



UNDERSTANDING ISRAELI PRACTICES OF FORCED DISPLACEMENT: THE CREATION OF DISPOSSESSED AND DISPLACED PALESTINIANS

Lamya Hussain¹

Abstract

Palestinians refugees are often engaged in two continuous battles; one for survival under the staggering conditions in refugee camps and the other in the pursuit of resettlement and return to their indigenous lands. In the very specific case of protracted refugees and displaced context, like the Palestinian refugees, the struggle is far more complex as they remain static and warehoused across refugee camps. It is within this indeterminate state where insufficient social services (i.e., health care, education etc.) and on-going conflict coupled by forced displacement continues to cripple the livelihoods of Palestinians across the occupied territories. Further, with complete reliance on UNRWA services and other donor agencies (both development and humanitarian), a pattern of donor dependency has created a context through which the Israeli military-settler occupation continues to operate coincidentally with the local Palestinian Authority (PA) as a sub-contractor for security and administrative support. In light of the existing refugee population and with the on-going demolitions and displacement patters in what is identified as 'Area C' zones, existing literature must challenge the context and practice of Oslo Accords that continue to enable the dispossession and displacement of Palestinians. This paper probes the challenges faced by local communities through a legal and narrative perspective, shedding light on the on-going violations of international law, human rights, rights of refugees etc.

Keywords: refugees, IDPs development, forced migration, settler-colonialism, Palestine, Israel

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UNDERSTANDING ISRAELI PRACTICES OF FORCED DISPLACEMENT: THE CREATION OF DISPOSSESSED AND DISPLACED PALESTINIANS

Lamya Hussain (Guest Editor)

"I am from there, and I am from here, and yet I am neither here nor there." Mahmoud Darwish¹

Historical Context: Israel/Palestine

Nationalistic aspirations for a 'Jewish' homeland predates the inception of the state of Israel in the year 1948, whereby early Zionists were seeking the establishment of a state for the Jewish diaspora in Europe and other parts of North America. The politicization of these aspirations came to be known as Zionism² as it emerged in the late 1880s in Central and Eastern Europe, as pressure grew on Jews to either assimilate totally or risk continuous persecution. (Pappe, 2006, p. 10) As early as 1917 there is evidence that stipulates that the British government in the course of the Balfour Declaration promised the early Zionists their approval of establishing a Jewish state in Arab Palestine. (Khater, 2004, p. 131) As documented by Khater (2004);

The British Federation of Zionists (represented by Chaim Weizmann and Nahum Sokolow) lobbied the British government for support of their project. The British, however, faced the difficulty that under the secret terms of the Sykes-Picot Agreement (1916) between Britain and France, Palestine was to be governed by an international mandate and not simply by the British in the postwar era. Furthermore, the British knew from the Husayn-McMohan correspondence that many Arabs expected Palestine to be part of a postwar Arab kingdom led by Shariff Husayn himself. However, several factors tipped the balance in favour of the Zionists. First, the British wanted to ascertain that American Zionists would encourage the U.S. Congress to join the British war effort against the Germans. The War Cabinet suspected that the Germans were preparing to offer the Zionists some support. Thus, after asking the Zionists to obtain French support for a British mandate over Palestine, the War Cabinet authorized Foreign Secretary Lord Balfour to issue his declaration of support.

This movement gained momentum and support from all sides with the rise in collective and non-discriminate persecution of Jews in Europe. The mixing of struggles of survival with religious dogmas created;

the status of the land of Israel in (religious) Jewish thought is integrally linked with the biblical narrative. According to that narrative, the land was promised to Abraham and his descendants, a promise realized in the almost punctiliar military campaign described in Joshua or, if one prefers the narrative of Judges, in the gradual extension over a period of time of Israelite hegemony by the 'judges'. We shall see that that biblical paradigm with the Exodus narrative at its core, is a major element in the justification for enterprises of colonization in general, as well as for the establishment of the state for Jews in 1948. The Zionist enterprise of 'return' demanded the

¹ Darwish, Mahmoud. "Counterpoint". *If I Were Another*. Translator: Fady Joudah, New York: Mahmoud Darwish Estate, 2009. (183-192)

² Zionism initially started as a secular-political movement to establish a homeland for Jews but quickly became a pseudo religious/nationalistic one to create a homeland in the heart of historic Palestine. Zionism also affiliated with early Zionists and the founder of the movement- Theodor Herzl.

expulsion of the indigenous non-Jewish population, a fact realized from the beginning. (Prior, 2001, p. 1)

At the time several regions were considered as potential refuge for fleeing Jewish communities, however the Zionist movement quickly associated historic Palestine to a Jewish homeland. In a diary entry, Herzl indicated that =, at the time, Herzl was aware of the demographic realities of historic Palestine and recognized the necessary means to an end in order to establish a state for Jews. (Ibid.) Pappé (2006) elaborates on this;

To bring their project to fruition (...) the Zionist thinkers claimed the biblical territory and recreated, indeed reinvented, it as the cradle of their new nationalist movement. As they saw it, Palestine was occupied by 'strangers' and had to be repossessed. 'Strangers here meant everyone not Jewish who had been living in Palestine 'occupied' land when they first arrived there in 1948, but rather an 'empty' one: the native Palestinians who lived there were largely invisible to them or, if not, were part of nature's hardship and as such were to be conquered and the national 'redemption' of the land the Zionist movement covered. (Pappé, 2006, p. 11)

