Israel from criticism and to prevent faculty, staff and students from suggesting that universities should disinvest from companies supporting the Israeli occupation of the West Bank and Gaza Strip.

Students and faculty connected academically or culturally to Muslim and/or Middle Eastern countries are being identified as suspect both in their loyalties to the United States and in their ethical commitments to the pursuit of knowledge. Racist profiling and scapegoating are common in websites that compile lists of ‘un-American’ professors critical of US foreign policy in the Middle East. Charges of anti-Semitism are routinely levelled against critics of Israel. Jewish scholars critical of Israeli policies towards Palestinians are ludicrously described as ‘self-hating Jews’. These notions are being propagated by circles close to the government of the most powerful country in human history in concert with unprecedented assertions

of a right to make and unmake regimes throughout the world, especially in the Middle East.

Powerful lobbies seek to de-fund Middle East centres and establish think-tanks that will provide for the press and government a ready stable of ‘experts’ who can shape knowledge about the Middle East. Most of those who have attacked Middle East scholars spend their days in think-tanks where they are paid to hobnob with foreign policy makers and mass-media opinion makers. They write op-eds and policy think pieces and for the most part do not engage in the primary recognised activities of scholars: teaching and research.

The determination of many Jewish organisations to delimit the boundaries of permissible discussion of the Middle East at colleges and universities is motivated in large part by a desire to keep young American Jews in the ‘pro-Israel’ camp as they define it. They seek to convince legislators that there is a wave of anti-Semitism on American campuses. Paradoxically, by failing to make a clear distinction between anti-Semitism, which should always and everywhere be opposed, and anti-Zionism, which is a legitimate political opinion, organisations such as the B’nai B’rith Anti-Defamation League have exposed American Jews to attack because they were identified with Israel.

The virulently anti-intellectual nature of the 9/11 attacks is mirrored in the war launched in response. Campaigns of surveillance, intimidation and control, if unchecked, will not remain confined primarily to scholars who study the Middle East.

Academic Freedom after September 11, edited by Beshara Doumani is published by Zone Books, MIT Press, March 2006. ISBN 1-890951-61-7. The above text draws significantly on chapter seven by Joel Beinin (online at: www.censoringthought.org/beinin.html).

Roger Waters,
founding
member of
Pink Floyd,
graffitis
the Wall.



War on Want

What future for young Palestinians in Jordan?

by Jason Hart

Muna, aged 12

In those months when she attends school on the 'morning shift', twelve-year-old Muna gets up at around 6am. Her twenty-year-old sister, Randah, is usually the first person awake. Having already completed her prayers, Randah is busy making the final preparations before leaving for work. Soon Um Khaled sits up on her thin mattress, observing the preparations of her daughters and offering warnings and instructions. Then, after a quick cup of tea and a piece of bread, Muna steps around her older brothers, still sleeping on the floor, and heads up to the main street for the five-minute walk to school.

Weaving her way through the cramped classroom which she shares with 48 other girls, Muna squeezes onto a small bench next to her best friend, Laila. Apart from a short break at around 9am, Muna and her classmates remain busy with their studies until the day's end at 11.15. The sound of the school bell rings behind them as Muna and a crowd of friends exit from the playground gate. Stopping only to buy some bread for her mother and a small snack for herself, Muna is soon back home, changed out of school uniform and engaged in household chores.

The remainder of her day will be spent cooking, washing dishes, making tea for guests or family members, and tending to her young nephews and nieces. In between these various tasks she does her homework and watches some television until around 10 or 11 o'clock when she lays a mattress on the floor next to Randah and falls asleep.

In many respects Muna's daily life is typical of girls of her age from impoverished families throughout the Arab world: a quiet routine of study and housework in cramped conditions with relatively few opportunities for leisure pursuits. However, less typically, Muna's life

and future are the direct object of political discourse and negotiation on local, national and international levels – for twelve-year-old Muna was born and lives in Mukhayyam al-Hussein, an UNRWA-administered refugee camp housing some 50,000 people in Amman. Her grandparents were born in villages in what became Israel in 1948. Her parents were born in Gaza, at the time under Egyptian control, and fled to Jordan in the wake of the 1967 War. Muna's name is listed in the small blue book held by her family, proving that they are registered as refugees with the United Nations. The right of Muna, her family and her neighbours to return to Palestine has been stated clearly in resolutions of the UN and has remained central to the discourse of and about the refugees ever since 1948.

At the same time, Muna is also, in many respects, a Jordanian. She was born in Jordan and, apart from a brief trip to Iraq several years ago, she has never left that country. Although her education is paid for by the international community, and her teachers are registered refugees themselves, she studies the Jordanian curriculum. Her parents and older siblings all hold Jordanian passports and soon she will be entitled to do so too. However, since they are considered 'Gazan', their passports must be renewed every two years, instead of the customary five. With the different nationality status come certain restrictions.

The stalling and ultimate abandonment of the Oslo Peace Process, within which the fate of the five million or so refugees was due to be discussed, has left the future of young people like Muna profoundly uncertain. Will hers be the generation that ends the exile of more than half a century and redeems the homeland? Will they be fully absorbed and integrated into Jordanian society? Will economic and political circumstances cause them to leave Jordan in search of better opportunities abroad, as many have done before them? Would

other states allow such movement in an era of increasing border control? Or will Muna and her generation be instrumental in the creation of a pan-Islamic community, transcendent of these national borders?

Muna at 21

These are questions that I asked in my doctoral thesis in the late 1990s. Today Muna is married. Some day soon she may well become a mother. Her children will be part of a new generation in whom the 'international community' will probably show as little interest as it did in their parents. Keep them housed, provide the minimum of services and hope the refugee 'problem' will go away. But Muna will never forget where her parents came from, and the reason why she grew up an impoverished 'Gazan' in a refugee camp. Her children will know this too. And what of their future?

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New director for RSC

The Refugee Studies Centre is delighted to announce that Professor Roger Zetter has been appointed as the new director of the RSC, starting on 1 October. He joins the RSC from Oxford Brookes University. Professor Zetter's research encompasses the impacts of international humanitarian assistance, the experience of protracted exile, repatriation and post-conflict reconstruction. His work has been based in Southern Africa, the Middle East and more recently in Europe where he has been exploring the causes and consequences of European deterrence and restrictionism.



www.rsc.ox.ac.uk

Clarifying local integration

by Sarah Meyer

Ana Low's article in FMR 25¹ highlights the need to re-examine and re-invigorate debate on local integration as a durable solution for refugees. However, the Self-Reliance Strategy (SRS) in Uganda which she describes does not provide an adequate model of local integration as a durable solution – in fact, local integration is not its aim.

Renewed academic and policy focus on local integration is reflected in the recent UNHCR Executive Committee statement on Local Integration and Self-Reliance (UNHCR, 2005).² Crisp is clear that “local integration can be regarded as a process which leads to a durable solution for refugees.” While Crisp argues that this process may not necessitate naturalisation, he maintains that “the notion of local integration is based on the assumption that refugees will remain indefinitely in their country of asylum and find a solution to their plight in that state”, sharply distinguishing this approach from local settlement and self-reliance, which does not imply permanent asylum of any form.³ This is echoed in such policy documents as the UNHCR Global Consultations paper on Local Integration (UNHCR, 2002). They highlight the differences

we still think that the best solution to the problem of refugees is return

between self-reliance – as a potential precursor to local integration, or an element of de facto local integration – and local integration as a durable solution. There needs to be a clear distinction made between de facto local integration in contexts where host governments still clearly prioritise repatriation – as is the case in Uganda – and cases where full local integration is accepted as a durable solution.

However, Ana Low's analysis conflates self-reliance and local integration. This confusion was also evident in UNHCR's 1997 *State of the World's Refugees*, which stated that

Uganda's self-reliance policies were based on “the aim of facilitating their long-term integration.” Yet Uganda's refugee policy prioritises repatriation as the preferred durable solution.

In interviews conducted in Kampala and Arua Government of Uganda (GoU) officials were quick to clarify that, despite utilisation of the term ‘integration’ in policy documents, the preferred durable solution is still repatriation. Their Commissioner for Refugees stated in 2005 that “we still think that the best solution to the problem of refugees is return; we still emphasise that in our policies.” Indeed, GoU officials express concern that the SRS be interpreted not as accepting ongoing refugee presence but rather as initiating a developmental process to mitigate the negative impact that refugee-hosting is perceived to have had in refugee-hosting areas in Uganda. Promotion of self-reliance is clearly an interim measure in the context of an over-arching commitment to repatriation as a durable solution.

Ana Low's article further argues that in Uganda the “Local Governments Act encouraged participatory decision making and led to the establishment of Refugee Welfare Councils to identify and respond to development needs of refugees.” Yet many of the shortcomings of the SRS resulted precisely because the overall decentralisation process in Uganda has not seen a parallel devolution of control of refugee policy or functions. There has been, in fact, a concomitant process of re-centralisation of control and power over refugee issues.

The responsibility for refugee policy and programmes was transferred from the Ministry of Local Government to the Office of the

Prime Minister (OPM) in 1998 within which the Ministry of Disasters and Emergency Preparedness was established, with refugee policy as a central focal point. The placing of control over refugee affairs in OPM ensures administrative, political and social separation of refugees and refugee-related issues from district planning and political processes. District development planning processes do not include refugees. The Arua District Planner reflected, “I am not aware of any consultations going on with refugees.” The Refugee Welfare Council system is explicitly confined to the refugee settlements, with access to the district planning process dependent on the OPM representative (the camp commandant) who may take the refugees' views forward but without the possibility of refugees themselves having access to a consultative or decision-making process at the district level, where development planning occurs. There are still significant blocks to social and political integration for refugees in Uganda – obstacles that were not addressed by the SRS.

In a context where repatriation is the stated government priority, where refugees suffer social, political and economic exclusion through the settlement system, and where refugee policy is divorced from the district level, it is indeed questionable whether the SRS was either developed or implemented as an integration strategy.

