

Jewish Refugees
from Arab Countries:
The Case for
Rights and Redress



"The real test
of a civilized society
is not how it treats
its majority,
but how it treats
its minorities"



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JEWISH REFUGEES FROM ARAB COUNTRIES: THE CASE FOR RIGHTS AND REDRESS

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INTRODUCTION

Historically, Jews and Jewish communities have existed in the Middle East, North Africa and the Gulf region for more than 2,500 years.

Jews in substantial numbers resided in what are to-day Arab countries over 1,000 years before the advent of Islam. Following the Moslem conquest of the region, for centuries, while relegated to second-class status, Jews were nonetheless permitted limited religious, educational, professional, and business opportunities.

The status of Jews in Arab countries changed dramatically immediately before and after the Arab world attacked the new State of Israel in 1948. By way of example, in Syria, as a result of anti-Jewish pogroms that erupted in Aleppo in 1947, 7,000 of the town's 10,000 Jews fled in terror. In Iraq, 'Zionism' became a capital crime. Bombs in the Jewish Quarter of Cairo killed more than 70 Jews. After the French left Algeria, the authorities issued a variety of anti-Jewish decrees prompting nearly all of the 160,000 Jews to flee the country. After the UN General Assembly resolution on the Partition Plan, Muslim rioters engaged in a bloody pogrom in Aden and Yemen, which killed 82 Jews. Varying numbers of Jews fled from 10 Arab countries, becoming refugees in a region overwhelmingly hostile to Jews. In virtually all cases, as Jews left the country, individual and communal properties were confiscated without compensation.

Little is heard about these Jewish refugees because they did not remain refugees for long. Of the hundreds of thousands of Jewish refugees between 1948 and 1972, some two-thirds were resettled in Israel at great expense – others emigrated elsewhere – all without any compensation provided by the Arab governments that confiscated their possessions.

Securing rights and redress for Jews displaced from Arab countries is an issue that has not yet been adequately addressed by the international community. In fact, there were more former Jewish refugees uprooted from Arab countries (over 850,000) than there were Palestinians who became refugees as a result of the 1948 war when six Arab nations attacked the fledgling State of Israel. (UN estimate: 726,000)

There is a moral and legal imperative to ensure that justice for Jews from Arab countries assumes its rightful place on the international political and juridical agenda and that their rights be secured as a matter of law and equity.

This Report is based on 3 fundamental principles: Truth, Justice and Reconciliation.

- *The history and truth about the plight of former Jewish refugees from Arab countries must be returned to the narrative of the Middle East from which it has been expunged;*
- *Compelling evidence supports the call for justice to redress the victimization of Jews who lived in Arab countries and the mass violations of human rights that they were victims of; and*
- *In the absence of truth and justice, there can be no reconciliation, without which there can be no just, lasting peace between and among all peoples of the region.*

TABLE OF CONTENTS

I) EXECUTIVE SUMMARY	1
II) THE HISTORICAL NARRATIVE AND THE MASS VIOLATIONS OF HUMAN RIGHTS	5
Pattern of Mass Displacement of Jews from Arab Countries.....	6
Country Reports	
Egypt	10
Iraq	13
Libya	15
Other Country Profiles	
Algeria	17
Tunisia	17
Syria	18
Yemen (and Aden)	19
Morocco	20
Lebanon	20
Arab Decrees and the Nuremberg Laws on Citizenship and Race.....	21
III) THE RESPONSE OF THE UNITED NATIONS TO THE PLIGHT OF REFUGEES, ARISING OUT OF THE ARAB-ISRAELI CONFLICT	23
Overview	23
Representations to the UN Calling for an International Response.....	24
Relevant UN Resolutions and Action	25
The Response of UN Agencies	28

cont.

IV) JEWISH REFUGEES FROM ARAB COUNTRIES: THE CASE FOR RIGHTS AND REDRESS	30
Jews from Arab Countries and the Israeli-Palestinian Peace Process	30
The Injustice	32
Redress	32
Remedies	33
The High Commissioner and Mandate Refugees	33
The High Commissioner and Convention Refugees	34
An International Fund	35
Foreign Courts	36
 CONCLUDING COMMENTS.....	36

V) JUSTICE FOR JEWS FROM ARAB COUNTRIES: THE SPONSORING ORGANIZATION	37
Purpose	
Objectives	
Structure and Leadership	
Proposed Activities	

I) EXECUTIVE SUMMARY

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- A) The history and truth about the plight of former Jewish refugees from Arab countries must be returned to the narrative of the Middle East from which it has been expunged;*
- B) Compelling evidence supports the call for justice to redress the victimization of Jews who lived in Arab countries and the mass violations of human rights that they were victims of; and*
- C) In the absence of truth and justice, there can be no reconciliation, without which there can be no just, lasting peace between and among all peoples of the region.*

THE HISTORICAL NARRATIVE

Historically, Jews and Jewish communities have existed in the Middle East, North Africa and the Gulf region for more than 2,500 years.

Fully one thousand years before the advent of Islam, Jews in substantial numbers resided in what are to-day Arab countries. Following the Moslem conquest of the region, for centuries under Islamic rule, Jews were considered second class citizens but were nonetheless permitted limited religious, educational, professional, and business opportunities.

Upon the declaration of the State of Israel in 1948, the status of Jews in Arab countries changed dramatically as virtually all Arab countries declared war, or backed the war against Israel. This rejection by the Arab world of a Jewish state in their ancient homeland was the event that triggered a dramatic surge in a longstanding, pattern of abuse and state-legislated discrimination initiated by Arab regimes and their peoples to make life for Jews in Arab countries simply untenable. Jews were either uprooted from their countries of residence or became subjugated, political hostages of the Arab-Israeli conflict.

Little is heard about these Jewish refugees because they did not remain refugees for long. Of the hundreds of thousands of Jewish refugees between 1948 and 1972, some two-thirds were resettled in Israel at great expense – others



emigrated elsewhere – all without any compensation provided by the Arab governments who confiscated their possessions.

Securing rights and redress for Jews displaced from Arab countries is an issue that has not yet been adequately addressed by the international community. In fact, there were more former Jewish refugees uprooted from Arab countries (over 850,000) than there were Palestinians (UN estimate: 726,000) who became refugees as a result of the 1948 war when numerous Arab nations attacked the newly established State of Israel.

There is a moral and legal imperative to ensure that justice for Jews from Arab countries assumes its rightful place on the international political and juridical agenda and that their rights be secured as a matter of law and equity.

THE MASS VIOLATIONS OF HUMAN RIGHTS

Immediately before and after the Arab world sought to destroy the newly created State of Israel between 1948-49, the rights and security of Jews resident in Arab countries came under legal and physical assault by their own governments and the general populations. By way of example, in **Syria**, as a result of anti-Jewish pogroms that erupted in Aleppo in 1947, 7,000 of the town's 10,000 Jews fled in terror. In **Iraq**, 'Zionism' became a capital crime. Bombs in the Jewish Quarter of Cairo, Egypt killed more than 70 Jews. After the French left **Algeria**, the authorities issued a variety of anti-Jewish decrees prompting nearly all of the 160,000 Jews to flee the country. After the 1947 United Nations General Assembly Resolution on the Partition Plan, Muslim rioters engaged in bloody pogroms in **Aden** and **Yemen**, which killed 82 Jews. In numerous countries, Jews were expelled or had their citizenship revoked (e.g. **Libya**). Varying numbers of Jews fled from 10 Arab countries, becoming refugees in a region overwhelmingly hostile to Jews.