On November 29 (1947) the UN passed a vote in favour of the 'Partition Plan'³ stipulating that a Jewish homeland was to be created in historic Palestine. The resolution posted by the UN was combined with a timetable for the establishment of a Jewish state and an Arab state (in historic Palestine) linked through a socio-economic union, and a international governing body to administer Jerusalem. In particular, the UN had grave concerns towards borders between the two states and other vulnerable crossing points to the Galilee, the coastal plain, and the Negev. (Shlaim, 2000, p. 25)

While the Jewish Agency made preparations for statehood, the Arabs of Palestine rejected the UN partition plan claiming that it was an un-just decision based on distribution of land, resources and demographics. And though the UN voted in favour for the partition and provided international legitimacy for creating a Jewish state on previously recognized Arab land it was essentially a signal of the beginnings of a long and violent conflict. The Palestinians refer to the events that followed as the Nakba⁴ or catastrophe; marking it as the tragic loss of their homeland. For the young state of Israel, the partition plan meant establishing a homeland for Jews from across the globe.

Soon after the Arab armies including Egypt, Trans-Jordan, Syria, Lebanon, and Iraq quickly put their troops on the ground as part of the 'Arab Liberation Army' for Palestine, to declare dissent towards the division of territories. Therefore, very quickly Israel was engaged with war at the regional level and thus from its early stages of inception continues to operate in a constant state of emergency and state of war. To combat hostility and resistance the Haganah⁵ was renamed the Israeli Defence Forces (IDF), and other militias like the Irgun⁶ and the Stern Gang⁷ were disbanded and merged into the IDF. Illan Pappé (2006) documents the historical

³ Partition Plan was proposed by the UN and implemented through the adoption of a resolution recommending the Plan as Resolution 181 (II). The Plan recommended an independent Arab state and a Jewish state with Jerusalem under the special international regime for issues of access.

⁴ Nakba or 'Day of the Catastrophe' is the 15th of May each year where Palestinians commemorate the forced displacement and dispossession of their people and land that preceded and followed the Israeli declaration of independence in 1948.

⁵ Haganah in Hebrew means defence; post the decline in support of a Zionist state in 1939 by the British the Jews organized militarily to combat British and Arab resistance towards a Jewish state.

⁶ Irgun also known as the National Military Organization, well known for its military operations against the British administration in Palestine after the publication of the white paper in 1939.

⁷ Stern Gang; a prominent military wing led by Avraham Stern succeeded from Irgun; also known as the *fighters for freedom of Israel*.

beginnings of the conflict in a chilling text; ‘*Ethnic Cleansing of Palestine*’, revealing the chronology of events between 1947 and 1948. Pappé (2006) cites;

On 9 January, units of the first all-Arab volunteer army entered Palestine and engaged with the Jewish forces in small battles over routes and isolated Jewish settlements. Easily winning the upper hand in these skirmishes, the Jewish leadership officially shifted its tactics from acts of realisation to cleansing operations. Coerced expulsions followed in the middle of February 1948 when Jewish troops succeeded in emptying five Palestinian villages in one day...About 250,000 Palestinians were uprooted in this phase, which was accompanied by several massacres, most notable of which was the Deir Yassin massacre.⁸ (Pappé, 2006, p. 40)

The lack of military command, inter-nation collaboration, skill and a combination of other aspects led to a devastating defeat of the Arab armies against the newly established IDF. Hence, Israel as a young state succeeded to establish itself coming out of war economically exhausted but with a sense of achievement and spirit of a foundational democracy. In the words of Nahum Goldman, the military victory of 1948 had an almost spiritual sense of empowerment for Israel;

It seemed to show the advantages of direct action over negotiation and diplomacy... The victory offered such a glorious contrast to the centuries of persecution and humiliation, of adaptation and compromise, that it seemed to indicate the only direction that could possibly be taken from then on. To brook nothing, tolerate no attack, cut through Gordian knots, and shape history by creating facts seemed so simple, so compelling, so satisfying that it became Israel’s policy in its conflict with the Arab world. (Shlaim, 2000, p. 40)

For the Palestinians that were now displaced and seeking refuge in other parts of the region, the homeland, the dream and the identity continues to remain a question.

The creation of the Palestine⁹ Refugees

My mother had the keys to the door, and I took them from her and threw them away, because there were no doors or houses anymore. Nothing was left. The last time I went back to the village it was destroyed, and all the stones had been removed. (Yahya, 1999, p. 48)¹⁰

The ‘Palestine Refugees’ as a term designated by the UN identifies “people whose normal place of residence was Palestine between June 1946 and May 1948, who lost both their homes and means of livelihood as a result of the 1948 Arab-Israel conflict.”¹¹ In a study conducted by Dr. Adel Yahya (1999) that aims to collect oral history accounts of Palestinian refugees, he questions many of these refugees in their understanding of what the term *refugee* means to them. He documents;

When asked about the meaning of the word refugee, most refugees whom we interviewed (94.1%) defined their refugee status in terms of loss of ‘homeland’ (Watan), and/loss of ‘land’

⁸ The massacre of *Deir Yassin* is contended by Zionist scholars and other post-Zionist scholars; if an alternative perspective is required attention should be directed towards other historians. Also it should be noted that despite the reasoning of displacement within International law a broader contingent agrees that all those that were displaced and their descendants have the right to return as stipulated through UN Resolution 194. For the purposes of this paper a short overview is presented through the Palestinian narrative to build the understanding of how Palestinian refugees came about.