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1. Ana Low, ‘Local Integration: a durable solution for refugees?’, FMR25 www.fmreview.org/FMRpdfs/FMR25/FMR2538.pdf

2. www.refugeecouncilusa.org/ngo-stat-sreliance72905.pdf

3. Crisp, Jeff (2004). “The local integration and local settlement of refugees: a conceptual and historical analysis,” *New Issues in Refugee Research*, Working Paper No. 102, (www.unhcr.org/cgi-bin/texis/vtx/research/pendoc.pdf?tbl=RESEARCH&id=407d3b762)

High-Level Dialogue on International Migration



UNHCR wishes to bring the following observations and recommendations to the attention of the High-Level Dialogue (HLD) on International Migration and Development, to be held in New York, 14-15 September 2006:

Refugees have specific rights and needs.

Refugees are a distinct category of people by virtue of their need for international protection. UNHCR urges the HLD to reaffirm the international community's longstanding recognition of the specific rights and needs of refugees, including the fundamental obligation of states to refrain from returning them to countries where their life or liberty would be at risk.

Human rights are applicable to all people who are the move.

UNHCR underlines the importance of ensuring that the rights and labour standards of all refugees and migrants are upheld. The core UN human rights instruments are universal in their application and generally apply to both citizens and non-nationals, including those who have moved in an irregular manner.

Measures to curb irregular migration must not prevent refugees from gaining access to international protection.

Movements of people from one country and continent to another are often 'mixed', in the sense they include some who are in need of international protection and others who are not. In the context of mixed movements, UNHCR urges the HLD to acknowledge that the measures taken to curb irregular migration must not prevent refugees from gaining access to the territory and asylum procedure of another state. In addition, UNHCR underlines the importance of taking other steps to diminish unfounded applications

for refugee status. These include the implementation of migration information programmes, the establishment of channels that enable non-refugees to migrate in a safe and legal manner, and the implementation of development projects that provide additional jobs and livelihoods opportunities in countries of origin.

Refugee protection and migration management are distinct yet complementary activities.

UNHCR encourages the HLD to recognise that refugee protection and migration management are distinct yet complementary. As well as entailing high levels of human suffering, irregular migration can place serious strains on national asylum systems and provoke public hostility towards foreign nationals, thereby undermining effective refugee protection. At the same time, refugees and asylum seekers who are unable to find protection where and when they need it may feel obliged to move on in an irregular manner, looking for safety and security in other countries.

Development is more than simply economic growth.

UNHCR encourages the HLD to interpret the notion of development in an inclusive manner, rather than using it as a simple synonym for economic growth. In this context, UNHCR recalls the UN Declaration on the Right to Development, which states that "the right to development is an inalienable human right, by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and

political development, in which all human rights and fundamental freedoms can be fully realized."

When given the opportunity to do so, refugees can become agents of development.

Refugee influxes, especially when they are large in size and concentrated in specific locations, can have negative consequences for the development of host countries and communities. At the same time, refugees can become agents of development if they are provided with an opportunity to make use of their skills and productive capacities while living in a country of asylum. UNHCR calls on states participating in the HLD to ensure that refugees are enabled to participate in national labour markets, that they are able to engage in agricultural and income-generating activities, and that the qualifications they possess are recognised in their country of asylum. At the same time, UNHCR encourages the international community to target development assistance at refugee-populated areas and to ensure that such areas are incorporated in national development plans.

Refugee repatriation can support the peacebuilding process.

Large-scale repatriation movements present the international community with both challenges and opportunities in the areas of development and peacebuilding. In order to capitalise upon the opportunities, UNHCR encourages states and other actors participating in the HLD to give sustained support to the return and reintegration of refugees and IDPs, including efforts to promote new livelihoods, to rebuild shattered infrastructures and to foster harmonious social relations amongst different groups of citizens. UNHCR also encourages the HLD

to support the early involvement of the development community in planning for return and reintegration and examine ways of ensuring that short-term humanitarian aid is linked more effectively to longer-term development initiatives in returnee-populated areas.

Promoting social inclusion and tolerance can

maximise the development impact of migration.

Refugees and migrants are confronted with racism and xenophobia in many parts of the world, and are often at risk of becoming marginalised in society and the economy. UNHCR wishes to draw the HLD's attention to the dangers of this situation, both for the rights and well-being of refugees and migrants themselves, and for the cohesion of the societies

in which they live. UNHCR urges states participating in the HLD to counter all forms of intolerance and to take active measures to promote the inclusion and economic participation of non-nationals, especially refugees and migrants.

For more information on the High Level Dialogue on International Migration and Development, see www.un.org/esa/population/hldmigration/

Mediterranean migration: a comprehensive response

by Erika Feller

Ensuring an effective, coherent and humane response to mixed migratory movements remains a major challenge.

Growing numbers of people, primarily from sub-Saharan Africa, are making their way across the Mediterranean and Atlantic oceans in the hope of entering European Union countries such as Spain and Italy. We do not know exact numbers but we do know that the people concerned are placing themselves at great risk. Rarely a week passes without news of an unseaworthy boat that has sunk with all its passengers on board, of dead bodies washed ashore on holiday beaches and of people who have paid huge sums of money to unscrupulous human smugglers whose last concern is the welfare of their clients. We also know that some of the people in transit across the Mediterranean are the victims of human traffickers – women and children who, even if they reach land safely, will be condemned to a life of exploitation and abuse.

In addition to the threat that it poses to human life and human rights, the movement of people across the Mediterranean has a number of other important consequences. Because such movements are irregular in nature, they can give the impression that the countries of destination are no longer in control of their borders and can thereby contribute to the xenophobic sentiments that are to be found in many parts of the EU.

Countries of transit in North Africa are confronted by growing numbers of people who congregate in coastal cities, waiting for the opportunity to leave. When ships' captains

discover stowaways or encounter people in distress on the high seas, it is often unclear where and when those people can be disembarked.

An issue of particular concern to UNHCR relates to the mixed nature of the movement of people across the

The Italian Coast Guard intercepts a boatload of African asylum seekers and immigrants.



UNHCR/J. Bolchini

Mediterranean. From the evidence collected by UNHCR, it would appear that most have left their country of origin for the EU in order to find a job, earn some money, gain new skills and generally improve their prospects in life. But we also know that a proportion of these people come from countries where they are at serious risk of persecution and human rights violations. Such people are refugees and, as such, they have a right to international protection.

Challenges

The presence of refugees among a larger group of migrants, some of whom may also intend to use the asylum channel as a means of entering and remaining in Europe, presents UNHCR and other members of the international community with some important challenges. First, and in addition to the immediate task of saving lives, systems and procedures have to be established in order to identify those people who are in need of asylum. Second, we must ensure that any measures taken by states to curb irregular maritime migration do not prevent refugees from gaining the protection to which they are entitled. Third, we need a clearer understanding of the roles and responsibilities of the different actors involved (countries of origin and transit, international organisations and shipping companies) when people are intercepted or rescued at sea. And, finally, we have to ensure that all of those people who have travelled – or who hope to travel – to Europe by sea find a lasting solution to their situation, whether or not they are recognised as refugees.

These are complex and difficult issues. A number of different fora have already been established for consultation and cooperation on migration issues in the Mediterranean region. But securing an effective and coherent response to mixed migratory movements – that includes the protection of refugees and asylum seekers – remains a major challenge.

Our first objective is to identify those people who are in need of asylum and international protection. In this respect, we need to think in terms of a channelling mechanism to differentiate individual cases, register claims to refugee status and provide counselling to the people concerned. In UNHCR's experience, this is essential both to assess the validity of each case and to correct false expectations.

We also need to consider the accommodation arrangements provided for people who are waiting



an effective channelling mechanism that differentiates between individual cases after disembarkation might prove to be an important means of preserving this important principle.

Our third objective is to arrive at a clearer understanding of respective roles and responsibilities in the case of interception or rescue at sea. There are no definitive rules on the allocation of responsibility for the disembarkation of rescued persons and long delays can unfortunately sometimes occur. It is nevertheless a strong maritime tradition to come to the rescue of those who are in distress at sea, and this tradition has been codified to some extent in instruments such as the 1974 Convention on Safety of Life at Sea¹ and the 1979 Maritime Search and Rescue Convention².

After a rescue at sea operation, an office of the Italian Coast Guard Patrol helps to examine a rescuee.

Recent amendments to these Conventions seek to clarify responsibilities, especially when it comes to the issue of disembarkation. Guidelines on this matter have also been developed by the International Maritime Organization (IMO).³ Effective implementation of these guidelines is essential if the international community is to address this issue in a coherent and effective manner.

for their cases to be assessed. The limited facilities on board ships are clearly inadequate. We may therefore have to consider the possibility of establishing reception centres that provide temporary accommodation in coastal areas, where individuals and families can be provided with shelter, food, health care and other basic needs.

Our second objective – and one that is closely linked to the first – is to ensure that border control measures do not prevent refugees from gaining access to asylum procedures. States have, of course, legitimate right to control and secure their borders. However, interception at sea and other measures that are taken to curb irregular maritime migration should not result in violations of the *non-refoulement* principle which prevents people from being returned to countries where their life and liberty would be at risk. The establishment of

Our fourth and final objective concerns the need for lasting solutions for all those people engaged in irregular maritime migration, whether or not they are recognised as refugees. What, for example, should happen to those individuals deemed to be in need of international protection? Once they have been granted refugee status, can they be offered residence rights and integration opportunities locally, or does resettlement in a third country offer a more viable solution? With respect to those not in need of international protection, how can they be assisted to return home in humane conditions or, when this is in everyone's interest, to regularise their status in the country where they are to be found?

There is also a need to find longer-term solutions to the problem of irregular maritime migration. To what extent, for example, can

information programmes be used to discourage economic migrants from setting out on long and dangerous journeys? And how can the protection capacities of countries of first asylum be strengthened so that refugees and asylum seekers do not feel obliged to move from one country and continent to another in order to feel secure and to meet their basic needs?

In the 1980s, many thousands of people from Vietnam and Cambodia set to sea in the hope of reaching South-East Asian countries such as Malaysia, Singapore, the Philippines and Thailand. To address that movement, the international community established a Comprehensive Plan of Action that

was intended to ensure the welfare of all these 'boat people' and to provide protection and solutions for those who qualified for refugee status. While the circumstances of the current movement across the Mediterranean and Atlantic are somewhat different, a similar approach is now needed, involving a coherent and interlocking cluster of measures, agreed to by countries of origin, transit and destination and supported by international organisations such as UNHCR and IMO.