In a word, state-sanctioned repressive measures, coupled often with violence and repression, precipitated a mass displacement of Jews and caused the Jewish refugee problem in the Middle East. The uprooting of ancient Jewish communities from some 10 Muslim countries did not occur by happenstance. There is evidence that points to a shared pattern of conduct amongst a number of Arab regimes, that appear intended to coerce Jews to leave and go elsewhere, or to retain them as virtual political hostages. These are evidenced from: (a) statements made by delegates of Arab countries at the U.N. during the debate on the partition resolution representing a pattern of ominously similar threats made against Jews in Arab countries; (b) reports on multilateral meetings of the Arab League from which emerged indications of a coordinated strategy of



repressive measures against Jews; (c) newspaper reports from that period; and (d) strikingly similar legislation and discriminatory decrees, enacted by numerous Arab governments, that violated the fundamental rights and freedoms of Jews resident in Arab countries.

From the sheer volume of such state-sanctioned discriminatory measures, replicated in so many Arab countries and instituted in such a parallel fashion, one is drawn to the conclusion that such evidence suggests a common pattern of repressive measures, if not collusion, against Jews by Arab governments.

The Report contains country reports that describe these unmistakable trends. The situations in Egypt, Iraq and Libya are described in greater detail. General 'snapshot' profiles are provided on 7 other countries, including Algeria, Tunisia, Morocco, Yemen, Aden, Syria and Lebanon.

THE DISCRIMINATORY RESPONSE OF THE UNITED NATIONS TO THE PLIGHT OF JEWISH REFUGEES

From 1948 onward, the response of the international community to assist Palestinian refugees arising out of the Arab-Israeli conflict was immediate and aggressive. During that same period, there was no concomitant United Nations' response, nor any comparable international action, to alleviate the plight of Jewish refugees from Arab countries.

The sole comparison that can be made between Palestinian and Jewish refugees is that both were determined to be *bona fide* refugees under international law, albeit each according to different internationally accepted definitions and statutes – the former covered by UNRWA and the latter by the UNHCR.

As far as the response of the United Nations is concerned, the similarity ends there. The contrasts, however, are stark:

- a) Since 1947, there have been over 681 UN General Assembly resolutions dealing with virtually every aspect of the Middle East and the Arab Israeli conflict.
- b) Fully 101 of these UN resolutions refer directly and specifically to the 'plight' of Palestinian refugees.
- c) In none of these 681 UN resolutions on the Middle East is there a specific reference to, nor any expression of concern for, the 856,000 Jews living in, or having been displaced from, Arab countries.



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- d) Numerous UN agencies and organizations were involved in a variety of efforts, or others were specifically created, to provide protection, relief, and assistance to Palestinian refugees. No such attention and assistance was forthcoming from these UN agencies for Jewish refugees from Arab countries.
 - e) Since 1948, billions of dollars have been spent by the international community - by the UN, its affiliated entities and member states - to provide relief and assistance to Palestinian refugees. During that same period, no such international financial support was ever provided to ameliorate the plight of Jewish refugees.

THE LEGAL CASE FOR RIGHTS AND REDRESS

In the context of the Middle East, it would be an injustice to ignore the rights of Jews from Arab countries. As a matter of law and equity, it would not be appropriate to recognize the claim of Palestinian refugees to redress without recognizing a right to redress for former Jewish refugees from Arab countries. The legal case of displaced Jews to redress is as strong as, if not stronger than, the case of Palestinian refugees.

Recognition of the past is essential to the integrity of the Middle East peace process. Rejection of memory is a rejection of peace. This Report argues that justice in the Middle East requires acknowledgement of the historical narrative and rights of Jews uprooted from Arab countries.

The Report argues for redress as a matter of international law. Jews from Arab countries are entitled to invoke the right to redress because of the injustices inflicted upon them that caused their displacement. The Report author states:

"The Jews who were displaced from Arab countries are a victim population, people who suffered human rights violations at the hands of the governments and populations in the countries in which they lived."

The report contains an extensive canvassing of the remedies available to assert the right to redress. The remedies considered include the Office of the High Commissioner for Refugees, the United Nations Convention on the Status of Refugees, a compensation fund established under an Arab-Israeli comprehensive settlement, and litigation in the courts of the countries where Jews displaced from Arab countries are now found.

II) THE HISTORICAL NARRATIVE AND THE MASS VIOLATIONS OF HUMAN RIGHTS

Since Biblical times, the land of Israel has been a major arena for conflict and wars. Its importance over thousands of years of history traverses many fields, underscored by the fact that the Middle East is:

- Geographically (and militarily) strategic, as a land-link 'crossroads' from north to south and east to west (Europe to India; Africa to Asia); and provides a sea lane from the Mediterranean to the Red Sea;
- The birthplace of the world's three great monotheistic religions (Christianity, Islam and Judaism); and
- The cradle of civilization, with a rich heritage in numerous fields; from architecture to music to mathematics to philosophy.

There has been an uninterrupted presence of large Jewish communities in the Middle East from time immemorial. The ancient Jewish communities of the Middle East and North Africa existed some 1,000 years before the Arab Muslim conquests of the these regions – including the Land of Israel – and about 2,500 years before the birth of the modern Arab states.

COUNTRY/REGION	DATE OF JEWISH COMMUNITY
Iraq	6 th century BCE
Lebanon	1 st century BCE
Libya	3 rd century BCE
Syria	1 st century CE
Yemen	3 rd century BCE
Morocco	1 st century CE
Algeria	1 st – 2 nd century CE
Tunisia	200 CE

Over the centuries, through a process of Arabization and Islamicization, these regions have become known as the "Arab world." Yet, non-Arab and non-Muslim minorities, the original indigenous inhabitants, remained as minorities in their own lands.

It is within the last 55 years that the world has witnessed the mass displacement of over 850,000 Jews from the totalitarian regimes, the brutal dictatorships and monarchies of Syria, Trans-Jordan, Egypt, Lebanon, Yemen, Iran, Iraq, Algeria, Tunisia and Morocco.

The displacement of Jews from Arab countries did not happen in a vacuum. It was the result the repressive responses of Arab regimes and their peoples to the rise of a Jewish nationalist movement (Zionism) and the establishment of a Jewish homeland in the Land of Israel. Beginning in 1947, two populations of refugees -



Palestinian Arabs as well as Jews from Arab countries - emerged as a result of the Arab states' refusal to accept the UN Partition Plan.

Then, as now, the international community's response to the plight of these refugees focused primarily on Palestinian Arabs. Virtually ignored in the discussion of Middle Eastern refugees was the plight of hundreds of thousands of Jewish refugees displaced from some 10 Arab countries in North Africa, the Middle East and the Gulf states. In fact, there were more former Jewish refugees uprooted from Arab countries (over 850,000) than there were Palestinians who became refugees as a result of the 1948 war when numerous Arab countries attacked the newly founded State of Israel (UN estimate: 726,000).

In virtually all cases, as Jews left their country, individual and communal properties were confiscated without compensation provided to rightful owners. There were a variety of lost properties and assets:

- i) **Personal** (e.g. homes, businesses, land, pensions, benefits); and
- ii) **Assets belonging to the community or collective** (e.g. schools, synagogues, hospitals and cemeteries).

Figures as to total losses vary. The World Organization of Jews from Arab Countries' (WOJAC) estimate is well over \$100 billion.