⁹ The UN recently altered Palestinian refugees to Palestine refugees; however for the purposes of this paper both terms will remain mutually exclusive.

¹⁰ Interview with Mr. Hussein Mahmoud Yahya, 83 years old from Al Bireh; interviewed by Lina Shraim on 16-11-1997.

¹¹ United Nations; UNRWA; definition of Palestine refugee; (accessed May 2009) <http://www.unrwa.org/etemplate.php?id=86>

(Ard). Eighty-nine of the 152 interviewees (58.6%) highlighted the loss of their ‘homeland’, while 54 persons (35.5%) defined refugees as people who lost their land. Only six refugees (3.9%) responded that refugees are poor people who live in refugee camps. Two others (1.3%) defined a refugee as someone who lost his house or job. (Yahya, 1999, p. 19)

This form of definition indicates the strong sense towards the loss of homeland as opposed to the physical dislocation or loss of home and livelihood as proposed in the UN standard definition. Furthermore Yahya (1999) posits the critique of the UN definition as one that de-politicizes and de-nationalizes the Palestinian national aspirations and defines it along humanitarian lines. He specifies that the definition is incorrect in its evaluation of Palestine refugees as it excludes; a) all refugees living out of UNRWA’s area of operation in the region as well as the refugees living in Israel¹², b) the Palestinians that were displaced in the 1967 war, and c) those that are continuously being displaced due to ongoing conflict¹³. (Yahya, 1999, p. 20)

Drawing from the problematic of defining what is considered a ‘Palestine refugee’, there also exists a historical dispute over what created the Palestine refugee crisis initially. Evidence stipulates that it was indeed the Zionist policy to aggressively pursue nationhood at the costs of forced expulsion, displacement and ethnic cleansing of the Arabs of Palestine. The greatest outflow of refugees was a direct result of operation “ Plan Dalet”¹⁴ that took place prior to the Arab-Israeli war in 1948. Plan Dalet was designed to achieve military *fait accompli* upon which Israel would establish its mark; the massacre of more than 100 men, women, and children in the Palestinian village of *Deir Yassin* is widely known to have created fear that essentially led to the mass displacement of Palestinians.¹⁵ Other sources that support this theory indicate through a series of statements by top-level administrators, policy makers, and army personnel, that it was indeed the Zionist policy to use force to expel Palestinians from their indigenous towns and villages. In the words of David Ben-Gurion, while addressing the Jewish Agency Executive (1938), he claimed; “ I am for compulsory transfer; I do not see anything immoral in it.”¹⁶ Other statements are discrete in the way they tackle the expulsion of Palestinians. In a statement made by Moshe Shertok¹⁷, Israeli Foreign Minister, he places the blame on the 1948 war that resulted in the expulsion of Palestinians from their places of origin. He states;

There are those who say that we uprooted Arabs from their places. But even they will not deny that the source of the problem was the war: had there been no war, the Arabs would not have abandoned their villages, and we would not have expelled them. Had the Arabs from the start accepted the decision of 29 November (1947), a completely different Jewish state would have arisen... In essence the State of Israel would have arisen with a large Arab minority, which would have left its impress on the state, on its manner of governance, and on its economic life, and (this Arab minority) would have constituted an organic part of the state. (Morris, 2008, p. 410)

¹² Palestinians that were internally displaced either in 1948 or 1967 from their original towns and villages, but moved to another city which is now under the borders of the state of Israel. For example, communities from Nazareth that were expelled and now maintain residency in Haifa.

¹³ This is important in the context of Area C, where systematic demolitions and forced displacement tactics continues to make refugees of Palestinians. These “new” refugees do not fall into the broader definition of UNRWA and continue to (in)exist within the broad gap of both humanitarian and development organizations.

¹⁴ Survey of Palestinian Refugees and Internally Displaced Persons; 2006-2007; Badil Resource Centre: web: <http://www.badil.org>

¹⁵ Ibid.

¹⁶ Central Zionist Archives, minutes of the meeting of Jewish Agency Executive, 12 June 1938.

¹⁷ Moshe Shertok, meeting of Cabinet , 9 February 1949.

Although warfare indeed exacerbated and quickly increased the number of displaced persons the act of forced expulsion remains well documented. Numerous accounts of forced expulsions through terror and massacre is evident in historical archives indicating that in fact the Zionists had a well-organized plan to cleanse Arabs from what was to be established as the Jewish homeland. Pappé (2006) documents one such account of Moshe Pasternak, a member of the early excursions and operations of the 1940's. He recalls;

We had to study the basic structure of the Arab village. This means the structure and how best to attack it. In the military schools, I had been taught how to attack a modern European city, not a primitive village in the Near East. We could not compare it (an Arab village) to a Polish, or an Austrian one. The Arab village, unlike the European ones, was built topographically on hills. That meant we had to find out how best to approach the village from above or enter it from below. We had to train our ' Arabist' (the Orientalists who operated a network of collaborators) how best to work with informants. (Pappé, 2006, p. 19)

Several testimonies of refugees allude towards a sense of fear amongst Palestinians of the Jewish militia. In one such account documented by Yahya (1999) it was cited; "There were rumours about Jewish gangs out to butcher the Arabs. This belief among with the ignorance of the Arabs at the time, and the people's fear for their honour, made them run away from the face of the shooting."¹⁸