Conclusion

The pattern of migration that we are witnessing in the Mediterranean

today is not, in essence, a refugee situation. But the movement of people with a need for asylum and international protection is a feature of it. It is not an unmanageable situation and there is scope for action. It is a problem for individual states though it has no specific geographical borders. A comprehensive and collaborative response offers the best chance of success.

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1. www.imo.org/Conventions/contents.asp?topic_id=257&doc_id=647
2. www.imo.org/Conventions/contents.asp?doc_id=653&topic_id=257
3. www.imo.org

The false panacea of offshore deterrence

by James C Hathaway

Governments take often shockingly blunt action to deter refugees and other migrants found on the high seas, in their island territories and in overseas enclaves. There is a pervasive belief that when deterrence is conducted at arms-length from the homeland it is either legitimate or, at the very least, immune from legal accountability.

For example, the US maintains that it has no legal obligation to intercepted refugees, even if they manage to reach its territorial sea. Indeed, the US recently argued that a Cuban asylum seeker – traditionally a highly favoured group under its domestic law – could not assert a right to protection because the bridge where her tiny boat landed had been disconnected by storms from the American mainland.

When some 10,000 persons managed to reach the Italian island of Lampedusa this year, Italy responded by discontinuing its traditional practice of sending them to Sicily for processing of protection claims. Instead, the BBC reports that the "migrants were despatched back handcuffed in military planes from Lampedusa direct to Libya. No questions asked."

Spain erected dual razor-wire fences around its North African enclaves of Ceuta and Melilla to deter groups of largely sub-Saharan migrants anxious to enter the European Union. Even those who successfully scaled the barriers were often summarily sent back to Morocco, which is reported simply to have dumped them in desert border zones. The 'success' of this deterrent programme put renewed pressure on the Spanish Canary Islands, a favoured destination until 2002 when radar and sea patrols were instituted to deter travel from Morocco to the Canarian islands of Fuerteventura and Lanzarote, some 100 kilometres away. The most recent flows have thus been forced to take a much longer and more perilous route from northern Mauritania to Tenerife. The Spanish government has responded to the upsurge in

arrivals by offering Mauritania patrol boats to stop departures and to set up refugee camps in Mauritania.

Are such practices legal?

The 1951 Refugee Convention and its 1967 Protocol do not allow states to refuse protection to refugees just because they have not yet entered the core of its territory. Simply put, the most basic duties – including the critical duty of *non-refoulement*, requiring states not directly or indirectly to return refugees to the risk of persecution – apply wherever a state exercises jurisdiction. Whether protection is sought on Lampedusa or in Rome, the refugee law implications are identical. It makes no difference whatever if asylum is claimed by a refugee clinging to the outermost razor-wire fence at Ceuta or at a police station in Madrid. Nor may there be any peremptory *refoulement* of refugees encountered by vessels patrolling a state's territorial waters, or even of those intercepted on the high seas. Because jurisdiction is the lynchpin to responsibility, state parties to the Refugee Convention must provisionally honour the rights

of persons under their authority who claim refugee status until and unless they are fairly determined not to qualify for protection.

Despite the clarity of these legal rules, two kinds of argument are made in support of deterrent measures.

The first is that insistence on rigorous respect for the rules of refugee law amounts to allowing the proverbial tail to wag the dog. Because in any given flow towards the developed world today refugees are significantly outnumbered by economic migrants – whose entry can normally be lawfully resisted – it is argued that

It is the refugee's right to decide when the risks of staying put are greater than the risks of setting sail

governments must be free to respond effectively to the dominant (non-refugee) character of the arrivals.

As a matter of law, though, non-selective deterrent measures cannot be justified where genuine refugees are part of a mixed flow. There is no exception to the duty of *non-refoulement* for situations in which the cost or inconvenience of processing claims is great, or where only one in ten entrants is actually a refugee. Nor can states lawfully avoid refugee protection obligations by deciding simply not to assess claims made to them. As UNHCR rightly insists, a refugee does not become a refugee because of recognition, but is recognised because s/he is a refugee. In practice, this means that a person who may be a refugee must be provisionally treated as such until and unless he or she is fairly determined not to qualify for refugee status. Measures which deter refugee claimants from arriving in an asylum state are therefore no less in breach of refugee law than is the removal of a recognised refugee already present in a state's territory.

A second and more complex argument for deterrence is sometimes made on humanitarian grounds. Particularly where refugees and others arrive by sea, often in

rickety or grossly overcrowded vessels, it has been said that departures must be stopped in order to avoid risk to life or limb.

There is, however, a critical legal distinction between sensible efforts to provide information and to make it difficult for traffickers to exploit people on the one hand, and more aggressive efforts actually to stop departures on the other. Whatever the risks, every person has the legal right to make the decision about departure for him or herself. The relevant rule in such cases is not rooted in refugee law but in the requirement in the International Covenant on Civil and Political Rights¹ that all persons be allowed to leave any country, including their own. Allegedly humanitarian steps taken to shut down escape routes – such as the formal agreement between the US and Cuba in 1994 requiring Cuba to “... take effective measures in every way it possibly can to prevent unsafe departures using mainly persuasive methods” – are unlawful and paternalistic. It is the refugee's right – not the prerogative of any state or humanitarian agency – to decide when the risks of staying put are greater than the risks of setting sail.

Until and unless the abuse that causes refugees to flee in the first place is ended, the only real answer is to provide safe alternatives to unsafe routes of escape. While blunt deterrence of refugee or mixed flows is unlawful, states are perfectly free to conceive creative protection alternatives. Most sensibly, the focus should be on the establishment of genuine protection options within regions of origin. Where intra-regional alternatives are truly safe and accessible and deliver rights-based protection, it is likely that most refugees will feel no need to undertake perilous voyages. Indeed, where protection options that meet international legal standards are declined for economic, social or other reasons not related to protection, refugees who travel farther afield may lawfully be returned to their own region. For this reason, a re-emphasis on making real protection available closer to home should be attractive to developed states: while less ‘efficient’ than (unlawful) deterrence, it is, nonetheless, consistent with their more general migration control

objectives. It is also of real value to states in regions of origin, which desperately need binding guarantees of substantial resources to cope with endemic refugee flows. Most critically, it would enhance the welfare of the overwhelming majority of refugees not able or willing to flee beyond their own region.

Discussions along these lines are, of course, already occurring. There is clear interest in exploring both the operational flexibility which refugee law affords, and the value of systems to share out both the responsibilities and burdens inherent in refugee protection. It is not at all clear, however, that present initiatives are based on finding practical ways by which to respond to involuntary migration from within a rights-based framework. Potentially lost in the discussions as they have evolved to date is the imperative to reform the mechanisms of refugee law not simply to avert perceived hardships for states but also in ways that really improve the lot of refugees themselves. If the net result of reform is only to lighten the load of governments, or to renew the capacity of international agencies to meet the priorities of states, then an extraordinary opportunity to advance the human dignity of refugees themselves will have been lost.

The challenge, then, is twofold. Most obviously, we must flatly reject the legitimacy of generalised deterrence which can block refugee flight, including even deterrent measures prompted by genuine humanitarian concern. Second, we should embrace the opportunities which reform of the mechanisms of refugee law affords both to save lives now risked in the flight to asylum and to improve the quality of protection for all refugees in the world, wherever located.

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1. www.hrweb.org/legal/cpr.html

2. www.cambridge.org/uk/catalogue/catalogue.asp?isbn=0521542634

Rule of law in Sudan's Three Areas

by Sebastien Gouraud

The establishment of rule of law is crucial to sustaining peace-building efforts in post-conflict Sudan. In March 2005, UNDP embarked on a major rule of law programme in the isolated and war-torn Three Areas region in order to facilitate people's access to justice.

Abyei, Blue Nile State and Southern Kordofan/Nuba Mountains – an area with a population of around four million – are collectively known as the Transitional or Three Areas. The Comprehensive Peace Agreement (CPA) signed in January 2005 by the Government of Sudan and the Sudan People's Liberation Movement (SPLM) did not resolve whether the region was to be part of Southern Sudan or remain under the control of Khartoum. Protocols agreed between the Government of Sudan and the SPLM in May 2004 recognise the special status of the Three Areas but leave many questions unresolved. Two years after signing of the protocols, the Three Areas – which were at the frontline of the North-South civil war – are now confronted by a large influx of returnees as well as continuous conflict over land, property and natural resources. It is estimated that 300,000 displaced persons and refugees will return to the Three Areas in 2006, the majority to Southern Kordofan and Blue Nile. These large-scale returns, coupled with the lack of absorption capacity in areas of return, pose a clear and distinct threat to human security and sustainable reintegration.

Given the current increase in crime and in land and property claims, plus the general lack of trust in state institutions, it is critical to provide returnees and receiving communities with effective mechanisms to provide protection, resolve disputes and redress grievances. Establishing rule of law in Sudan will require a combination of community-based approaches and capacity building of rule-of-law institutions. They must be reinforced by good governance and political action at the national

and international level. The absence of effective action at community, state, national or international level could undermine the entire North-South peace-building process. It is against this background that UNDP has established its Strengthening Access to Justice and Human Security programme in the Three Areas.

Conflict and violence

It is anticipated that, despite the CPA, violence will continue to plague certain areas of the Three Areas, especially where tensions are high due to the presence of militia, oil interests and the ongoing return process. Many communities are militarised, small arms are readily available and competition over scarce resources is fierce. Expansion of the towns and their surroundings during the period of return and reintegration is bound to aggravate matters and lead to increased levels of criminal activity.

Land rights are traditionally derived from ancestors and often collectively owned by the community or tribe. For the most part, a formal registration or documented ownership scheme is absent. However, in urban areas land and property are increasingly viewed as a legal right based on individual claims and documentation. Many foresee potential problems in the towns, where the authorities have allocated or leased plots to traders, prominent individuals or others who can afford to lease land and property. There are reports of pending or unsatisfactorily resolved cases of ownership in towns like Abyei. In most instances the legitimate owners of property have to go

through lengthy and time-consuming processes to establish their rights, only to be compensated with unattractive plots in the countryside. These initial cases indicate the need to establish a fair judicial resolution mechanism and formal registration of urban property ownership.

