

## >> INTRODUCTION

In October 2003, when details emerged of the unofficial peace plan known as the Geneva Accord, which was signed in Switzerland by former official Palestinian and Israeli negotiators, outsiders as well as moderates on both sides were encouraged by the proposals contained in the plan. Such individuals felt that the accord, albeit unofficial, might offer hope for reviving the stalled Oslo peace process of the waning years of the twentieth century and its stillborn, twenty-first-century offspring, the Road Map.

However, many associations and NGOs representing Palestinian refugees since 1948 immediately and vocally derided the initiative, just as they had the July 2002 People's Voice peace initiative of Sari Nuseibeh, a Palestinian academic and official, and Ami Ayalon, a former Israeli intelligence official. These groups representing the refugees—the people who arguably stand to gain the most from a final resolution of the Palestinian-Israeli conflict after six decades of displacement—had also vigorously rejected the Oslo process of the 1990s. How are we to understand this hostile reaction? Why would such opprobrium be hurled at proposals that some felt would lead to a peace that would ameliorate, finally, the suffering of Palestinian refugees—a group that all sides have conceded has suffered the most from the longevity of the Arab-Israeli conflict?

The shorthand answer is that these recent peace endeavors, such as the failed Oslo process begun in 1993 and the much-vaunted Road Map, foundered on the rocks of deep-set, unresolved Palestinian refugee grievances. These grievances, like so many other core problems facing Israelis and Palestinians, extend back to the tumultuous events of 1948, when the first Arab-Israeli war broke out, the state of Israel was created, and approximately 750,000 Palestinian Arabs found themselves displaced across new borders and cease-fire lines as

refugees. These grievances have yet to be addressed adequately—not to the refugees' satisfaction, at least. Negotiators can draw lines on maps. Drafts, proposals, and "nonpapers" can be written. Track-two diplomatic conferences can discuss modalities and mechanisms. Outsiders can pledge money. Yet if peace is to break out between Israelis and Palestinians, it can only do so, from the Palestinian perspective at least, if it provides the refugees with at least a modicum of satisfaction and closure to their sixty-year-old grievances.

Final borders, the status of Jerusalem, and the fate of Israeli settlements in the West Bank all loom large as daunting impediments to peace. Yet perhaps no other question has proved so volatile, and has engendered such passions among both Palestinian Arabs and Israeli Jews, as that of the refugees and their ultimate fate. Some of the refugees' grievances are political. Others are psychological and emotional. Still others, however, are eminently tangible. Perhaps this is why the refugee issue has stubbornly refused to yield to the kind of creative efforts and proposals that have tried to solve other Palestinian-Israeli sticking points, proposals such as swapping land and granting sovereignty over Jerusalem to God so that neither side can claim it. The palpable, flesh-and-blood nature of the refugee problem seems to militate against such novel approaches.

This study examines one of the most important issues related to the Palestinian refugees, their grievances, and the future of the peace process: the fate of the property they abandoned in 1948 and the ways that the property question has not been, but perhaps can be, addressed satisfactorily as part of a lasting peace settlement. It does so primarily by detailing why Arabs, Israelis, and the global community have failed to solve the refugee property problem despite considerable effort in the nearly six decades since 1948, and how conceptual and practical problems have thus far hindered resolution of the issue. As such, this study sheds considerable light on the reasons why the world community has failed to realize an overall peace between Israelis and Palestinians despite many concrete and sometimes laudable efforts.

The first Arab-Israeli war of 1948 decimated Palestinian Arab society and marked the beginning of the refugee exodus that to this day continues to lie at ground zero of the conflict. About 750,000 persons, over one-half of the entire Arab population of Palestine, were uprooted during the fighting. They found themselves living across new, hostile borders and cease-fire lines, most eking out a meager existence bereft of their homes and property that lay in that part of Palestine now called the state of Israel. As early as the summer of 1948, the provisional

Israeli government decided to prevent any massive refugee repatriation, thereby separating the refugees from patrimony, home, and economic livelihood. The Israelis also early on stated their willingness to compensate the refugees for the land they abandoned during their flight, land that the Israeli state quickly confiscated. Many refugees themselves, however, refused to consider accepting compensation, fearing that they would thereby concede their right of return and legitimize the seizure of their property. For them, the solution to the problem was not *compensation for the property*, but *restitution of it* to its repatriated owners. The refugee property issue then immediately became linked to, and affected by, the various parties' stances on other nettlesome dimensions of the wider refugee problem. So, too, did it become subject to the vicissitudes and longevity of the broader Arab-Israeli conflict over the subsequent decades. Even during the last public Palestinian-Israeli peace talks, at Taba in January 2001, the property question emerged as a central dimension of the entire peacemaking process.