Another line of arguments pose that Palestinians left their homes because Arab leaders had asked the Palestinians to leave in order to make safe passage for the liberating armies to enter. (Dershowitz, 2003, p. 79) Statistical data challenges this notion whereby;

When refugees were asked why they left, the overwhelming majority, 116 of 136 (85%), responded that they left out of fear for their lives or the lives of their children. Ten persons (7.3%) cited fear for their honour. Seven refugees (5.1%) said that they left to allow Arab armies to fight or because Arab leaders demanded that they do so. Three people (2.2%) stated that they left from just plain ignorance of the stakes involved. (Yahya, 1999, p. 28)

Despite the disputes of whether the Palestinians were displaced through forced expulsion and ethnic cleaning or through a voluntary act the fact remains that over the course of six decades, millions of Palestinians continue to struggle for return with little hope. Recent data indicates alarming number of displaced Palestinians living in refugee camps or in host states.¹⁹

Figure 1: Palestine Refugees Registered with UNRWA, as of 31 March 2005²⁰

Field	In Camps	Not in Camps	Total
Jordan	283,183	1,497,518	1,780,701
Lebanon	210,952	189,630	400,582
Syria	112,882	311,768	424,650
West Bank	181,241	506,301	687,542
Gaza	471,555	490,090	961,645
Total	1,259,813	2,995,307	4,255,120

¹⁸ Interview with Mr. Mit'ib Abdul Nour Issa, 67 years old, from Balata Camp, originally from Tired Denden; interviewed by Yazar Bazzari on 15-8-1997

¹⁹ Refer to Figure 1; statistics do not include number of Palestinian refugees globally.

²⁰ Source: United Nations, Public Information Office, UNRWA Headquarters, Gaza, May 2005, www.un.org/unrwa/refugees

Essentially it is documented that Palestinian villages formerly known as Jaffa, Ramla and Beersheba were all incorporated in the establishment of the Israeli state. Further, 500 Palestinian villages with a land base of more than 17,000 km² were de-populated and destroyed.²¹ Palestinians that were displaced between 1947 and 1967 cannot return to their original towns and villages. Their property was confiscated under a systematic state policy, which defined itself, under Israeli absentee laws.²² The absentee law has helped legally affirm that there were no indigenous people in Palestine and hence was a tool for colonizing and annexing land. This is in contrast to the *Law of Return* that was implemented in the Israeli Knesset²³ in 1950, soon after the establishment of the Israel. The *Law of Return* gives legal substance to the Jewish right to return, giving permission to any Jew anywhere, only by virtue of being a Jew, to “return” or settle in the State of Israel. (Prior, 2001, p. 9) The discrimination in the manner via which the law of return is specifically applied to the Jewish diaspora while systematically denying Palestinian refugees is in compliance with the Zionist platform of maintaining a Jewish majority in historic Palestine. Further, these policies have created a second and third generation of refugees both within the current Palestinian territories and in host-states. Internally, within the current geography of the West Bank, Palestinian refugees live in concrete ‘ghettos’ and continue to be a site of clashes with the Israeli army. A system of arbitrary arrests, nightly home raids, violence and denial of basic resources (e.g., access to health care and water) has created a humanitarian crisis that has lasted over four decades.

Palestinian Refugees & Refugee Camps

Record!
I am an Arab
And my Identity Care
Is number fifty thousand

....
Record!
I am an Arab
Without a name—without title
Patient in a country
With people enraged (Said, 1992, p. 156)²⁴

In order to fully understand how the on-going Israeli practices of forced displacement impact livelihoods and communities, the example of the current refugee context in the West Bank is important in highlighting how future displaced Palestinians will fail to maintain their livelihoods, identity and dignity. This section outlines the numbers and the living conditions of Palestinian refugees in the West Bank (as an example) under the Israeli military occupation. It

²¹ Survey of Palestinian Refugees and Internally Displaced Persons; 2006-2007; Badil Resource Centre: web: <http://www.badil.org>

²² Absentee is a person who at any time during the period between 29 November 1947 and the day on which the state of emergency (declared on 19 May 1948) ceased to exist, was a legal owner of any property situated in the area of Israel, or enjoyed or held it, by himself or through another, and who, at any time during the same period; (1) was a national or citizen of Lebanon, Egypt, Syria, Saudi Arabia, Jordan, Iraq or Yemen; (2) was in one of these countries or in any part of Palestine outside the area of Israel; or (3) was a Palestinian citizen and left his ordinary place of residence in Palestine for a place outside Palestine before 1 September 1948 or for a place in Palestine held at the time by forces which sought to prevent the establishment of the state of Israel or which fought against its establishment (as defined by Israel’s 1950 Absentees’ Property Law)

²³ Knesset; Israeli Parliament

²⁴ Darwish, Mahmoud. *If I Were Another*. Translated by Fadi Joudeh. New York: Mahmoud Darwish Estate, 2009.

will present the realities on the ground and the struggles of refugees living in several refugee camps. In a UNRWA population census (2007) it was indicated that in both years 1997 and 2007 censuses distinguish the number of refugees and the actual number of registered refugees that live in the OPT. There are several reasons for the discrepancy in numbers however, it was noted that roughly 1,605,402 refugees (registered and unregistered) were residing in the OPT in the year 2007²⁵. The numbers broken down indicate that out of the 1,605,402 only 643,305 were residents in the West Bank and an additional 114,815 in the Jerusalem district.²⁶ In the Bethlehem area, an approximately 176,235 refugees were documented and are divided into three key refugee camps; Aida, Azzeh and Dheisheh Camp. However it should be taken into account that there are refugees that do not reside in the camps and could be residents in Bethlehem but are still considered refugees or descendants of refugees either from the Israel proper or annexed land from the 1967 war.