With only a few exceptions, women do not enjoy the right to own property under customary law and may face acute problems in reclaiming land or property belonging to the husband or other male family members. Women often bear the sole burden of providing for themselves and their families, and have been thrust into the public sphere in a highly militarised male-dominated environment. Traditional family and community arrangements that provided physical and material security for women and children in the past now afford little protection from criminal elements. Engendering customary and statutory rule of law institutions and mechanisms in the Three Areas remains one of the most formidable challenges to administration of justice reform. Men and women are regarded as very different legal subjects in both the formal and informal realms and women tend to be excluded from leadership or significant public decision-making fora.

UNDP's Access to Justice Initiative

To try to respond to these issues, UNDP – in coordination with the International Rescue Committee – has established five Justice & Confidence Centres (JCC) in Abyei, Kadugli, Dilling, Lagawa and Damazin. Through these UNDP aims to improve access to justice, foster the reconciliation and confidence process between returnees, local communities and the authorities and engage the authorities in proactive civilian protection.



The human rights outreach activities of the JCC encourage stakeholders to accept their responsibilities in the process of confidence building and to support a culture that respects the rule of law. This entails building the knowledge, capacity and confidence of vulnerable groups to enable them to work towards their own development. Empowerment activities include educating the poor and other vulnerable groups, especially women and IDPs, about legal and human rights, and helping them take legal action. In contrast to conventional human rights training, JCC awareness-raising activities draw on traditional and indigenous conflict resolution, cultural and religious values.

Legal awareness raising helps people understand they are entitled to claim remedies against infringements of their rights. UNDP is supporting the

provision of legal aid, representing clients (communities and individuals) before the authorities and, at the same time, empowering the latter to become more effective and responsive. This involves expanding provision of free legal services to poor, marginalised and indigent groups or communities. Such assistance is relevant for both civil and criminal cases and involves representation in formal court proceedings as well as providing advice and assistance concerning administrative matters that can be determined in quasi-judicial tribunals.

There are currently very few legal professionals in the Three Areas. One of the objectives of the Justice and Confidence Centres is to identify individuals – possibly those with a legal background – to train them as paralegals. The role of the paralegal is to help people solve their legal problems by

liaising between the client and the police, prosecutors and judges.

In addition, UNDP is also supporting public interest litigation to try to change existing patterns of power and privilege. This kind of litigation involves lawyers taking up cases on behalf of interest groups or communities who are largely vulnerable and powerless, such as prisoners, women, the poor and IDPs.

Through their Legal Information & Resource Centres, the JCCs make available legal information and materials – law texts and other regional and international human rights documents and publications – not only to the public but also to judges, lawyers, prosecutors and human rights activists.

Conclusion

The Access to Justice Initiative, which is at the heart of the UNDP Rule of Law programme in the Three Areas, includes capacity building of judicial and law-enforcement institutions as well as support for traditional dispute resolution mechanisms. The return and repatriation of displaced persons to the Three Areas presents a unique array of human security problems which have a direct bearing on the protection of individuals and communities and on access to justice. UNDP's Access to Justice Initiative targets this early recovery phase in order to address immediate protection needs while at the same time bridging the gap between relief and development in an effective and realistic way.

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This article is written in a personal capacity and does not necessarily represent the views of the UN or any other organisation.

Right to education in South Darfur

by Katherine Reid

Education is an absolute right for all children, yet in Darfur children have always had limited access to schooling. Innovative programmes and increased assistance are vital if children in South Darfur are to exercise this right.

Sudan ratified the UN Convention on the Rights of the Child (CRC)¹ in 1990, thus committing itself to protecting and assuring the right to education for all children within its borders – including the right of access to education for young refugees and IDPs. This commitment is of particular significance in Darfur where an estimated two million people have been displaced since the conflict started in 2003.

One of the roots of the crisis is the Sudanese government's long-standing neglect of the region. Schools in Darfur are few and far between, and where they do exist they have traditionally been understaffed and under-funded. Darfur is the exception to the rule about conflicts and education, for today there are more children in school than before the conflict. International humanitarian assistance has enabled more children to attend school and provision in IDP camps is generally better than in villages. More children, and especially girls, are in school because their families have lost their land and animals, leaving children with less work to do.

In South Darfur it is estimated there are nearly 257,000 conflict-affected children of school age, two thirds of them IDPs. South Darfur has the largest population of school-age children not enrolled in school. Most drop-outs occur after only a few years of schooling, before children have had a chance to develop basic literacy

and numeracy skills. Government capacity to provide education for these children is limited by lack of resources. Through partnerships with the state's education authorities and international and local NGOs, UNICEF is working to address these problems.

Since 2004, UNICEF has provided support for the education of some 70% of the state's conflict-affected children through the provision of

lack of resources and inadequate infrastructure. Schools often collect fees from students to address these shortcomings (despite protests from UNICEF and other child protection and education organisations), further marginalising those students who cannot afford the fees.

Within the IDP camps, poor infrastructure, overcrowding and lack of both materials and trained teachers all significantly affect the provision of quality education for IDP children and youth. For those who do not have immediate access to schools within camps, long distances to the nearest available schools – sometimes an hour's walk in each direction

– additionally hamper access to educational services. This marginalises girls in particular, many of whom are not permitted to walk long distances for fear of attack. In some areas, corporal punishment is still in use, deterring children further.

Adolescents are particularly affected, with few educational options available. Some attend primary schools supported by UNICEF and local/international NGOs in order to complete their primary

education which was cut short by the conflict. Others join government-supported schools in the local community – if they can pay the fees. The majority, however, have few options open to them for continuing any education. Many are burdened with family responsibilities. Instead of attending schools, girls are required to take care of children, cook and clean, and boys are often expected to support their families financially.

These difficulties are evident in Kalma, the largest IDP camp in Darfur, located on the outskirts of Nyala. At last count, around



Peter Biro/International Rescue Committee

*Elzina Adam
Ismael teaches
children to
read in a camp
outside Nyala in
South Darfur.*

educational supplies, uniforms, in-service training for volunteer teachers and construction and rehabilitation of classrooms and school water and sanitation facilities. UNICEF has also prioritised improving access to education by marginalised groups – in particular girls, whose enrolment rates increased from 28% at the start of the conflict in 2003 to 42% during the 2005/2006 academic year.

Despite these interventions, education provision for children and youth in South Darfur is still beset with difficulties such as insufficient and delayed payments for teachers,

87,000 IDPs lived in mile after mile of tightly packed shelters. With bustling markets, the camp is, in effect, a city which struggles to cope with crime, poverty and insufficient social services. Schooling in Kalma is provided by UNICEF and its partners but does not extend beyond completion of primary school at age 13. Secondary school education – which donors do not deem a priority in emergency settings – does not exist in Kalma or indeed in the majority of IDP locations across Darfur. For youth with little to do during the day and few opportunities for the future, the attraction of potentially anti-social activities is sometimes hard to resist. Some young adults have inevitably become involved in petty crime, gang-related activities and, in some cases, violence.

In smaller camps closer to towns, youth have better access to educational services. This is true in Secelee camp, for example, where most schools within 30 minutes' walking distance cater for both IDP and host community populations. Most of the youth attending these primary schools, however, are enrolled at levels below their age.

Addressing the problem

To help provide a wider range of educational opportunities for displaced and conflict-affected youth, local and international NGOs are offering alternative, more accessible and more flexible methods of schooling. Since mid 2005, for instance, the International Rescue Committee (IRC)² has been providing basic literacy and numeracy classes for youth in five camps in Nyala and four in Kass. Some 850 young people – over half of them girls – attend these classes every day, helping them to catch up with children in the host community and do better in their normal schooling. For those not attending formal school – primarily girls – the classes provide their first introduction to reading and writing.

While literacy and numeracy classes obviously provide a much needed service for youth with no access to schooling, they do not offer certification to allow young people to subsequently re-enter the formal education system. To address this

problem, IRC is working with the government to organise accelerated learning classes. These provide opportunities for youth to re-enter their studies at the level they were when they dropped out, to progress at a faster pace than would be possible in traditional schools and to obtain certified proof of their achievements. Provided at youth centres, the classes will enable easy access and flexible schedules even for those youth who are required to work for part of the day.

IRC has expanded its programme to include vocational training for youth as well as training in basic lifeskills, adolescent health and youth leadership, in order to build knowledge, confidence and self-reliance. In terms of formal education, however, there are still a number of gaps that remain.

Closing the gaps

Alternative methods of education are important but cannot replace the need for formalised education in Darfur. In order to ensure all young Darfurians have the right to education, it is important to:

- assist older youth to complete primary school
- provide free secondary school education for adolescents in IDP camps, rural areas and potential areas of return
- continue training for teachers – including on child rights – to improve the quality of education and responsiveness to the varied needs of children and youth and to ensure communities can provide quality education in areas of return
- advocate for greater government commitment to providing free education, school resources and teacher salaries.

Achieving these objectives will require not only continued assistance from the UN and NGOs but also greater donor commitment to provide resources to ensure equal access to a quality education for all young people in Darfur. Unfortunately, such a commitment does not appear to be forthcoming.

Katherine Reid is Child Protection Coordinator, IRC/Darfur. Email: kreid@theirc.org Additional contributions were provided by Jennifer Hofmann, Consultant with the Child and Youth Protection and Development Unit, IRC HQ.

1. www.unhcr.ch/html/menu3/b/k2crc.htm
2. www.theirc.org

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Burundi: sliding off the humanitarian radar screen?

by Tom Delrue

As Burundi faces its greatest challenges since the violence in 1993 that cost 300,000 lives, the way it manages the return and reintegration of IDPs and refugees will be a determining factor for the success of its transition to peace.