A) PATTERN OF MASS DISPLACEMENT OF JEWS FROM ARAB COUNTRIES

Upon the declaration of the State of Israel in 1948, the status of Jews in Arab countries changed dramatically as virtually all Arab countries declared war, or backed the war against Israel. This rejection by the Arab world of a Jewish state in their ancient homeland was the event that triggered a dramatic surge in a longstanding, pattern of abuse and state-legislated discrimination initiated by Arab regimes and their peoples to make life for Jews in Arab countries simply untenable. Jews were either uprooted from their countries of residence or became subjugated, political hostages of the Arab-Israeli conflict.

In numerous countries, Jews were expelled or had their citizenship revoked. In other states, the reasons that many Jews felt compelled to leave or flee varied by country, individual, community and family. Some of the reasons included: discrimination/ anti-Jewish legislation; fear of violence/ rioting; Arab collusion with Fascist/Nazi persecution of Jews in North Africa; and the rising tension of the Arab-Israeli conflict.

The statistics of this mass displacement are revealing and alarming:

Jewish Population in Arab Countries 1948-2001¹

	1948	1958	1968	1976	2001
Aden	8,000	800	0	0	0
Algeria	140,000	130,000	1,500	1,000	0
Egypt	75,000	40,000	1,000	400	100
Iraq	135,000	6,000	2,500	350	100
Lebanon	5,000	6,000	3,000	400	100
Libya	38,000	3,750	100	40	0
Morocco	265,000	200,000	50,000	18,000	5,700
Syria	30,000	5,000	4,000	4,500	100
Tunisia	105,000	80,000	10,000	7,000	1,500
Yemen	55,000	3,500	500	500	200
TOTAL	856,000	475,050	72,600	32,190	7,800
	(Roumani 83)	(AJY 58)	(AJY 69; Yemen: AJY 70)	(AJY 78)	(AJY 01; Leb.: AJY 88)

After 1948, since virtually all Arab countries were at war with Israel, many Arab countries began to treat their own Jewish citizens as 'enemy nationals'. Many governments began to enact officially legislated discriminatory laws against Jews, denying them most basic human and civil rights, including: expropriating their property; removing them from civil service and other forms of employment; subjecting them to countless arrests, physical attacks, torture, and even public executions. All of these sinister acts appear to be part of a discernable pan-Arab pattern to force a mass Jewish displacement from Arab countries.

In a word, state-sanctioned repressive measures, coupled often with violence and repression, precipitated a mass displacement of Jews and caused the Jewish refugee problem in the Middle East. The uprooting of ancient Jewish communities from these 10 Muslim countries did not occur by happenstance. There is evidence that points to a shared pattern of conduct amongst a number of Arab regimes, that appear intended to coerce Jews to leave and go elsewhere, or to retain them as virtual political hostages. These are evidenced from: (a) statements made by delegates of Arab countries at the U.N. during the debate on the partition resolution representing a pattern of ominously similar threats made against Jews in Arab countries; (b) reports on multilateral meetings of the Arab League from which emerged indications of a coordinated strategy of repressive measures against Jews; (c) newspaper reports from that period; and (d) strikingly similar legislation and discriminatory decrees, enacted by

¹ Chart compiled by the American Sephardi Federation from the following sources: Roumani, Maurice. *The Jews from Arab Countries: A Neglected Issue*. WOJAC, 1983. and *American Jewish Yearbook*: 1958, 1969, 1970, 1978, 1988, and 2001. Philadelphia: The Jewish Publication Society of America.

numerous Arab governments, that violated the fundamental rights and freedoms of Jews resident in Arab countries.

From the sheer volume of such state-sanctioned discriminatory measures, replicated in so many Arab countries and instituted in such a parallel fashion, one is drawn to the conclusion that such evidence suggests a common pattern of repressive measures, if not collusion, against Jews by Arab governments.

By way of example, the following official statements represent a pattern of ominously similar threats made against Jews in Arab countries:

- During the Palestine Partition debate at the United Nations, the Palestinian delegate to the UN, Jamal al-Hussayni, (representing the Arab Higher Committee of Palestine to the UN General Assembly), made the following threat:

It must be remembered that there are as many Jews in the Arab world as there are in Palestine whose positions... will become very precarious. Governments in general have always been unable to prevent mob excitement and violence.²

- In a key address before the Political Committee of the U.N. General Assembly on November 24, 1947, just five days before that body voted on the partition plan for Palestine, Heykal Pasha, an Egyptian delegate, made the following statement:

The United Nations ... should not lose sight of the fact that the proposed solution might endanger a million Jews living in the Moslem countries (emphasis added). Partition of Palestine might create in those countries an anti-Semitism even more difficult to root out than the anti-Semitism which the Allies were trying to eradicate in Germany ... If the United Nations decides to partition Palestine, it might be responsible for the massacre of a large number of Jews.

A million Jews live in peace in Egypt [and other Muslim countries] and enjoy all rights of citizenship. They have no desire to emigrate to Palestine. However, if a Jewish State were established, nobody could prevent disorders. Riots would break out in Palestine, would spread through all the Arab states (emphasis added) and might lead to a war between two races.³

Although Heykal Pasha spoke in his capacity as Egypt's representative to the U.N., his references to Jews "in other Muslim countries" and "all the Arab states," was reasonably understood by Jews in Arab countries not as a genuine expression of concern for Jewish well-being but rather as not-very veiled pan-Arab threat as to what the future might hold for the one million Jews in Arab countries.

² United Nations, *Official Records of the Second Session of the General Assembly Ad Hoc Committee on the Palestinian Question*, Summary Records of Meetings, September 25, 1947, Lake Success, New York.

³ U.N. General Assembly, Second Session, Official Records, Ad Hoc Committee on the Palestinian Question, Summary Records of Meetings, Lake Success, N.Y., Nov. 24, 1947, p. 185.

- Shortly thereafter, ominously similar projections appeared once again in a statement by Iraq's Foreign Minister Fadil Jamali delivered at that same United Nations meeting:

*The masses in the Arab world (emphasis added) cannot be restrained. The Arab-Jewish relationship in the Arab world will greatly deteriorate... Harmony prevails among Moslems, Christians and Jews [in Iraq]. But any injustice imposed upon the Arabs of Palestine will disturb the harmony among Jews and non-Jews in Iraq; it will breed inter-religious prejudice and hatred.*⁴

The assault on human rights was initiated by his own government, which soon took a series of steps, including discriminatory legislation, against its Jewish population.

Subsequently, there were a number of seminal multilateral meetings among Arab leaders and officials from which emerged additional indications of a coordinated strategy of repressive measures to be taken against Jews in Arab countries. Some representative examples include:

- Just two days after the State of Israel was proclaimed, a *New York Times* headline on May 16, 1948 declared "**Jews in Grave Danger in All Moslem Lands, Nine hundred thousand in Africa and Asia face wrath of their foes.**" An article written by Mallory Browne, reported on a series of discriminatory measures taken by the Arab League against the Jewish residents of Arab League member states (including, at that time, Egypt, Iraq, Jordan, Lebanon, Saudi Arabia, Syria and Yemen). The *Times* article reported on a:

*"text of a law drafted by the Political Committee of the Arab League which was intended to govern the legal status of Jewish residents of Arab League countries. It provides that beginning on an unspecified date all Jews except citizens of non-Arab states, would be considered 'members of the Jewish minority state of Palestine.' Their bank accounts would be frozen and used to finance resistance to 'Zionist ambitions in Palestine.' Jews believed to be active Zionists would be interned and their assets confiscated."*⁵

- Another indication that Arab countries were deliberating upon the coerced displacement of Jews from their territories comes from reports of a Beirut meeting of senior diplomats from all the Arab States in late March 1949. By this time, the Arab states had already lost the first Arab-Israeli war. As reported in a Syrian newspaper, participants at this meeting concluded that: "If Israel should oppose the return of the Arab refugees to their homes, the Arab governments will expel the Jews living in their countries."⁶ In fact, expulsions did take place in some countries.