The refugees in the West Bank are living not only in the context of poverty through displacement; they are also confined under an active military and settler occupation. The refugee camps and the refugees are often placed at the forefront of the battleground whether it is in the realm of resistance, hostility or peace talks. Although Palestinians collectively in the West Bank and the Gaza Strip are faced with tremendous struggles through the indiscriminate military occupation, check-points and the Wall (i.e., Israel's security barrier); the refugees are further stigmatized through another layer of complex barriers to development and security. It is important to fully develop the efficacy of the military and settler occupation that grips the West Bank and Gaza strip in order to then understand its relation to the refugees/refugee camps. The term occupation generates a physical sense of control whereby the means of land through a military command. However the Israeli occupation is a complex hegemonic and systematic matrix of control through which Palestinians collectively are marginalized. Further, the occupation's appetite for land and resources continues to displace and dispossess Palestinians. Here, more recently the international community has shed light in the Jordan Valley and other 'Area C' communities that face on-going demolitions. These on-going demolitions in-turn creates new refugees that are displaced from their communities, land and resources. Further, in areas like the Jordan Valley where Palestinians are primarily farmers and shepherds, land and access to it is delicately attached to their livelihoods. The demolitions and displacement impacts the families and residents both socially and economically, furthermore forcing communities into the urban city centres where they become further disconnected and disenfranchised.

The Israeli occupational forces can be dissected into two major categories; the *first* is the active military occupation by the IDF and the *second* is the expanding settler occupation. Both contingents work collectively to create the dynamics that curb Palestinian rights and more importantly for the purposes of this paper the rights of refugees and displaced persons. *Firstly*, the increase in settlements and Israeli settlers in the West Bank impacts greatly the Palestinian *right to return*,²⁷ whilst Israelis continue to build and flourish within Palestinian lands. However, in regards to the refugees, their continuous existence within the refugee camps without promise of return or resettlement results in the 'warehousing' of them as a community. The *right to return* is not some call for a mystified return to a homeland that currently does not exist in its true shape or form. It is in fact a moral claim by the Palestinian community that has several

²⁵ The disparity in the numbers documented are mainly due to the large number of refugees initially also because of the limitations of the UNRWA definition of a Palestine refugee.

²⁶ <http://www.unrwa.org/userfiles/2010012035949.pdf>

²⁷ *Right of Return* as stipulated under UN General Assembly Resolution 194

instrumental claims attached to it; a) the acceptance of the original sin or the *Nakba*²⁸ on the Palestinian people, b) the principle attached to the concept of ‘return’ whereby Palestinians should have the right to, if they choose to return to their homeland. The denial of this right along with the growing settlement expansion in the remaining Palestinian territories creates a sense of insecurity and a sense of continuous injustice towards Palestinians and especially towards the refugees as vulnerable populations (particularly women and youth). The refugees in the camps lack proper identification and thus hold ‘vague’ forms of identity established through the framework of UNRWA sponsored ID cards. Hence, by virtue of being outside the borders of their original towns and villages the refugees in the West Bank are defined as ‘refugees’ and not as ‘internally displaced persons.’

Further, as refugees in the West Bank they continue to face several issues; a) the socio-economic impact of refugees in the West Bank, b) the role of UNRWA versus the Palestinian National Authority (PNA) and c) the politics of space and security. The entitlement of Palestinian refugees in the OPT as refugees and not as internally displaced persons implies the loss of the original state that could have manifested as Palestine post the British Mandate. The loss of a state is currently a continuous process as Palestinians are still being displaced from within Israel proper, the West Bank and the Gaza Strip. One of the main reasons for displacement is the growing number of settlements in the OPT / the 1967 borders. The Israeli settlements according to international law are considered illegal; also they have been major deal breakers in the peace process. UN Resolution 446 expresses its concern on the issue of Israeli settlements in the Arab territories occupied by Israel post the 1967 war. In the same Resolution, the Security Council stipulates; “that the policy and practices of Israel in establishing settlements in the Palestinian and other Arab territories occupied since 1967 have no legal validity and constitute a serious obstruction to achieving a comprehensive, just and lasting peace in the Middle East.”²⁹

In a Special Rapporteur of the Commission on Human Rights (2000) it was stated that Israel has confiscated since 1967 an approximate 60 per cent of land in the occupied territory of West Bank.³⁰ This 60 per cent includes the establishment of Israeli military zones, settlements, industrial zones, elaborate “bypass” roads and quarries, and state designated land which is exclusive for Israeli use. The occupation of physical space in the context of a conflict where refugees are limited to refugee camps contextualizes the overall struggle of Palestinians in the OPT whereby they continue to exist under immense oppression.