Maritzi Lintunary/ACT International

Andre Chomba shows his new election card - his only official proof of identity. He lost his wife and four of his eight children in the war. "But I'm not so much afraid of the soldiers and fighting anymore. I am more worried whether we will have the strength and commitment to rebuild our lives."

From the early 1990s, hundreds of thousands of Burundians fled their homes to escape fighting between the government and Hutu rebel groups seeking to put an end to the political dominance of the Tutsi minority. Many others, predominantly Hutus, were forcibly displaced into camps by the government in the second half of the 1990s. The number of IDPs peaked in 1999, with over 800,000 displaced, 12% of the population. Several hundred thousand IDPs and refugees have returned home since 2003, following the general improvement of security after the signing of ceasefire agreements between the government and several rebel groups. Most recent UN estimates put the number of Burundian refugees at around 400,000 (200,000 refugees in camps and 200,000 others in villages/settlements) and the number of IDPs (mainly Tutsis) at 117,000.

The success of Burundi's transition to peace hinges on how its new

government (elected in August 2005 and headed by former rebel leader Pierre Nkurunziza) and the international community deal with such post-displacement issues as land and property claims, reconciliation and transitional justice.

The link between displacement, return, reconciliation and successful transition towards a consolidated peace is frequently either underestimated or neglected by the international community. It is often driven by the media as focus switches to other crises and consolidation of fragile peace and sufficient investment in early recovery are ignored. All too often the international community sees democratic elections and the installation of a new government as offering an exit strategy. Instead, this should be a trigger for the international community to provide all necessary support – for socio-economic development, reconciliation and transitional justice – in order to avoid the need for new humanitarian interventions some years later.

Following the decision of the Tripartite Commission on the Voluntary Repatriation of Burundian Refugees in Tanzania to move from facilitation of return to promotion of return, UNHCR started promoting return in the refugee camps in Tanzania in June this year. It remains unclear whether the refugees will consider it safe enough to return. With widespread poverty and illiteracy, rapid spread of HIV/AIDS, high infant mortality rates, insufficient delivery of social services (especially in health and education), a large degree of impunity for perpetrators following the 1993 events and the absence of a reconciliation process, there is little to motivate return.

Risk of renewed conflict

Unresolved issues risk reactivating conflict. Hundreds of thousands of small arms are in circulation in Burundi.² Lack of housing and unresolved land and property rights issues deter IDPs and refugees from returning to their place of origin and are a major potential threat to future stability.

Several waves of displacement have resulted in complex and politically sensitive issues around land and property. In some cases IDPs and returning refugees have occupied land abandoned by those who fled conflict. Over the years, IDP sites have grown into village-like settlements. Many are on state-owned, private or church-owned property and have insufficient land for cultivation. The status of the IDPs on these properties remains unclear and this has led to conflicts with original owners, many of them returnees. Some new owners are speculating with the land for commercial gain. This is a potential source of tension, especially where under-utilised plots are located in areas of land scarcity. Burundi is one of Africa's most densely populated countries. Some 90% of the population depends directly on agriculture for survival. Existing land scarcity will be exacerbated if current demographic growth continues and if the remaining Burundian refugees abroad decide to return. It is therefore imperative to establish a proper and equitable system of resolving land and property issues. Most conflicts in Burundi are property-related and the judicial system lacks either the resources or legislation to deal with massive returns.³

The Burundian government is developing a national policy for internal displacement that should clarify the status of sites for IDPs. Either the current situation will be formalised and those unable to return home will be allowed to integrate on a permanent basis, or

they will be given the opportunity to relocate elsewhere in new villages.

Nobody expects the 400,000 Burundian refugees in neighbouring countries – mainly Tanzania – to return immediately. However, UNHCR's return campaign, the end of the school year and the renewed commitment to continue peace talks between the government and the FNL – the most hardline Hutu group – might result in a large number of returnees. Does the government have the institutional capacity to cope with a substantial influx of returning refugees? The government is currently proposing to keep returnees without land or references in transit sites but this might well result in increased tensions. Returning refugees unable to recover their property will be forced to stay with families and risk becoming themselves internally displaced.

Reconciliation and peace building

Conflict and displacement inflict lasting wounds on individuals and communities which may take generations to heal, if they heal at all. Reconciliation efforts are essential to help the healing process. The vast majority of IDPs state that their preferred durable solution is return – but only on condition of an accompanying reconciliation process.

The release in January 2006 of 673 prisoners who had been incarcerated in connection with the violence that followed the 1993 assassination of President Melchior Ndadaye does not foster a climate for return and reintegration. Several IDPs risk being confronted by former criminals against whom they provided evidence. The released prisoners were granted provisional immunity while waiting to appear before a Truth and Reconciliation Commission.

UN Security Council Resolution 1606 of 20 June 2005 called for negotiations for the establishment of a truth commission and a special chamber in the Burundian court system. Despite preparatory talks in late 2005 between the UN Operations in Burundi (ONUB)⁴ and the Burundian government, no such commission or special chamber has been established.

In order to address current and potential sources of tension – and to prevent new waves of displacement – urgent attention must be paid to:

- establishing a truth commission
- re-activating the existing 'welcome committees' in places of origin
- ensuring that the international community – in both emergency and recovery phases – acknowledges and builds on the links between peace building, conflict resolution, cross-community building and judicial issues, and the return and reintegration of IDPs and returned refugees.

All too often a fragile and incomplete peace is simply the prelude to renewed armed conflict. In June 2006 the UN inaugurated a Peacebuilding Commission⁵ – currently chaired by former UN Special Representative to Burundi Caroline McAskie – to help reconstruct countries after conflict and ensure sustainable peace. The Commission aims to:

- propose integrated strategies for post-conflict peacebuilding and recovery
- help ensure predictable financing for early recovery activities and sustained financial investment over the medium to longer term
- extend the period of attention by the international community to post-conflict recovery
- develop best practices on issues that require extensive collaboration among political, military, humanitarian and development actors.

Given the importance of ensuring a well-managed peace-building and reconciliation process which takes full account of displacement-related issues, Burundi could be an excellent test case for the Commission.

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This article is written in a personal capacity and does not necessarily represent the views of the UN.

The International Crisis Group has called for:

- prioritising highly visible projects to give Burundians confidence that peace has its benefits and to provide job opportunities for ex-combatants, refugees and unemployed civilians alike
- applying pressure on donors to meet their commitments: of \$1.1 billion pledged to Burundi by donors since 2000, only 66% has been disbursed.
- building an effective legislature and judiciary and creating a culture of accountability, transparency and respect for human rights in government
- encouraging accountability by rebuilding respect for rule of law and eliminating a culture of impunity
- rebuilding civil society
- assisting land reform and resettlement by provision of legal, technical and financial assistance (paying particular attention to the rights of women)
- financing programmes to reintegrate ex-combatants into society.

Taken from articles by Gareth Evans, president of the International Crisis Group www.crisisgroup.org Full text of articles at: www.crisisgroup.org/home/index.cfm?id=3895&l=1 and www.crisisgroup.org/home/index.cfm?id=3903&l=1

1. See Internal Displacement Monitoring Centre report www.internal-displacement.org/countries/burundi

2. 'Guns Out of Control: the continuing threat of small arms', IRIN, May 2006, www.irinnews.org/webspecials/small-arms/default.asp

3. See International Crisis Group, 'Réfugiés et Déplacés au Burundi – Désamorcer la Bombe Foncier', *Africa Report* No. 70, Oct 2003 and *From the Ground Up: Land Rights, Conflict and Peace in Sub-Saharan Africa*, edited by Chris Huggins and Jenny Clover, June 2005, African Centre for Technology Studies, www.acts.or.ke

4. www.un.org/Depts/dpko/missions/onub/ The new government has requested ONUB to withdraw by December 2006. See also *United Nations Operation in Burundi (ONUB) - Political and Strategic Lessons Learned*, July 2006, <http://pbpu.unlb.org/pbpu/view/viewdocument.aspx?id=2&docid=796>

5. www.un.org/peace/peacebuilding

Strengthening the voices of refugees in UNHCR planning

by Leslie Groves

Diversity among refugee and IDP populations is often overlooked. Through its Age, Gender and Diversity Mainstreaming Strategy, UNHCR is working to ensure that persons of concern receive equal opportunities to access UNHCR services, regardless of age, sex and background.

When communities are displaced, women, young people, the elderly and minorities are often marginalised. They seldom get a chance to participate in decisions that directly affect their lives, which can put them at greater risk of harm.

Three evaluations of UNHCR's work with refugee women and children and UNHCR's community services concluded that the agency did not have enough direct, systematic contact with persons of concern. They reported low participation by refugees in UNHCR programmes, particularly among women and children, a lack of coordination

among protection, programme and community services staff, an absence of analysis with partners and an overall lack of accountability. Programmes were fragmented and age and gender issues not addressed in an integrated way.

UNHCR accepted the need to discuss directly with refugee women, men, girls and boys the protection risks they face, the underlying causes and proposed solutions and the capacities of the refugee community to address these issues and to ensure these discussions helped shape UNHCR's response strategies. In 2004, UNHCR introduced a pilot gender

and age mainstreaming project in 14 countries which included:

- participatory assessment with groups of refugee/internally displaced girls, boys and women of different ages
- workshops with staff and partners to integrate findings into organisational planning
- use of multi-functional teams – bringing together programme, community services and protection staff – to implement policies on refugee women and children through a rights- and community-based approach
- placing accountability for in-country age and gender mainstreaming with the Country Representative, UNHCR's most senior staff member in-country.

Sexual and Gender Based Violence specialist Beth Martin sensitising IDP women on sexual violence, Garsila camp, West Darfur.



In April 2005, the pilot project was evaluated with assistance from staff from the Women's Commission for Refugee Women and Children and Jesuit Refugee Services. They recommended that mainstreaming continue in the eight countries evaluated and be rolled out widely across UNHCR. Their recommendations have been acted upon. The methodology has been broadened to cover diversity of background, as well as age and gender. Annual participatory assessment exercises have been made compulsory. Responsibility for the roll-out of the methodology to all UNHCR country operations is gradually being handed over from technical specialists to staff of UNHCR's regional bureaux. Fifty-five UNHCR and three NGO staff, trained as facilitators, will train country staff who will in turn facilitate in-country participatory assessments, follow-up workshops and age, gender and diversity analysis in their own country operations.