The third trend that lends credence to the proposition that many Arab countries engaged in a coordinated pattern of shared practices to coerce Jews to leave was the plethora of legislation, decrees and other measures that were enacted by Arab regimes,

⁴ U.N. General Assembly, Second Session, Official Records, Verbatim Record of the Plenary Meeting, Nov. 28, 1947, p. 1391.

⁵ Actual text unavailable. Arab League records not rendered public.

⁶ Al-Kifah, Mar. 28, 1949.

violating the rights of its Jewish citizens. From the sheer volume of such state-sanctioned discriminatory actions, replicated in so many Arab countries and instituted in such a parallel fashion, one is drawn to the conclusion that such actions were premeditated among the governments involved. Moreover, these state-sanctioned measures, coupled often with violence and repression, made remaining in the land of their birth an untenable option for Jews.

C) Country Reports

The following country reports describe these unmistakable trends. The situations in Egypt, Iraq and Libya are described in some detail; a more cursory review is provided on seven other countries, including Algeria, Tunisia, Morocco, Yemen, Aden, Syria and Lebanon.

EGYPT

History⁷

Jews have lived in Egypt since Biblical times. Israelite tribes first moved to the Land of Goshen (the northeastern edge of the Nile Delta) during the reign of the Egyptian pharaoh Amenhotep IV (1375-1358 B.C).

Over the years, Jews have sought shelter and dwelled in Egypt. By 1897, there were more than 25,000 Jews in Egypt, concentrated in Cairo and Alexandria. In 1937, the population reached 63,500.

In the 1940's, with the rise of Egyptian nationalism and the Zionist movement's efforts to create a Jewish homeland in adjoining Israel, anti-Jewish activities began in earnest. In 1945, riots erupted – ten Jews were killed; 350 injured, and a synagogue, a Jewish hospital, and an old age home were burned down. After the success of the Zionist movement in establishing the State of Israel, between June and November of 1948, violence and repressive measures by the Government and Egyptians began in earnest. Bombs were set off in the Jewish Quarter, killing more than 70 Jews and wounded nearly 200. Rioting over the next few months resulted in many more Jewish deaths. 2,000 Jews were arrested and many had their property confiscated.

In 1956, the Egyptian government used the Sinai Campaign as a pretext to order almost 25,000 Egyptian Jews to leave the country and confiscated their property. They were allowed to take only one suitcase and a small sum of cash, and forced to sign declarations "donating" their property to the Egyptian government. Approximately 1,000 more Jews were sent to prisons and detention camps. On November 23, 1956, a proclamation signed by the Minister of Religious Affairs, and read aloud in mosques throughout Egypt, declared that "all Jews are Zionists and enemies of the state," and promised that they would be soon expelled (*AP*, November 26 and 29th 1956; *New York World Telegram*).

⁷ Historical Society of Jews from Egypt

By 1957, the Jewish population of Egypt had fallen to 15,000. In 1967, after the Six-Day War, there was a renewed wave of persecution, and the community dropped to 2,500. By the 1970s, after the remaining Jews were given permission to leave the country, the community dwindled to a few families.

Jewish rights were finally restored in 1979 after President Anwar Sadat signed the Camp David Accords with Israel. Only then was the community allowed to establish ties with Israel and with world Jewry. Nearly all the estimated 200 Jews left in Egypt (from the original 75,000) are elderly and the once proud and flourishing Jewish community is on the verge of extinction.

Discriminatory Decrees and Violations of Human Rights

(Intended merely as a sampling and not an exhaustive compilation)

The first Nationality Code was promulgated by Egypt on May 26, 1926. Entitled to Egyptian nationality were only those who “belonged racially to the majority of the population of a country whose language is Arabic or whose religion is Islam.”⁸ This provision served as the official pretext for expelling many Jews from Egypt.

On July 29, 1947, an amendment was introduced to the Egyptian Companies Law that made it mandatory for at least 75% of the administrative employees of a company to be Egyptian nationals and 90% of employees in general. This resulted in the dismissal and loss of livelihood for many Jews since only 15% of them had been granted Egyptian citizenship.⁹

A mass departure of Jews was sparked when Egypt passed an amendment in 1956 to the original Egyptian Nationality Law of 1926. Article 1 of the Law of November 22, 1956, stipulated that “Zionists” were barred from being Egyptian nationals.¹⁰ Article 18 of the 1956 law asserted that “Egyptian nationality may be declared forfeited by order of the Ministry of Interior in the case of persons classified as Zionists.” Moreover, the label of “Zionist” was never defined, leaving Egyptian authorities free to interpret this term as broadly as they pleased.

Provision both in the 1956 and 1958 laws permitted the government to take away citizenship of any Egyptian Jew absent from United Arab Republic territory for more than six consecutive months. That this provision is aimed exclusively at Jews is shown by the fact that the lists of denaturalized persons published time and again by the Official Journal contains Jewish names only, despite the fact that there were many non-Jewish Egyptians who stayed abroad for over six months.¹¹

⁸ Article 10(4) of the Code. See: Maurice de Wee, *La Nationalité Égyptienne*, Commentaire de la loi du mai 1926, p. 35.

⁹ H.J. Cohen, “*The Jews of the Middle East, 1860 – 1972.*”

¹⁰ Law No. 391 of 1956, section 1(a). See *Revue égyptienne de Droit International*, Vol. 12 (1956), p. 80.

¹¹ Confidential Memorandum provided to the UNHCR, Feb. 26, 1960.

Economic Discrimination and Strangulation
(Intended as a sampling and not an exhaustive compilation)

Law No. 26 of 1952 obligated all corporations to employ certain prescribed percentages of "Egyptians." A great number of Jewish salaried employees lost their jobs, and could not obtain similar ones, because they did not belong to the category of Jews with Egyptian nationality.

Between November 1-20 1956, official records reveal that by a series of sequestration orders issued under Military Proclamation No. 4, the property of many hundreds of Jews in Egypt was taken from their owners and turned over to Egyptian administrators.¹² Proclamation No. 4 was carried into effect almost exclusively against Jews; and though a number of Copts and Moslems were also interned, their assets were never sequestered.¹³

Of the published lists of 486 persons and firms whose properties were seized under Military Proclamation No. 4, at least 95 per cent of them are Jews. The names of persons and firms affected by this measure represented the bulk of the economic substance of Egyptian Jewry, the largest and most important enterprises and the main sustenance, through voluntary contributions, of Jewish religious, educational, social and welfare institutions in Egypt.¹⁴

In addition to the vast sequestration of property and other discriminatory treatment, Directive No. 189 issued under the authority of Military Proclamation No. 4, authorized the Director General of the Sequestering Agency to deduct from the assets belonging to interned persons, 10% of the value of the sequestered property, presumably to cover the costs of administration. Hence, without regard to the question of whether a property is legally sequestered, the Jews of Egypt were being taxed to pay for the machinery or improper sequestration and withholding.¹⁵

The Jews leaving Egypt were subjected to additional deprivations and inconveniences. A regulation was established which limited Jews leaving Egypt to take with them only travelers checks or other international exchange documents up to a value of 100 pounds sterling per capita. The Bank of Egypt provided Jews leaving the country with instruments specifically drawn on Egyptian accounts in Britain and France, when Egyptian authorities knew full well that those accounts were blocked in reciprocation for the Egyptian blocking of British and French assets in Egypt and were not freely negotiable abroad.¹⁶

¹² Confidential Memorandum provided to the High Commissioner, Mr. Auguste Lindt, on Feb. 21, 1957

¹³ Confidential Memorandum provided to the UNHCR, Feb, 26, 1960.