The structure of the Israeli occupation is well-dependent on the illegal settlements and outposts that legitimize its security rhetoric. Agamben (2005) organizes his theory of the *state of exception* around the politics of security whereby arguing; “the question of borders become all more urgent: if exceptional measures are the result of periods of political crisis and , as such, must be understood on political and not juridico-constitutional grounds, then they find themselves in the paradoxical position of being juridical measures that cannot be understood in legal terms, and the state of exception appears as the legal form of what cannot have legal form.” Essentially what Agamben is eluding to is the concept of the ‘no-man’s’ land analogy; where between public law and political fact; juridical life and order; there is a grey area. (Agamben, 2005, p. 2) This in the context of Palestinian refugees translates into an abolition of basic rights through the use of security politics. Therefore as implied earlier the *first* injustice through the

²⁸ *Nakba*; Arabic for tragedy or catastrophe

²⁹ United Nations website; (accessed January 2010) <http://www.un.org/Depts/dpi/palestine/ch11.pdf>

³⁰ Ibid.

military occupation is the denial of the ‘right of return’ to Palestinian refugees to their homes and villages. *Secondly*, the occupation as a structure is created in order to maintain political control, hegemon, and domination in the occupied Palestinian territories. It is a complete, yet complex, tool of oppression that is multi-layered and multi-faceted. A crucial form of oppression the military occupation employs is segregation between communities; and this works well within the context of the West Bank where refugee communities are separated from the local community.

The occupation also separates Palestinian towns from other towns through a series of checkpoints, military zones, permit processes and more recently through the building of the Wall.³¹ This again dissects refugees as a community to become even more fragmented and isolated in their respective refugee camps. Another key fragmentation that is important to understand is how the military occupation fragments the health care infrastructure that is available for Palestinian refugees. The Palestinian Medical Relief Society reports;

they (state of Israel) imposes heavy taxes on health establishments, closed professional unions, and hampered the ability of health practitioners to perform their jobs in needed areas. Israeli authorities also denied Palestinian health institutions permits to expand existing facilities, or build new ones. As a result, much of the Palestinian public health care infrastructure suffered...with the public sphere under Israeli control, Palestinians could turn only to the private sector. Unfortunately, the private sector geared itself towards a biomedical, curative approach, and concentrated almost entirely on the larger urban areas of the Territories. Many rural and isolated communities (refugees) lack services of any kind, and treatment in general did not take other, non-medical factors into account when addressing health issues.³²

In a report produced by OCHA³³ in conjunction with WHO³⁴ it was documented that the route of the Wall in many districts curbs access to health care services for Palestinians. In particular it documented the struggles faced by ordinary Palestinians in attempting to access health care facilities in East Jerusalem. East Jerusalem being the hub for healthcare facilities in the OPT³⁵ with its six hospitals that are the main providers of specialized health care including; dialysis and oncology at Augusta Victoria Hospital, open-heart surgery at Maqassed Hospital, neurosurgery at St. Joseph Hospital, neonatal intensive care at the Red Crescent and Maqassed Hospital, eye surgery at St. John Hospital and rehabilitation for handicapped children at Princess Basma Hospital.³⁶ Restricted access to East Jerusalem is a major deterrence towards achieving a basic standard of health for Palestinian refugees. Furthermore, the politics around gaining access to East Jerusalem through a series of permits, physician referrals, the lengthy wait periods at check points, all are integral towards the security rhetoric by which Israel functions in the Palestinian territories.

Thirdly, the occupation has a significant impact on development whereby although ongoing conflict and a state of emergency inspires opportunities for development they also simultaneously create restrictions to development. Duffield (2007) argues that when development is deconstructed on the basis of emergency and the politics of exception; whereby

³¹ The Wall; Israeli Security Fence; Israeli Separation Barrier- Israel started building the wall in 2002 as a measure to prevent Palestinian violence in Israel proper. The wall despite its other titles; “fence” or “barrier” is a concrete structure with security towers, trenches, and electronic wires. It roughly runs 650 km and most of the Wall snakes through the West Bank separating Palestinians from Palestinians. A recent ICJ ruling called for Israel to dismantle the Wall as it violates the 1967 borders and is illegal.

³² The Occupation’s Impact on Health Care; <http://www.pmr.ps/last/etemplate.php?id=127#>

³³ Office for the Coordination of Humanitarian Affairs

³⁴ World Health Organization

³⁵ Occupied Palestinian Territory

³⁶ OCHA; (accessed May 2010) <http://www.ochaopt.org/>

conflict, human disaster and increasing refugee flows provide the capacity for international agents to expand and grip the emergent world of peoples. The parallel yet intertwined relationship between development and security in a state of conflict is political. In the context of the Israeli-Palestinian conflict it is evident through the many years of international agency and international presence that development is effectively a lucrative process. However, for the purposes of this paper it is crucial to inhibit and analytically address development in the realm of refugees in the area of healthcare for instance; and simultaneously observing development under the on-going military occupation. As mentioned earlier on several junctures Palestinian refugees are fragmented, like their identity and their potential national state. Hence the fragmented realities on the ground are a unique context for development agents to operate in. Duffield suggests that “all those interconnecting UN, donor, military, and NGO endeavours that mobilize to intervene, save lives, and end the decades long conflict now increasingly appear as assemblages of occupation defining a new post-interventionary society. That is, they constitute the enduring multi-agency apparatus of the *Empire Lite*”. (Duffield, 2007, p. 27) In the Palestinian context, the strong bond between refugees and UNRWA, raising several questions towards development agencies and their efficacy on displaced communities. Questions pertaining to whether these agencies are tools of development or whether mediators on the ground are crucial realizations that are needed to assess the efficacy of these agencies on refugee communities. More importantly also understanding the role of these agencies in the security dynamic of military occupation and hostility.