By April 2006, multi-functional teams in 52 countries – joined, in most cases, by government, UN and NGO partner agencies – had conducted participatory assessments with separate groups of males and females aged 10-13 and 14-17, 18-40 and over the age of 40. Discussion focused on education, livelihoods, security and protection risks. Analysis of findings is underpinning formulation of UNHCR's Country Operations Plans and includes targeted action to protect the rights of groups suffering from discrimination. An electronic 'community of practice' enables staff to discuss challenges, share good practice and get support from colleagues. An accountability mechanism is also being developed.

Impact

Although some countries were already working on gender awareness issues, a large number of staff report that they now look at issues affecting women, men, girls and boys more systematically. By jointly analysing the causes behind the protection risks facing persons of concern, as well as identifying their capacities and skills, the multi-functional teams have been better able to prioritise

responses and find appropriate solutions in a participatory manner.

Some concrete examples of impact on work practices are:

- Improved protection and programming, including advocacy: In Colombia, planning modules have been modified to incorporate differences by age, gender and other determinants of diversity. In Colombia, Greece, India, Syria and Venezuela, age, gender and diversity mainstreaming has been added to staff work objectives. In Kakuma, Kenya, refugee men report that they have noted "a lot of changes" since the initiative, notably in terms of improved camp security and follow-up on reported security concerns. In Ecuador, a community income generation initiative – established as a result of the assessments – has given refugees a sense of empowerment: "Now we can earn a living and show that we are not just taking from society but giving and creating jobs. This helps combat discrimination."
- Improved partnership and team-working: In Ecuador, government counterparts now employ women to interview women asylum seekers and implementing partners are required to consider age and gender mainstreaming within their proposals. In Syria, a partner reports that they no longer decide 'for' but 'with' refugees.
- Greater engagement with people of concern: Staff in India, Zambia and Benin have held more meetings with women and report that more women have been encouraged to take on leadership roles.
- Improved communication and outreach: In India and Syria, reception centres have been altered to allow greater privacy for different groups; in India, separate reception areas have been built for women, children and elderly people. Persons of concern interviewed in different countries said that they now have a better awareness of UNHCR's mandate and capacity.
- Greater awareness of protection risks, domestic violence and

sexual exploitation (particularly of adolescent girls) and the need to improve protection for the physically and mentally disabled and minority groups and to improve information and communication flows.

UNHCR has also learned the:

- value of learning by doing: instead of age, gender and diversity issues being seen as an 'add-on' or as the domain of specialists, the methodology has placed the voices of diverse persons of concern directly at the centre of the annual planning cycle. Staff have been able to see for themselves the impact of age, gender and diversity power relations.
- need to simultaneously use interlinking and mutually reinforcing mechanisms
- need to engage senior management support: support from the High Commissioner downwards has been crucial in the prompt response to the evaluations, facilitating roll-out and ensuring that participatory assessment with diverse groups became a mandatory country planning requirement
- importance of enthusiastic, committed and skilled staff who value the participatory assessment tool as a way to re-connect with persons of concern
- importance of partnerships: sustained donor and NGO interest has been vital in monitoring the process and providing financial and technical support.

"UNHCR's age and gender mainstreaming process is a historic opportunity to ensure refugee women and children's place in the decision-making process from the beginning. They are the experts on what will work best to improve their lives and protect their rights and we applaud UNHCR for taking this important new step. We look forward to seeing real changes in the lives of refugee women and children worldwide." Dale Buscher, director of the Women's Commission protection and participation programme.

Challenges

UNHCR's age, gender and diversity mainstreaming initiative involves massive organisational change, the difficulties of which should not be underestimated. Issues such as children's rights, women's empowerment, education, livelihoods, security and rights-based and community development approaches are being addressed, not with case studies and theories but directly as colleagues come together – often for the first time – to discuss concepts and practices in a non-hierarchical framework.

The initiative is additionally attempting to strengthen relations between UNHCR and persons of concern and between UNHCR and partners, to address the organisation's fragmented working methods – both in Geneva and in the field – and to improve accountability and leadership.

Key challenges are:

- ensuring resources are available to support the recommended five-day participatory assessment and to sustain the multi-functional team approach – in a context where a) staff cannot even meet the immediate needs of the daily queues of persons of concern, let alone find out what the additional needs of diverse groups may be or b) sweeping funding cuts are being implemented across UNHCR
- incorporating the approach into immediate post-emergency work
- regularly reinforcing staff members' understanding of the complexities of the root causes of discrimination, in order to transform working practices in a sustainable manner
- ensuring follow-up and consolidation of learning without using scarce resources on further workshops and training

- sustaining the engagement of partners and persons of concern through participatory planning, feedback and regular engagement.

It is still early days but it is clear that the initiative has brought UNHCR staff closer to UNHCR's persons of concern, improved staff understanding of issues, provided a structured approach which has helped prioritise action, strengthened cooperation among staff and with partners and made UNHCR leadership more accountable. Sustained support from senior management, donors, NGOs and all UNHCR staff is now needed to overcome the many obstacles to consistent, committed and effective mainstreaming of age, gender and diversity principles.

Leslie Groves, a child rights and social development consultant, led the evaluation of the age and gender mainstreaming pilot and drafted UNHCR's accountability framework. Email: lesliegroves@yahoo.com

UNHCR: protection and contemporary needs

by Bill Clarence

UNHCR's institutional response to the protection of internally displaced persons (IDPs) is still seriously inadequate.

Since the 1970s, successive High Commissioners have recognised IDPs as a group with similar needs to those of refugees. In Sri Lanka in the early 1990s, Thorvald Stoltenberg extended UNHCR's assistance and protection to IDPs who were on the fringe of or beyond UNHCR's official mandate. His successor, Sadako Ogata, not only endorsed the programme (which had been challenged during the interregnum before she took over leadership of the agency) but also issued a formal directive in which she described situations where IDPs were mixed with refugees as those where "UNHCR should consider taking primary responsibility for the internally displaced, weighing in each case the additional benefit of its

involvement in terms of protection and solutions".¹ Moreover, she subsequently drew attention to "the direct linkage between internal displacement and refugee flows, as the causes of displacement may be indistinguishable, and the only distinction being that the former have not crossed an international frontier."²

Why, with such positive attitudes towards IDPs at the top as well as in the field, has UNHCR's overall performance been so disappointing? UNHCR's reluctant and sluggish response to the challenge of IDP protection is but one aspect of its faltering response towards the changing face of global displacement and, more fundamentally, one

which reflects the general nature of international institutions, particularly their vulnerability to external pressures when called upon to act in politically sensitive areas.

The agency's founding fathers well understood the potential institutional pitfalls and decided that the protection mandate should be conferred upon the High Commissioner rather than the agency. This move has been fully vindicated. Without exception, High Commissioners have taken their protection responsibilities very seriously indeed, been able to exert international moral authority and, when necessary, been ready to take on governments to an extent which would have been unlikely if the agency had been structured differently. As a

result, international protection of refugees has been strengthened and extended throughout most of the world. Moreover, within the agency protection was officially established – and regularly reaffirmed – as the primary function of UNHCR's mandate.

UNHCR's founders could not have foreseen that this new agency – set up as a temporary three-year programme – would evolve into a top-heavy bureaucratic establishment. It is this bureaucracy that lies at the root of many of the agency's problems, particularly regarding protection. The agency is costly, complacent and too often indifferent to protection needs. Indeed, in practice protection too often tends to be regarded as a secondary rather than the primary purpose of agency activities and this has created an ambivalence which impedes the development of appropriate responses to changing international needs.

Collaborative Response and clusters

The more recently-established inter-agency Collaborative Response – under the aegis of the Interagency Steering Committee (IASC) – is also a heavily bureaucratic mechanism which has proved largely ineffectual on the ground.³ Over the past year, however, the usefulness of this interagency initiative has been improved by the publication of guidance notes for the Humanitarian and Resident Coordinators and other actors on the ground and the assignment of sectors of operational accountability to particular agencies. Responsibility for the protection, emergency shelter and camp management 'clusters' has been assigned to UNHCR.⁴ The revised interagency arrangements may indeed improve IDP protection on the ground in post-conflict conditions and in areas far removed from active hostilities – but will they survive the acid test of in-conflict conditions?

Securing people's physical safety is more of a challenge in protecting IDPs than refugees as IDPs are located (as are field staff) within or on the periphery of civil war zones. Although security in countries of asylum can also present challenges,

it is generally better than in civil war zones in countries of origin. The deployment of humanitarian fieldworkers in a war zone is only justifiable when the risks are judged to be manageable and significantly outweighed by the benefits but, despite the dangers, it remains an essential part of an effective IDP protection role. A professional mechanism to evaluate security, preferably in consultation with the International Committee of the Red Cross (ICRC) colleagues and other relief agencies on the ground, is therefore essential.

Working in war zones demands leadership on the ground with clear authority and coherent back-up to be able to take decisions rapidly. Under the revamped Collaborative Response, there are shared responsibilities and extended and varied reporting lines. UNHCR has overall responsibility for protection, emergency shelter and camp management but reports to local Humanitarian Coordinators and, in their absence, to Resident Coordinators and sometimes to Special Representatives of the Secretary General. They all have their own agendas and may be unwilling to have their relations with governments disrupted by potentially embarrassing protection issues.

The reality of conflict is often one of fragile ceasefires and faltering negotiations in which progress towards peace, or even substantially less insecure conditions, is halting and spasmodic. Ceasefires are violated, peace negotiations break down or are abandoned and relapses into open warfare are all too common. Sri Lanka is a notable case in point. An effective IDP protection role has to be sufficiently flexible to adapt from situations of conflict to the less unstable conditions of post-conflict – when the Guiding Principles could be directly applied – and sometimes back again to conflict.

Is UNHCR capable of reform?