¹⁴ *Egyptian Official Gazette, No. 88, November 1, 1957.*

¹⁵ Confidential Memorandum provided to the High Commissioner, Mr. Auguste Lindt, on Feb. 21, 1957.

¹⁶ *Ibid.*

IRAQ

*History*¹⁷

Iraq is the modern designation for the country carved out of ancient Babylonia, Assyria, and the southern part of Turkey after World War I.

It is also the place of the oldest Jewish Diaspora and the one with the longest continuous history, from 721 BCE to 1949 CE, a time span of 2,670 years.

By the 3rd century, Babylonia became the center of Jewish scholarship, as is attested to by the community's most influential contribution to Jewish scholarship, the Babylonian Talmud. Jews had prospered in what was then Babylonia for 1200 years before the Muslim conquest in 634 AD. Under Muslim rule, the situation of the Jewish community fluctuated. Some Jews held high positions in government or prospered in commerce and trade. At the same time, Jews were subjected to special taxes, and restrictions on their professional activity. Under British rule, which began in 1917, Jews fared well economically, but all of this progress ended when Iraq gained independence in 1932.

In June 1941, the Mufti-inspired, pro-Nazi coup of Rashid Ali sparked rioting and a pogrom in Baghdad. Armed Iraqi mobs murdered 180 Jews and wounded almost 1,000.

Additional outbreaks of anti-Jewish rioting occurred between 1946-1949. After the establishment of Israel in 1948, Zionism became a capital crime.

In 1950, Iraqi Jews were permitted to leave the country within a year provided they forfeited their citizenship. A year later, however, the property of Jews who emigrated was frozen and economic restrictions were placed on Jews who chose to remain in the country. From 1949 to 1951, 104,000 Jews were evacuated from Iraq to Israel in Operations Ezra and Nehemiah; another 20,000 were smuggled out through Iran. Thus a community that had reached a peak of some 150,000 in 1947 dwindled to a mere 6,000 after 1951.

In 1952, Iraq's government barred Jews from emigrating. With the rise of competing Ba'ath factions in 1963, additional restrictions were placed on the remaining Iraqi Jews. The sale of property was forbidden and all Jews were forced to carry yellow identity cards. Persecutions continued, especially after the Six-Day War in 1967, when many of the remaining 3,000 Jews were arrested and dismissed from their jobs. Around that period, more repressive measures were imposed: Jewish property was expropriated; Jewish bank accounts were frozen; Jews were dismissed from public posts; businesses were shut; trading permits were cancelled; telephones were disconnected. Many Jews were placed under house arrest for long periods of time or restricted to the cities.

¹⁷ Patai, Raphael. The Vanished Worlds of Jewry. Macmillan Publishing Co. Inc.: New York, 1980. p. 142 and material from the website of the Historical Society of Jews from Egypt; "The Jewish Refugee from Arab Countries: An Examination of Legal Rights: A case Study in Ethnic Cleansing" by Carole Basri, Fordam Law Revue, 2003.

Persecution was at its worst at the end of 1968. Scores were jailed upon the allegation of an alleged local "spy ring" composed of Jewish businessmen. Fourteen men—eleven of them Jews—were sentenced to death in staged trials. On January 27, 1969, all were hanged in the public squares of Baghdad. (Judith Miller and Laurie Mylroie, "Saddam Hussein and the Crisis in the Gulf", p. 34).

In response to international pressure, the Baghdad government quietly allowed most of the remaining Jews to emigrate in the early 1970's, even while leaving other restrictions in force. In 1973, most of Iraq's remaining Jews were too old to leave and they were pressured by the government to turn over title, without compensation, to more than \$200 million worth of Jewish community property (New York Times, February 18, 1973).

The *NY Times* (July 28, 2003) reported that there are only 28 Jews left in Baghdad. A once flourishing Iraqi Jewish community of 135,000 has thus been virtually extinguished (*Associated Press*, March 28, 1998).

Discriminatory Decrees and Violations of Human Rights

(Intended merely as a sampling and not an exhaustive compilation)

- The first piece of legislation enacted that violated the rights of Jews was the 1948 amendment¹⁸ to the 1938 supplement¹⁹ to the Penal Code of Baghdad. The Baghdad Penal Code set out the provision regarding communism, anarchy and immorality in section 89A(1). The section generally prohibits the publication of anything that incites the spread of hatred, abuse of the government or the integrity of the people. This amendment, enacted in 1948, added "Zionism" to communism, anarchism and immorality, the propagation of which constituted an offense punishable by seven years imprisonment and/or a fine.
- In an article that appeared in the *New York Times* on May 16, 1948, it was reported that: "In Iraq no Jew is permitted to leave the country unless he deposits £5,000 (\$20,000) with the Government to guarantee his return. No foreign Jew is allowed to enter Iraq, even in transit."
- Law No. 1 of 1950, entitled "Supplement to Ordinance Canceling Iraqi Nationality," in fact deprived Jews of their Iraqi nationality. Section 1 stipulated that "the Council of Ministers may cancel the Iraqi nationality of the Iraqi Jew who willingly desires to leave Iraq..." (Official Iraqi English translation).²⁰

¹⁸ Law No.11 of 1948 that amended Law No. 51 of 1938, itself an addition to the Baghdad Penal Code: *Official Gazette*. 14 November 1948 (p. 591 of the English edition).

¹⁹ Law No. 51 of 1938. *Official Gazette*. 24 July 1938 (p.475 of the English edition). This addition does not mention the number of the section of the Penal Code that is involved.

²⁰ Law No. 1 of 1950 entitled "supplement to Ordinance canceling Iraqi Nationality", *Official Iraqi Gazette*, March 9, 1950.

- Law No. 5 of 1951 entitled “ A law for the Supervision and Administration of the Property of Jews who have Forfeited Iraqi Nationality” also deprived them of their property. Section 2(a) “freezes” Jewish property. ²¹
- There were a series of laws that subsequently expanded on the confiscation of assets and property of Jews who “forfeited Iraqi nationality”. These included Law No. 12 of 1951²²; Law No. 64 of 1967 relating to ownership of shares in commercial companies; and Law No. 10 of 1968 relating to banking restrictions.

LIBYA

History

The Jewish community of Libya traces its origin back some 2,500 years to the 3rd century B.C.

Around the time of the Italian occupation of Libya in 1911, there were about 21,000 Jews in the country, the majority in Tripoli.

In the late 1930s, anti-Jewish laws were gradually enforced, and Jews were subject to terrible repression. Still, by 1941, the Jews accounted for a quarter of the population of Tripoli and maintained 44 synagogues. In 1942, the Germans occupied the Jewish quarter of and times were extremely difficult for Jews in Libya although conditions did not greatly improve following the liberation. During the British occupation, rising Arab nationalism and anti-Jewish fervor were the reasons behind a series of pogroms, the worst of which, in November of 1945, resulted in the massacre of more than 140 Jews in Tripoli and elsewhere and the destruction of five synagogues (Howard Sachar, *A History of Israel*).

The establishment of the State of Israel led many Jews to leave the country. In June 1948, protesting the founding of the Jewish state, rioters murdered 12 Jews and destroyed 280 Jewish homes. Although emigration was illegal, more than 3,000 Jews managed to escape and fled to Israel. When the British legalized emigration in 1949, and in the years immediately preceding Libyan independence in 1951, hostile demonstrations and riots against Jews brought about the departure of some 30,000 Jews who fled the country up to, and after the point when Libya was granted independence and membership in the Arab League in 1951 (Norman Stillman, *The Jews of Arab Lands in Modern Times*).