For instance, in the current context do donor-aid agencies take on a ‘humanitarian’ role or a ‘development’ role. Do these agencies place efforts towards advocacy and campaigning against the occupation that: a) systematically displaces populations, and b) creates barriers for existing refugees to return to the homes and villages. The key challenges include how to continue operating in a conflict that resorts on the presence of the larger donor consortium to fill the gaps in both humanitarian and development areas.

Legal Framework: Refugees and Rights

There are key legal instruments and legal rights discourses that need to be taken into consideration to fully grasp the current situation of Palestinian refugees. The legal framework that is constructed in and around the displacement of Palestinian refugees is crucial in unravelling the complex issues faced by the refugees. In the context of Palestinian refugees the first and foremost right that Palestinian refugees continue to resist for is their *right to return* as stipulated by UN Resolution 194. In text UN Resolution 194 (General Assembly) Article 11 stipulates;

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 predictable 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 Governments or authorities responsible.³⁷

The victims of the events of 1948 (i.e. Nakba) over six decades now amount to roughly over 5 million Palestinian refugees, of which 3.7 million are registered with UNRWA. Also, 1.3 million are un-registered refugees. These constitute to two-thirds of the 8 million Palestinians and collectively represent the largest, oldest and most politically important group of refugees in the

³⁷ <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/043/65/IMG/NR004365.pdf?OpenElement>

world. (Abu-Sita, 2001, p. 195) Furthermore, it should be understood that the *right of return* is sacred to Palestinians and is built into the psyche of the nations consciousness. “Every people in the world lives in a place, except the Palestinians. The place lives in them.” (Ibid.) Abu-Sita (2001) argues;

The right of return is legal. We only have to remember that Resolution 194 is not an invention. It is the embodiment and restatement of international law. There is no equal to this resolution in the UN history, neither in the length of upholding it, nor in its unique application to the Palestinian people. It enjoys sustained, universal and overwhelming consensus, more than 100 times in the last 52 years. Contrary to common misconception, it is not a single resolution. It is three in one: first, it affirms the right of refugees to return home, that is, to their place of origin; second, it provides welfare to the refugees until they return; and third, it creates a mechanism to effect that the refugees : a UN organ named the Conciliation Commission of Palestine. (Abu-Sita, 2001, p. 197)

Although the *right of return* in the current context comes across as a trivial detail, it is in fact if looked through a deeper lens a crucial piece in creating peace and stability in the region. Furthermore, it is also an important right in terms of restoring Palestinian civil society and livelihood.

In the absence of the *right of return* there are several other legal and human rights structures that apply to the Palestinian refugees. Palestinian refugees given their unique situation are entitled not to reduced protection, but to a heightened protection regime. (Akram, 2001, p. 165) Furthermore Akram (2001) posits;

A number of international instruments affect the status of Palestinians as refugees and as stateless persons; the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol; the 1954 Convention on the Elimination or Reduction of Statelessness. There are also three international organizations whose activities affect the international legal rights of Palestinian refugees: the United Nations High Conciliation Commission on Palestine (UNCCP); the United Nations High Commissioner for Refugees (UNHCR); and the United Nations Relief and Works Agency (UNRWA)... The 1951 Convention Relating to the Status of Refugees is the most important treaty affecting Palestinian human rights in most of the areas of the world where they find themselves. It is also the primary international instrument governing the rights of refugees and the obligation of states towards them. This Convention and its 1967 Protocol, incorporate the most widely accepted and applied definition of refugee, and establish minimum guaranteed of protection towards such refugees by state parties. The Refugee Convention and Protocol incorporate two essential state obligations: the application of the now universally accepted definition of ‘refugee’ which appears in Article 1A (2) of the Convention, and the obligatory norm of non-refoulement, which appears in Article 33.1 of the Convention. The principle of non-refoulement requires that a state not return a refugee to a place where his/her life or freedom would be threatened. It is important to note that nowhere in the Refugee Convention or Protocol, nor in any other international human rights instrument, is there an obligation on any state to grant status of political asylum or any more permanent status than non-refoulement...The Convention requires states to grant refugees a number of rights which Palestinians are often denied, including; identity papers (Article 27); travel documents (Article 28); freedom from unnecessary restrictions on movement (Article 26); freedom from restrictions on employment (Articles 17 and 18); basic housing (Article 21), welfare (Article 23), education and religion (Article 4). It also makes them eligible for more permanent forms of relief such as residence and citizenship, subject to the discretion of the granting state.

All the aforementioned “rights” are inaccessible or blatantly denied to Palestinian refugees. It is done through a systematic legal loop-whole whereby local and national laws of the state of Israel

as the occupying power suspends Article 26; freedom of movement—utilizing security concerns as a reason for curbing mobility rights. Article 17 and 18; whereby right to work and freedom from unnecessary restrictions; are all suspended under the military occupation forces in the West Bank. Also, Article 27 and 28, whereby proper identification and travel documentation should be granted to refugee communities are still pending implementation. To offer context, the union of Palestinians lawyers drafted data around the legal structure that impacts the issuing of proper travel and identity documents. In the context of the West Bank, where although a system of permits and ID cards exist; it is used to work against Palestinians and not in their benefit. The West Bank ID-system is created to administer and control Palestinian movement within the OPT and a form of military intelligence. In addition, Article 21, 23 and 4 are all routinely denied to Palestinians in discrete patterning of local policies and regional agreements with international agencies etc.