The Palestinian refugee property question has consumed perhaps more expenditure of global time and effort since 1948—enumerating and valuating the losses, devising compensation studies and schemes, and so forth—than almost any other aspect of the refugee dilemma other than caring for the refugees' basic needs in exile. Beyond this immense expenditure of diplomatic and technical efforts, the property issue witnessed some of the only successful, internationally brokered deals by which Israel directly and concretely redressed certain refugee grievances in ways that the refugees actually could see and from which they could benefit directly. Yet despite these efforts and successes, ironically, it is precisely this same property issue (and the related question of large-scale refugee repatriation) on which the wider refugee dilemma and, ultimately, the entire Palestinian-Israeli conflict have foundered. This study looks at why this happened and what must be done differently in the future if peace efforts are to succeed.

Chapter 1 offers a historical background to the Palestinian refugee property issue. It examines the measures that the new Israeli government took in 1948 to prevent the return of the refugees and to confiscate their property. It also focuses on the early efforts of the United Nations Conciliation Commission for Palestine (UNCCP) to address the refugees' property claims. Chapter 2 discusses the important question of the scope and value of these property losses and provides the various estimates produced by Arabs, Israelis, Americans, and the United Nations that have emerged over the years. Chapter 3 shifts from the

property itself to the diplomatic activity expended over this issue and tries to answer the question, Why has neither property compensation nor restitution been forthcoming over the six decades since the refugee exodus in 1948? Stemming from this, chapter 4 examines several plans that emerged in the 1950s and 1960s for settling the property issue. The details of most of these plans were first published in my recent book, *Records of Dispossession: Palestinian Refugee Property and the Arab-Israeli Conflict*. A study of these plans is extremely valuable for present-day negotiators and diplomats, for they represent both independent (that is, “neutral” non-Israeli, non-Palestinian) and wide-ranging plans for property compensation that emerged within the first two decades after 1948, before the many vicissitudes, changes, and attitudes emerged that characterized—or, dare we say, muddled—current thinking about the property issue. Chapter 5 looks at precisely this: how the Arab-Israeli peace process has facilitated or, ironically, hindered resolution of property claims. This chapter looks at peace efforts that began with the 1979 Egyptian-Israeli peace treaty and continued to emerge in the dramatic decade of peacemaking activity in the 1990s and even beyond. Chapter 6 ferrets out examples and ideas from the historical record that can help peacemakers when they tackle the refugee property dilemma in future negotiations that inevitably must resume.

This study stems from research that I conducted in a number of venues in six countries on three continents from 1999 to 2002. One result of that research was the publication of the above-mentioned *Records of Dispossession*, a lengthy, historical study of this subject. Among the unique aspects of this entire project dealing with the 1948 Palestinian refugee property issue (and that of the property losses sustained by Jewish emigrants from Arab countries after 1948) is that it is the first truly historical study of this question, the first to base itself on archival records, and the first to make specific use of the confidential records of the UNCCP, which lie gathering dust under lock and key at the United Nations Secretariat Archives in New York. Writings, estimates, figures, and plans about the refugee property, many of them based on conjecture, have emerged aplenty in the past. However, none have approached the question historically, and none with the benefit of such a wide array of archival material and a detailed study of the question. Beyond these UN archives, I conducted or commissioned research into primary archival sources at the Central Zionist Archives in Jerusalem; the Israel State Archives in Jerusalem; the Public Records Office in London; the National Archives and Records Administration in College Park, Maryland; and

the National Library and Center for Documents and Documentation in Amman. I also carried out research at places other than public archives, most notably several offices of the Jordanian government in Amman and the offices of the Institute for Palestine Studies in Washington and Beirut. A complete listing of sources is found in the Works Cited section at the end of the book.