For all its bureaucratic faults, historically UNHCR has been a success. It has achieved more than national governments ever could, whether acting alone or together, in many sensitive situations and

has assisted millions of displaced people. Its High Commissioners have vindicated the judgement of the founding fathers that a post with such attributes was essential for the integrity of international protection. Its Division of International Protection has developed exceptional professional capacity for setting, maintaining and promoting the extension of international standards. And on the ground, its field staff perform effectively in difficult and sensitive conditions. Such notable achievements could probably not be sustained if UNHCR were to be reorganised within a larger and more composite humanitarian and rights organisation.

The agency's formidable reputation was built upon a readiness and ability to respond effectively to international needs in forced migration. Now more than ever, given all the developments in this field in recent years, UNHCR has to meet the challenge to adapt – or face diminishing relevance. Those within the agency who for various reasons do not welcome change should face the fact that the international community will be unlikely to continue to pay for an institutional regime that continues to benefit only a relatively privileged category among the displaced, one whose numbers are indeed decreasing.⁵ The world still needs UNHCR – but as an agency which is a lot leaner and a lot keener to bring its protection mandate into line with contemporary needs.

Bill Clarence was UNHCR's representative in Sri Lanka from 1988 to 1991. His book on protection in conflict, Ethnic Warfare in Sri Lanka and the UN Crisis, is being published by Pluto Press in November 2006. Email: william.clarance@wanadoo.fr

1. UNHCR's Role with Internally Displaced Persons, UNHCR IOM/BOM/33/93 (High Commissioner's emphasis).

2. Address to John F Kennedy School of Government, 28 October 1996

3. See Joel Charny, 'New approach needed to internal displacement', FMR October 2005 supplement www.fmreview.org/FMRpdfs/FMR24/IDP%20Supplement/08.pdf

4. See Tim Morris 'UNHCR, IDPs and clusters', FMR26 www.fmreview.org/FMRpdfs/FMR25/FMR2531.pdf

5. In early 2005, UNHCR accepted 19.1 million 'persons of concern', comprising 9.2 million 'mandate' refugees, 840,000 asylum seekers, 1.5 million refugee returnees, 1.5 million stateless persons, 5.4 million IDPs and nearly 600,000 others. However, the global figure for IDPs is put at some 25 million. (UNHCR Global Appeal 2006)

Sardar Sarovar injustices

by Rekha Oleschak

The Narmada Valley Development Plan – which involves the construction of 30 large dams (including the Sardar Sarovar dam), 135 medium and 3,000 small dams in Western India – is set to displace millions. Compensation, resettlement and rehabilitation mechanisms are non-existent, inadequate and/or unjust.

The plan to submerge large areas of the states of Madhya Pradesh and Maharashtra by the Sardar Sarovar Dam has been controversial ever since it was proposed by the Narmada Valley Development Authority.¹ In 1979 the Narmada Water Disputes Tribunal (NWDT) ruled on the compensation to be provided and stated that resettlement should be carried out at least six months before submergence of affected areas. Since the 1980s, the Narmada Bachao Andolan (NBA – Save the Narmada Movement)² has been campaigning for proper resettlement and rehabilitation of the thousands of families displaced by the Sardar Sarovar Project (SSP). As India lacks legislation to deal with resettlement and rehabilitation, displaced persons lack rights to resettlement and rehabilitation. The Land Acquisition Act does have provisions for compensation for land acquired for developmental purposes but does not apply to people not holding legal titles to land.

In 1996, the NBA filed a petition in the Supreme Court of India challenging the construction of the dam. The Court ordered work on the dam to be stopped. However, in 2000 the Court ruled that construction could continue provided that fair and equitable resettlement and rehabilitation support is provided to all project-affected persons. Presently the dam is 110 metres high and ultimately will reach 122 metres. Each additional metre means more displacement.

According to official estimates, the SSP is set to displace a total of 41,000 families. Those being displaced by the project's canal network are not considered project-affected and are therefore ineligible for compensation, let alone resettlement or rehabilitation. Of those officially

recognised as project-affected, many families have not been resettled or rehabilitated. Although the NWDT award and the Supreme Court explicitly call for compensation to be provided on a 'land for land' basis, the state of Madhya Pradesh is forcing people to take cash compensation – which, as studies have shown, generally leads to impoverishment. The NBA has repeatedly pointed out that rehabilitation is not taking place and that there is rampant corruption in the grant of cash compensation.

On 29 March 2006, Medha Patkar³, Bhagwatibai Patidar and Jamsingh Nargave (NBA activists) began a fast in support of a demand for an independent evaluation of the status of resettlement. On 4 April Patkar and Nargave were arrested and forcibly hospitalised. Several cases were filed against them, including a charge of attempted suicide. A further 300 activists were arrested. As the protests generated considerable media attention, the Prime Minister finally agreed to send a group of ministers to assess the status of resettlement. The NBA activists called off their fast. The ministers confirmed NBA's contentions that the reality of resettlement bore no relation to the plans on paper.⁴ In addition to the fact that rehabilitation and resettlement had not taken place in accordance with the orders of the Supreme Court, the report also found that there was no moral or legal justification for deducting 10% as income tax for every million rupees paid to displaced families. In any case, such cash compensation is not what was required by either the NWDT award or the Supreme Court.

Under the NWDT award, in case of an impasse, the decision-making power lies with the Prime Minister. However, despite the ministers'

report, the Prime Minister refused to take any position prior to the matter being decided by the Supreme Court. In May 2006, the Supreme Court all but threw out the NBA's case for a halt to further raising of the height of the dam unless those displaced were resettled. The Court stated that it would wait for the report of the Sardar Sarovar Relief and Rehabilitation Oversight Group (set up by order of the Prime Minister in April 2006 to evaluate the status of resettlement) and that the NBA should stop interfering with the construction of the dam. In effect, the Supreme Court has ruled that the construction of the dam and resettlement do not go hand in hand. In doing so it overruled its own statements of 2000 as well as the NWDT's ruling in 1979. The Oversight Group has recently submitted its report to the Supreme Court, which has to a large extent reiterated the concerns raised by the ministers' report. However, the Supreme Court and the Prime Minister consistently maintain there is no need to stop construction of the dam.

The insensitivity of the Indian judiciary and government to the plight of the project-affected people is shocking. India's poorest and weakest are being asked to pay the price for 'development'. By not suspending the construction of the dam, the Supreme Court has increased the likelihood that many more homes will be submerged and thousands of people left homeless by the 2006 monsoons.

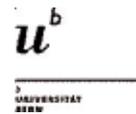
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1. www.nvda.nic.in

2. For information about the NBA, see www.narmada.org and <http://narmada.aidindia.org>

3. http://en.wikipedia.org/wiki/Medha_Patkar

4. <http://www.hindu.com/2006/04/17/stories/2006041705231100.htm>



The challenges of internal displacement in West Africa

by Jessica Wyndham

West Africa has been heavily affected by displacement. Internal conflicts based on ethnic tensions and rivalries, political instability, disputes over the control of natural resources, natural disasters, poverty, food insecurity and the imperatives of development have all resulted in significant population displacement:

- As a result of the outbreak of civil war in Liberia in 1989 and 14 years of intermittent conflict, most Liberians fled their homes at least once.
- Eleven years of civil war in Sierra Leone led to a third of the population being internally displaced at the height of the conflict.
- Spill-over effects of these conflicts – and also conflict in neighbouring Guinea-Bissau – caused mass displacement in Guinea.
- 1.2 million people were displaced in Côte d'Ivoire by the end of November 2005.
- A rebellion in the southern Casamance province of Senegal has led to major displacement.
- Religious, ethnic and resource-related conflicts in Nigeria are thought to have displaced hundreds of thousands of people.
- Political crisis in Togo in 2005 led to the displacement of thousands.

In the past four years the end of civil wars in Sierra Leone and Liberia has permitted several million IDPs to return home or resettle elsewhere. However, as many as one million are estimated to still be internally displaced by conflict, mainly in Côte d'Ivoire, Guinea, Nigeria, Senegal and Togo. There are significant risks of further large-scale displacement.

The extent and complexity of internal displacement in West Africa provided the impetus for the First Regional Conference on Internal Displacement in West Africa, held in Abuja, Nigeria, from 26 to 28 April 2006. The Government of

Nigeria hosted the event, which was organised by the Brookings-Bern Project, the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin,¹ UNHCR and the Economic Community of West African States (ECOWAS) – a regional association of 15 member states with headquarters in Abuja.²

In an opening statement Walter Kälin noted that African IDPs are among the world's most vulnerable, at high risk of ongoing armed attack, malnutrition, sexual violence and exploitation, enforced military recruitment, and disease including HIV/AIDS. Following the end of conflict, many struggle to return or to resettle and reintegrate in situations in which infrastructure is lacking and access to basic goods and services, including health and education facilities, remains limited. The internally displaced often face discrimination, and are unable to access food, education and health care. Too often, they lack basic documentation and the ability to exercise their political rights

Participants noted the chronic lack of comprehensive and reliable data. Information on the number and location of the displaced and research on the causes of displacement, the risks and vulnerabilities faced by the displaced and their specific protection needs are vital for devising response strategies. However, in West Africa such data either does not exist or is collected by diverse groups, often with differing priorities, who produce conflicting information.

Participants also drew attention to inadequate support for host communities. In West Africa those displaced often receive shelter and assistance from families and local communities. While this can relieve state and international authorities from having to provide shelter, it can also become a burden when large numbers of people are displaced

over extended periods. In the long term there is the potential for exacerbating rather than relieving economic and social tensions and thereby further contributing to the cycle of displacement.

Further challenges that were identified included: the lack of institutional capacity and adequate resources at the national level; a lack of coordination among stakeholders which often led to duplication of efforts; insufficient inclusion of IDPs themselves in decision making; and the need to address root causes and find durable solutions.

Participants called for:

- wider dissemination of the Guiding Principles on Internal Displacement within the ECOWAS sub-region and formulation of national laws derived from them
- states to guarantee access by civil society partners and international agencies to those requiring protection and assistance
- appointment by each ECOWAS member state of a national focal point with responsibility for internal displacement
- strengthening of ECOWAS's capacity to advocate on issues of internal displacement
- training members of the ECOWAS stand-by force on the Guiding Principles
- building capacity of national institutions and civil society organisations to address internal displacement
- ensuring protection and assistance programme address the needs of host communities
- inter-regional dialogue on internal displacement, particularly among national human rights institutions.