Another specific provision that can be applied to Palestinian refugees, but often ignored, is found in-Article D- in the Refugee Convention;

This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the UNHCR protection or assistance. When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relative resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this convention.³⁸

Despite the fact that Palestinians are not directly mentioned in this Convention, it is evident that this is applicable to the Palestinian refugee context. Akram (2001) argues that *firstly*; the only equitable situation to Article 1D is the Palestinian refugees, *secondly*; at the time at which Article 1D was drafted there was only one group of refugees that were receiving from other organs and agencies of the UN, *thirdly*; the interrelationship of the mandates of the UN agencies relevant towards the needs of the Palestinians point towards the language of Article 1D.

The relevancy and applicability of these international instruments is important to note in order to classify an international commitment towards refugees and displaced persons; and in this case particularly for Palestinian refugees. These instruments demonstrated through a series of legal proceedings the right to protection for refugee communities. The drafters of the UNHCR Refugee Convention certainly did not anticipate that the “international convention” will become universal after only fifty years of its existence. Hence this begs the question, if the drafters of the UNHCR Refugee Convention did not encompass protection for refugee communities then how did it evolve to become “universal” and incorporated into local laws as an instrument for protecting refugees globally? By 1967, the *Protocol Relating to the Status of Refugees* removed the geographical boundaries and temporal limitations³⁹ on the refugee definition, thereby creating a capacity to universalize the nature of refugees’ protection based needs.⁴⁰ And while it is evident that essentially it was the intent of the UN to make efforts to ensure that the Refugee Convention is inclusive and broad enough to protect the rising number of refugees and displaced persons exuding not just from European countries but also from the developing world; has it really been successful in doing so? In light of this legal scholars like James Hathaway and B.S. Chimni have critiqued the 1951 Convention, referring it to being Eurocentric—i.e. defining

³⁸ 1951 Convention and Protocol Relating to the Statue of Refugees; <http://www.unhcr.org/3b66c2aa10.html>

³⁹ Temporal restrictions refer to the initial deadlines (January 1, 1951) set in the Refugee Convention beyond which a person were not considered to be a conventional refugee. Similarly geographical restrictions refer to events occurring only in Europe.

⁴⁰ Hathaway, *supra* at note 7; European perspective mean laws created from ideologies and philosophies embedded in European history, culture and social construct.

international refugee law from a European perspective.⁴¹ It is for this reasoning and for the collective lack of political and policy will that leads to the failure in implementing even the very basic of these rights for refugees and displaced persons.

The failure of implementing basic protection laws and in large basic education, welfare, and health rights for displaced persons begs the attention of collective responsibility towards the marginalized in the Global South. Also the breakages between international jurisdiction and local/national policies and the failure to implement the very basic of rights all point to a troubling realization of insecurity and instability for displaced communities.

Conclusion and Recommendation

Currently, the Middle East is at a crossroads when it comes to dealing with on-going conflict, warfare and violence, which is contributing towards the forced displacement of vulnerable populations. The Palestinian refugee crisis is at the center of Middle East politics since the inception of the state of Israel. While, several inter-regional and international agreements include the Israel-Palestine conflict, little policy-based efforts have helped ensure peace and stability. However, the continuous conflict contributes towards the insecurity and the instability for the region and more importantly for the Palestinian refugees. The continuous conflict results in the 'warehousing' of Palestinian refugees in camps; also it maintains the continuous security threat in the region. Further, it cripples refugees' access to education, health care, and livelihoods through maintaining a 'temporary' state of Palestinian refugees. However as the conflict exceeds sixty years there is a need to find ways to improve the condition of refugees in the region, if and when, there is no viable peace agreement.

Also, the negation of their basic right to health and access to health care through a series of restriction implemented on the ground are documented to contribute in some ways to the realities absent in existing studies and literature. If and when the realities are to change in the context of Palestinian refugees it must include the preservation of the Palestinian identity whereby access to national health care and other social services should not be a process of integration into local/national systems. This is crucial as mentioned earlier, the importance of the Palestinian identity and their legal right to the '*right to return*'. However, as the on-going conflict unfolds a grim reality begs the most basic of rights inclusive of mobility and other social services (i.e., access to health care) to help improve the health status of refugees. Other rights, like access to work, also need to be guaranteed in order to break dependency patterns for refugees. The legal barriers to work for Palestinian refugees create a detrimental situation and alleviate poverty levels amongst refugee communities. Furthermore illegal labor markets quickly use these conditions to violate the rights of workers through inadequate pay and work conditions. All these are contributing factors towards an overall poor health status of Palestinian refugees.

The empowerment of Palestinian refugees through empowering their most basic of rights in the absence of a viable solution or resettlement is crucial towards building the livelihoods of the local community. The regional dynamics have collectively worked against the Palestinian refugees and mirror policies in order to maintain the current legal and socio-economic condition. This is a violation of the rights of refugees and in a larger context their basic human rights. However, the gaps between international law-regional policy-national law-and-implementation create a staggering situation in the case of Palestinians. The gaps colluded with the failed political peace process and the lack of authority of the Palestinian Authority (PA) has all contributed to the status of Palestinian refugees. If the realities are to change there is a need for

⁴¹ B.S. Chimni, *International Refugee Law: A Reader*. (New Delhi: Sage Publications, 2000) and Hathaway, *supra* at note 7

multi-lateral agreements and implementation of these agreements to help resolve or in fact relieve the suffering of refugees through commitment and guaranteeing their rights. In the meantime, the condition of these refugees is one of disparity and immense difficulty.

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