²¹ Law No. 5 of 1951 entitled “ A law for the Supervision and Administration of the Property of Jews who have Forfeited Iraqi Nationality” (*Official Gazette*, 10 March 1951, English version, p.17).

²² Law No. 12 of 1951, supplementary to Law No. 5 as above (*Official Gazette*, English version, 27 January 1952, p.32).

Discriminatory Decrees and Violations of Human Rights

(Intended merely as a sampling and not an exhaustive compilation)

- Article 1 of Law No.62 of March 1957, provided, inter-alia, that persons or corporations were prohibited from entering directly or indirectly into contracts of any nature whatsoever with organizations or persons domiciled in Israel, with Israel citizens or their representatives. Provision of this article also enabled the Council of Ministers to register residents in Libya who were relatives of persons resident in Israel.²³
- Law of December 31, 1958, was a decree that was issued by the President of the Executive Council of Tripolitania. It ordered the dissolution of the Jewish Community Council and the appointment of a Moslem commissioner nominated by the Government.²⁴
- On May 24, 1961, a law was promulgated which provided that only Libyan citizens could own and transfer real property. Conclusive proof of the possession of Libyan citizenship was required to be evidenced by a special permit that is reliably reported to have been issued to only six Jews in all.²⁵
- Royal Decree of August 8, 1962 provided, inter-alia, that a Libyan national forfeited his nationality if he had had any contact with 'Zionism'. Forfeiture of Libyan nationality under this provision extending to any person who had visited Israel after the proclamation of Libyan independence, and any person deemed to have acted morally or materially in favor of Israeli interests. The retroactive effect of this provision enabled the authorities to deprive many Jews of Libyan nationality at will.²⁶
- With the first law No. 14 of February 7, 1970, the Libyan Government established that all property belonging to "Israelis" who had left Libyan territory "in order to establish themselves definitely abroad" would pass to the General Custodian. In spite of the precise wording of the law ("Israelis who had left Libyan territory in order to establish themselves abroad definitely"), the Libyan Government started to take possession of property belonging to "Jews" without bothering about the fact that these Jews could not be considered as "Israelis" and had not "established themselves definitely abroad."²⁷
- The Government decreed the law of July 21,1970, wherein it states that it wanted to control "the restitution of certain assets to the State." The "Law relative to the resolution of certain assets to the State" asserted that the General Custodian would administer liquid funds of the property

²³ Confidential memorandum to Prince Sadruddin Aga Khan, UN High Commissioner for Refugees, dated May 8, 1970.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Note to File, UNHCR Archives, and dated August 24, 1970.



of Jews as well as the companies and the company shares belonging to Jews.²⁸

D) OTHER COUNTRY PROFILES

ALGERIA

Jewish settlement in present-day Algeria can be traced back to the first centuries of the Common Era. In the 14th century, with the deterioration of conditions in Spain, many Spanish Jews moved to Algeria. After the French occupation of the country in 1830, Jews gradually were granted French citizenship.²⁹

In 1934, Muslims incited by events in Nazi Germany, rampaged in Constantine killing 25 Jews and injuring many more. Before 1962, there were 60 Jewish communities, each maintaining their own rabbis, synagogues and educational institutions. After being granted independence in 1962, the Algerian government harassed the Jewish community and deprived Jews of their economic rights. As a result, almost 130,000 Algerian Jews immigrated to France and, since 1948, 25,681 Algerian Jews have immigrated to Israel.

Algeria's independence from France was the key event in the final uprooting of the Jewish community. As a result of the desire of Algeria and Algerians to join in the wave of Pan-Arab nationalism that was sweeping North Africa, Jews no longer felt welcome after the French departure. The Algerian Nationality Code of 1963 made this clear by granting Algerian nationality, as a right, only to those inhabitants whose fathers and paternal grandfathers had Muslim personal status in Algeria.³⁰ In other words, although the National Liberation Front in Algeria was known for its slogan "A Democratic Secular State," it adhered to strictly religious criteria in granting nationality, thereby entrenching anti-Israel and anti-Jewish bias in the country.

TUNISIA³¹

The first documented evidence of Jews living in what is today Tunisia dates back to 200 CE.

After the Arab conquest of Tunisia in the 7th century, Jews lived under satisfactory conditions, despite discriminatory measures such as a poll tax.

²⁸ Ibid.

²⁹ International Forum for Peace and Culture website.

³⁰ See section 34 of the Algerian Nationality Code, Law no. 63-69 of Mar. 27, 1963 p. 306; also cited in *Annualize de l'Afrique du Nord* 1973, pp. 806-14.

³¹ Maurice Roumani, *The Case of the Jews from Arab Countries: A Neglected Issue*, (Tel Aviv: World Organization of Jews from Arab Countries, 1977); Norman Stillman, *The Jews of Arab Lands in Modern Times*, (NY: Jewish Publication Society, 1991).



In 1948, the Tunisian Jewish community had numbered 105,000, with 65,000 living in Tunis alone.

After Tunisia gained independence in 1956, a series of anti-Jewish government decrees were promulgated. In 1958, Tunisia's Jewish Community Council was abolished by the government and ancient synagogues, cemeteries and Jewish quarters were destroyed for "urban renewal."

Similar to the conditions for Jews in Algeria, the rise of Tunisian nationalism led to anti-Jewish legislation and in 1961 caused Jews to leave in great numbers. The increasingly unstable situation caused more than 40,000 Tunisian Jews to immigrate to Israel. By 1967, the country's Jewish population had shrunk to 20,000.

During the six-day war, Jews were attacked by rioting Arab mobs, and synagogues and shops were burned. The government denounced the violence and appealed to the Jewish population to stay, but did not bar them from leaving. Subsequently, 7,000 Jews immigrated to France.

Even as late as 1982, there were attacks on Jews in the towns of Zarzis and Ben Guardane. Today an estimated 2,000 Jews remain in Tunisia.

SYRIA

Jews have lived in this land since biblical times and the community's history is intertwined with the history of Jews in the land of Israel. Jewish population increased significantly after the expulsion of the Jews from Spain in 1492. Throughout the generations, the main Jewish communities were to be found in Damascus and Aleppo.³²

In 1943, the Jewish community of Syria had 30,000 members. This population was mainly distributed between Aleppo, where 17,000 Jews lived and Damascus, which had a Jewish population of 11,000.

In 1945, in an attempt to thwart efforts to establish a Jewish homeland, the government restricted emigration to Israel, and Jewish property was burned and looted. Anti-Jewish pogroms erupted in Aleppo in 1947, precipitating the departure of 7,000 of the town's 10,000 Jews who fled in terror. The government then froze Jewish bank accounts and confiscated their property.

Shortly after the founding of Israel, as reported in the *New York Times* on May 16, 1948: "In Syria a policy of economic discrimination is in effect against Jews. 'Virtually all' Jewish civil servants in the employ of the Syrian Government have been discharged. Freedom of movement has been 'practically abolished.' Special frontier posts have been established to control movements of Jews."

In 1949, banks were instructed to freeze the accounts of Jews and all their assets were expropriated. Over the course of subsequent years, the continuing pattern of

³² . Shulewitz, Malka Hillel. The Forgotten Millions: The Jewish Exodus from Arab Lands. Cassell: New York, 1999, p. 52, 53.



political and economic strangulation ultimately caused a total of 15,000 Jews to leave Syria, 10,000 of who emigrated to the U.S.A. and another 5,000 to Israel.³³

YEMEN (and ADEN)³⁴

The Jews of Yemen have various legends relating to their coming to that country, the most widespread of which states that they arrived there before the destruction of the First Temple (587 BCE). The first historical evidence of their existence in Yemen dates from the third century.