Conference documents are at:
www.brookings.edu/fp/projects/idp/conferences/contents.htm

1. www.ohchr.org/english/issues/idp
 2. www.ecowas.int

Justice for Colombian IDPs?

by Arild Birkenes



**NORWEGIAN
REFUGEE COUNCIL**

More than three million Colombians – in a country with a population of 40 million – have been forced from their homes during the last two decades of conflict.¹ In recent years illegal armed groups have increasingly resorted to displacement of civilians as a deliberate strategy to undermine the popular support base of their opponents and to control land for production of illicit crops. Almost one million people have been displaced since the government of President Álvaro Uribe took office in 2002. Colombia remains riven by imbedded violence and social, political and economic exclusion. Massacres, attacks and intimidation of civilian population by both the guerrilla groups and paramilitary forces continue to be reported. Paramilitary groups in alliance with drug-traffickers, control millions of hectares of land, much of it grabbed from people they displaced by committing human rights violations.

Colombian IDPs do not live in camps but are found in shantytowns where they often comprise the majority of inhabitants. Increasing control by paramilitary groups and crime-related violence often force IDPs to flee to other urban areas. IDPs generally have less access to health care, education, nutrition, water and sanitation facilities than their compatriots.

Paradoxically, Colombia has both one of the highest IDP populations in the world and one of the most protective legislative frameworks. The Uribe government has pursued a policy of 'democratic security', which involves civilians in counter-insurgency, arming of peasants and setting up networks of informants. Such 'security' measures have drawn more civilians into the armed conflict and incited hostility against human rights defenders and community leaders, forcing many to flee conflict-ridden areas. Many IDPs do not claim status as such, seeking instead anonymity in the areas of displacement. President Uribe's comfortable victory in the presidential

elections on 28 May 2006 has been attributed to improved security in urban areas. It should be noted, however, that 55% of the electorate refrained from voting, indicating little faith in democratic institutions.

In January 2004 the Constitutional Court declared the government's IDP response unconstitutional. The government responded by pledging over \$2 billion to protect and assist IDPs. With the hesitant support of the international community, the government has now demobilised more than 30,000 paramilitaries within a controversial legal framework – the Justice and Peace Law endorsed by the Congress in June 2005 but declared partly unconstitutional by the Constitutional Court in May 2006. Its critics claim the law leaves crimes against humanity unpunished, that it does not seek to establish the historical truth – including the state's collusion with paramilitary forces – and does not acknowledge sufficiently victims' rights to justice and reparation.

The demobilisation process is part of the government's legitimate efforts to restore law and order but the Constitutional Court's verdict endorses concerns that the Justice and Peace Law may leave political, economic and social structures controlled by the paramilitaries intact, effectively preventing IDPs from returning home in the foreseeable future.

NRC calls on the Colombian government to:

- recognise the ongoing conflict as an internal armed conflict as defined under international humanitarian law
- ensure protection of civilians from arbitrary displacement and other human rights violations in line with national legislation, international human rights standards and international humanitarian law

- implement the decision of the Constitutional Court of 18 May 2006 to ensure the rights of IDPs and other victims of the conflict to truth, justice and reparation
- investigate responsibility of state agents and paramilitary groups for arbitrary displacements and other human rights violations
- revise the policy of 'democratic security' to prevent civilians being drawn into the conflict – thus adhering to the international humanitarian distinction between combatants and non-combatants
- implement development programmes in remote rural areas where coca production has fuelled conflict and displacement.

We also urge:

- The G-24 – a inter-governmental group seeking to coordinate developing countries' policies on monetary and development finance issues² – to: a) support the UN High Commissioners for Human Rights and for Refugees in their efforts to protect and assist Colombian IDPs; b) ensure that further financial assistance to Colombia is conditional on respecting IDPs' human rights; and c) provide support to Colombian civil society groups defending IDP rights.
- share-holders in companies operating in Colombian conflict zones to press for an end to corporate cooperation with agents of displacement and perpetrators of human rights violations
- the International Criminal Court to initiate investigations under article 15 of the Rome Statute.³

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Email: Arild.Birkenes@nrc.ch See IDMC report at: www.internal-displacement.org/countries/colombia*

1. According to the Consultoría para los Derechos Humanos 18/07/2006 – Colombia (CODHES), an authoritative non-governmental source: www.codhes.org.co

2. www.g24.org

3. www.un.org/law/icc/statute/rome.htm

Internal Displacement in 2005



Little progress was made in 2005 to prevent internal displacement and respond to the humanitarian and protection needs of the displaced in a timely and systematic manner.

IDMC publishes the only comprehensive yearly overview

of global IDP-related developments. The latest overview shows that in 2005, for the first time in nearly a decade, the number of people internally displaced by conflict declined considerably. The global IDP population in December 2005 was estimated at 23.7 million, some 1.6 million fewer than the previous year. Over two million people were newly uprooted while close to four million were able to go back to their homes – in the DRC, Southern Sudan, Liberia and elsewhere. Often returns were not sustainable due to lack of basic services, infrastructure and security.

In 2005 some 50 countries were affected by conflict-induced internal displacement. Over 12 million people remain displaced in 20 countries in Africa alone, more than in the rest of the world put together. With well over five million IDPs, Sudan remained the country with the world's largest IDP population. Other countries with over a million IDPs include Colombia (up to 3.7 million), Uganda (2 million), the DRC (1.7 million) and Iraq (1.3 million).

The DRC and Zimbabwe were the countries with most people newly displaced in 2005. In Zimbabwe some 570,000 people were evicted from their homes by the government in a 'clean-up' operation widely thought to have been aimed at intimidating the urban poor and preventing mass protests. In the DRC at least half a million were displaced by violence in the eastern provinces. In Colombia up to 250,000 people were uprooted as a

result of fighting between right-wing paramilitaries and leftist guerrillas for control of drug trafficking routes. In Iraq, military operations by national and US-led forces caused the, often temporary, displacement of an estimated 200,000 people. Brutal attacks on the civilian population of Darfur continued unchecked.

National governments – responsible under international law for protecting the civilian population on their territories – were the main agents of displacement in 2005. In over two-thirds of all conflict situations generating displacement national armies or security forces – or state-supported paramilitaries or militias – forced people out of their homes. Some of the worst cases of new displacement during the year happened at the hands of government agents or government-backed armed groups – Sudan (Darfur), Burma, Côte d'Ivoire, Colombia, Nepal and Zimbabwe. Altogether at least 16 governments or occupation authorities were involved, directly or indirectly, in deliberately displacing people in 2005.

World leaders resolved to "take effective measures to increase the protection of internally displaced persons" at the 2005 UN World Summit, yet national responses to internal displacement remained strikingly inadequate. In 80 per cent of the displacement situations where IDPs' lives were in danger as a direct result of ongoing conflict, governments provided only partial protection, or none at all. At least 13 governments, including those of Burma, Côte d'Ivoire, Ethiopia and Sudan, responded with indifference or outright hostility to the protection needs of IDPs in 2005, putting the lives of an estimated six million IDPs at risk. Many governments were unwilling to make genuine efforts to provide IDPs with humanitarian assistance. In a quarter of IDP situations, governments restricted access by international humanitarian organisations to affected populations.

International responses also remained insufficient. Little progress was made on stopping displacement-inducing

conflicts in Darfur and northern Uganda. The 'Collaborative Response' – the inter-agency system developed to compensate for the lack of a single IDP-focused organisation – was not implemented in most countries. Lack of leadership and accountability, the reluctance of UN agencies to divert resources from their core mandates and failure of donor governments to provide coherent political and sufficient financial backing rendered the system largely ineffective. In 16 conflict-affected countries, the UN was not involved in providing assistance or protection to IDPs at all.

A number of steps were taken in 2005 as part of the broader UN reform process to improve the existing humanitarian response system. Agreement was reached on new arrangements which – if implemented – could lead to major improvements in the international response to internal displacement situations. Central elements of the reform are the creation of an emergency response fund, the assignment of lead agencies for neglected humanitarian sectors or 'clusters'¹, and the development of a stand-by team of protection experts.²

Stepping up efforts to better protect IDPs against violence and human rights abuses and providing them with sufficient food, shelter and health care remains an urgent priority. However, humanitarian assistance cannot be a substitute for genuine political efforts – at national and international levels – to addressing the root causes of conflicts. Only sustained and concerted investments in conflict prevention, peace building and post-conflict recovery will lead to a tangible diminution of the worldwide internal displacement crisis.

Internal Displacement: A Global Overview of Trends and Developments in 2005 is online at www.internal-displacement.org/publications

1. See FMR25 www.fmreview.org/FMRpdfs/FMR25/FMR2531.pdf

2. www.fmreview.org/FMRpdfs/FMR25/FMR2541.pdf



"The pre-eminent obstacle to peace is Israel's colonisation of Palestine."

Ex-President Jimmy Carter, March 2006

"This is much worse than apartheid ... The Israeli measures, the brutality, make apartheid look like a picnic. We never had jets attacking our townships. We never had sieges that lasted month after month. We never had tanks destroying houses."

Ronnie Kasrils, South African Minister of Water Affairs and Forestry, 2004

"We must, as Mandela never tired of saying about his struggle, be aware that Palestine is one of the great moral causes of our time ... it is not a matter of trade, or bartering negotiations, or making a career. It is a just cause which should allow Palestinians to capture the high moral ground and keep it."

Edward Said, Palestinian-American literary theorist, 2002

"Jewish villages were built in the place of Arab villages. You do not even know the names of these Arab villages, and I do not blame you because geography books no longer exist; not only do the books not exist, the Arab villages are not there either. ... There is not one single place built in this country that did not have a former Arab population."

Moshe Dayan, Israeli Defense Minister, 1969

"If I were an Arab leader I would never make terms with Israel. That is natural: we have taken their country ... There has been anti-Semitism, the Nazis, Hitler, Auschwitz, but was that their fault? They only see one thing: we have come here and stolen their country. Why should they accept that?"

David Ben-Gurion, Israeli Prime Minister, 1956