Jews had begun to leave Yemen in the 1880s, when some 2,500 had made their way to Jerusalem and Jaffa. But it was after World War I, when Yemen became independent, that anti-Jewish feeling in that country made emigration imperative. Anti-Semitic laws, which had lain dormant for years were revived (e.g. Jews were not permitted to walk on pavements – or to ride horses). In court, a Jew's evidence was not accepted against that of a Moslem.

In 1922, the government of Yemen reintroduced an ancient Islamic law requiring that Jewish orphans under age 12 to be forcibly converted to Islam. When a Jew decided to emigrate, he had to leave all his property behind. In spite of this, between 1923 and 1945 a total of 17,000 Yemenite Jews left and immigrated to Palestine.³⁵

After the Second World War, thousands of more Yemenite Jews wanted to come to Palestine, but the British Mandate's White Paper was still in force and those who left Yemen ended up in crowded slums in Aden, where serious riots broke out in 1947 after the United Nations decided on partition. Many Jews were killed, and the Jewish quarter was burned to the ground. It was not until September 1948 that the British authorities in Aden allowed the refugees to proceed to Israel.

In 1947, after the partition vote, Muslim rioters engaged in a bloody pogrom in Aden that killed 82 Jews and destroyed hundreds of Jewish homes. The Jewish community of Aden, numbering 8,000 in 1948, was forced to flee. By 1959 over 3,000 arrived in Israel. Many fled to the U.S.A. and England. Today there are no Jews left in Aden.

Around the time of Israel's founding, Yemen's Jewish community was economically paralyzed, as most of the Jewish stores and businesses were destroyed. This increasingly perilous situation led to the emigration of virtually the entire Yemenite Jewish community - almost 50,000 - between June 1949 and September 1950 in Operation "Magic Carpet." A smaller migration was allowed to continue through 1962, when a civil war put an abrupt halt to any further Jewish exodus.

Yemen represents another example of the displacement of virtually an entire Jewish community of some 63,000 people from its ancient roots in what later became an

³³ Prof. Ada Aharoni, International Forum for Peace and Culture website.

³⁴ . Karen Hayesod Head Office Jerusalem. The Exodus from Yemen. Goldberg Press Ltd.: Jerusalem, 1950.and Patai, Raphael. The Vanished Worlds of Jewry. Macmillan Publishing Co. Inc.: New York, 1980.

³⁵ Prof. Ada Aharoni, International Forum for Peace and Culture website.



Arab country. It is estimated, there are about 1,000 Jews in Yemen today. They are living in dire conditions and are not allowed to leave.

MOROCCO³⁶

Jews first appeared in Morocco more than two millennia ago, traveling there in association with Phoenician traders. The first substantial Jewish settlements developed in 586 BC when Nebuchadnezzar destroyed Jerusalem and Jews fled to Egypt.

By 1948, this ancient Jewish community, the largest in North Africa, numbered 265,000. In June 1948, after the establishment of the State of Israel, bloody riots in Oujda and Djerada killed 44 Jews and wounded scores more. That same year, an unofficial economic boycott was instigated against Moroccan Jews.

Immigration to Israel started upon the initiative of small groups who arrived at the time of Israel's independence. However, the waves of mass immigration, which brought a total of more than 250,000 Moroccan Jews to Israel, were prompted by anti-Jewish measures carried out in response to the establishment of the State of Israel. By way of example, on June 4, 1949, riots broke out in northern Morocco killing and injuring dozens of Jews. Shortly afterwards, many Jews began to leave.

During the two-year period between 1955 and 1957 alone, over 70,000 Moroccan Jews arrived in Israel. When Morocco declared its independence in 1956, Jewish immigration to Israel was suspended and by 1959, Zionist activities were declared illegal in Morocco. During these years, more than 30,000 Jews left for France and the Americas. In 1963, when the ban on emigration to Israel was lifted, another 100,000 fled to Israel.

Today, the Jewish community of Morocco has dwindled to less than 10% of its original size. Of the 17,000 Jews that remain (from a community of 265,000 in 1948), two-thirds live in Casablanca.

LEBANON³⁷

Jews have lived in Lebanon since ancient times. King Herod the Great, in the 1st century CE supported the Jewish community in Beirut.

During the first half of the 20th century, the Jewish community expanded tremendously due to immigration from Greece, and Turkey, and later from Syria and Iraq.

There were instances of rioting and incitement around the time of the establishment of the State of Israel. As reported in the *New York Times* on May 16, 1948:

³⁶ Sand, Jay. *The Jews of Africa: Morocco*. www.mindspring.com/~jaypsand/morocco.htm; and Patai, Raphael. *The Vanished Worlds of Jewry*. Macmillan Publishing Co. Inc.: New York, 1980; and Prof. Ada Aharoni, International Forum for Peace and Culture website.

³⁷ Ibid.

"In Lebanon Jews have been forced to contribute financially to the fight against the United Nations partition resolution on Palestine. Acts of violence against Jews are openly admitted by the press, which accuses Jews of 'poisoning wells,' etc."

In the mid-50's, approximately 7,000 Jews lived in Beirut. Compared to Islamic countries, the Christian-Arab rule, which characterized the political structure of this country, conducted a policy of relative tolerance towards its Jewish population. Nevertheless, being in such close physical proximity to the "enemy state" Israel, Lebanese Jews felt insecure and decided to emigrate in 1967, leaving for France, Israel, Italy, England and South America.

In 1974, 1,800 Jews remained in Lebanon, the majority concentrated in Beirut. Fighting in the 1975-76 Muslim-Christian civil war swirled around the Jewish Quarter in Beirut, damaging many Jewish homes, businesses and synagogues. Most of the remaining 1,800 Lebanese Jews emigrated in 1976, fearing the growing Syrian presence in Lebanon would curtail their freedom of emigration. To day an estimated 150 Jews remain in Lebanon.

Arab Decrees and the Nuremberg Laws on Citizenship and Race

The mass displacement of the Jews from the Arab countries, as described above, has been a flagrant breach of international law. The 1945 Nuremberg Charter made wartime mass deportation a crime against humanity, and the 1949 Geneva Convention Relative to the Treatment of Civilians in Time of War also prohibits deportations and forcible transfers, whether mass or individual.³⁸

Decrees and practices discriminating against Jews in Arab countries – particularly denationalisation – are eerily similar to the Nazi Nuremberg Laws on Citizenship and Race. And the victims, the Jews, are the same.

The Reich Citizenship Law of September 15, 1935 provided that "A citizen of the Reich may be only one who is of German or kindred blood."³⁹

Only citizens of the Reich could enjoy full political rights.⁴⁰ The First Supplementary Decree to this citizenship law, of November 14, 1935, provided that only citizens of the Reich could exercise the right to vote and the right to hold public office.⁴¹ The law stated explicitly "A Jew cannot be a citizen of the Reich. He cannot exercise the right to vote; he cannot hold public office."⁴² Jewish officials were retired as of December 31, 1935.⁴³

The Nuremberg laws defined a person as Jewish both by ancestry and by affiliation. One of the ways in which a person was considered Jewish was if the person was descended

³⁸ Charter of the International Military Tribunal. 82 units 279 signed 8 August 1945.

³⁹ Article 2(1).

⁴⁰ Article 2(3).

⁴¹ Article 3.

⁴² Article 4(1).

⁴³ Article 4(2).



from two full Jewish grandparents and if the person was a member of the Jewish religious community when the law was issued or joined the community later.⁴⁴

The Nuremberg laws violated basic human rights; the right to a nationality; the right to vote; the right to equality. They were damaging in themselves and a signal of the disasters to come. They depersonalised Jews, by saying that they were not legal persons in the eyes of the state.

These laws were unconscionable at the time. After the Holocaust, similar laws with the same target victims are unspeakable.

Today, instead of or in addition to affiliation with the Jewish religious community, denationalisation in Arab countries comes from affiliation with Zionism. "Zionist" is often just a code word for "Jewish." Insofar as it has any separate meaning, the meaning is that Jews must denounce and reject some human rights in order to keep others. Jews must denounce and reject the right to self-determination of the Jewish people in order to keep their right to nationality.

Before World War II, Jews in Europe were denationalised because of their ties with the Jewish religion; after World War II Jews in the Middle East have been denationalised because of their ties with the Jewish people. The violation of human rights is as basic, as repugnant, as wrong.

⁴⁴ Article 5(2)(a).

III) THE RESPONSE OF THE UNITED NATIONS TO THE PLIGHT OF REFUGEES, ARISING OUT OF THE ARAB-ISRAELI CONFLICT

A) OVERVIEW

From 1947 onward, the response of the international community to assist Palestinian refugees arising out of the Arab-Israeli conflict was immediate and aggressive. During that same period, there was no concomitant United Nations' response, nor any comparable international action, to alleviate the plight of hundreds of thousands of Jewish refugees from Arab countries.

The sole comparison that can be made between Palestinian and Jewish refugees is that both were determined to be *bona fide* refugees under international law, albeit each according to different internationally accepted definitions and statutes – Palestinian refugees covered by the United Nations Relief and Works Agency for Palestinian Refugees (UNRWA) and Jewish refugees under the statute of the United Nations High Commissioner for Refugees (UNHCR).

As far as the response of the United Nations to the two populations of refugees is concerned, the similarity ends there. The contrasts, however, are stark:

- a) Since 1947, there have been over 681 UN General Assembly resolutions dealing with virtually every aspect of the Middle East and the Arab Israeli conflict;
- b) Fully 101 of these UN resolutions refer directly and specifically to the 'plight' of Palestinian refugees.
- c) In none of these 681 UN resolutions on the Middle East is there a specific reference to, nor any expression of concern for, the 856,000 Jews living in Arab countries.
- d) Numerous UN agencies and organizations were involved in a variety of efforts, or others were specifically created, to provide protection, relief, and assistance to Palestinian refugees. No such attention and assistance was forthcoming from these UN agencies for Jewish refugees from Arab countries.
- e) Since 1947, billions of dollars have been spent by the international community - by the UN, its affiliated entities and member states - to provide relief and assistance to Palestinian refugees. During that same period, no such international financial support was ever provided to ameliorate the plight of Jewish refugees.



B) REPRESENTATIONS TO THE U.N. GENERAL ASSEMBLY CALLING FOR AN INTERNATIONAL RESPONSE TO THE PLIGHT OF JEWISH REFUGEES

It is widely believed that over the last 55 years, the United Nations General Assembly and Security Council have spent more time on the Arab-Israeli conflict than on any other issue.

When the issue of 'refugees' is raised within the context of the Middle East, people invariably refer to Palestinian refugees; rarely, if ever, is there a reference to legitimate rights of Jews displaced from Arab countries.

The fact that there is not one recorded UN resolution on Jewish refugees is not due to a lack of trying.

On numerous occasions, the Israeli government, the World Organization of Jews from Arab Countries (WOJAC) and other Governmental and non-governmental officials alerted the United Nations, its leadership and affiliated agencies to the problem of Jewish refugees and sought its intervention to ameliorate the plight of Jews fleeing from Arab countries. By way of example:

On November 27th and 30th, 1956, then-Israeli Minister of Foreign Affairs Golda Meir wrote two letters to the UN Secretary General "regarding the action taken by the Egyptian Government against the Jewish Community in Egypt."

On December 21, 1956, Henry Cabot Lodge, Jr., the U.S. Representative to the U.N., stated that he shares "concern about reports of the plight of Jews in Egypt." The US made a statement expressing its concern from the rostrum of the UN General Assembly in order to put the US on record as "abhorring such practices as have been alleged."

On January 11th, 1957, Philip Klutznick, on behalf of the Coordinating Board of Jewish Organizations, wrote to Secretary General Dag Hammarskjöld, urging him to use his "good offices to induce the Government of Egypt to desist from the prosecution of a policy... to bring total ruin to the old-established Jewish community of Egypt."

On December 2, 1968, *The International League for the Rights of Man*, a non-Jewish organization, wrote to Secretary General U-Thant calling attention to "situations in Egypt, Syria and Iraq, representing continuing and serious infringements of human rights."

On October 10, 1977, then-Israeli Minister of Foreign Affairs Moshe Dayan addressed the 32nd Session of the UN General Assembly and spoke forcefully on the discriminatory treatment of Jews in Arab countries.

On December 3rd, 1979, then-Israeli Ambassador Yehuda Blum delivered a speech to the UN during which he described the "dramatic worsening in the attitude of (and treatment by) Syrian authorities towards its Jewish community."

On November 24th, 1987, then-Israeli Ambassador to the UN Johanan Bein addressed the 42nd Session of the UN General Assembly and spoke of “the war of aggression unleashed by Arab countries against Israel in 1948” which “brought about an exodus of Jews from Arab lands.”

Notwithstanding these and other formal representations, there was not one UN resolution expressing concern about the plight and fate of up to 1,000,000 Jews displaced from Arab countries, nor any ameliorative action undertaken on their behalf by the international community.

C) RELEVANT UN RESOLUTIONS AND ACTION

The following are the most seminal UN resolutions on the Middle East that could pertain to the issue of Jewish refugees and the concomitant response (or lack of it) by the international community.

UN Resolution 181 (II) (A+B): The General Assembly, on Nov. 29th, 1947, in adopting Resolution 181 (II), approved ‘The Partition Plan’, that provided for the termination of the Mandate, the progressive withdrawal of British armed forces and the delineation of boundaries for two States and for the city of Jerusalem. It called for the creation of the Arab and Jewish States not later than October 1st, 1948. By resolution 181 (II), the Assembly also set up the United Nations Palestine Commission (UNPC) to carry out its recommendations.⁴⁵ The adoption of resolution 181 (II) was followed by outbreaks of violence during which time the displacement of significant numbers of both Palestinians from Israel and Jews from Arab countries began.

UN Resolution 194 (III): On December 11th, 1948, the General Assembly adopted resolution 194 (III) that was destined to be one of the cornerstones of the Middle East peace process. It was the “road map” of its era and provided a detailed plan for the region. It consists of 15 paragraphs, one of which (paragraph 11) deals with the subject of refugees. In part, it states that refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that those choosing not to return should be compensated for their property. Unlike Security Council resolutions, this General Assembly resolution was non-binding but Arab government representatives at the United Nations still voted against it.

UN Resolution 237 (1967): After hostilities broke out between Israel and Egypt, Jordan and Syria, and a subsequent cease-fire was secured, the UN Security Council adopted Resolution 237 on June 14th, 1967. It called upon Israel to ensure the safety, welfare and security of the inhabitants of the areas where military operations had taken place and to facilitate the return of the displaced persons. The Governments concerned were asked to “respect scrupulously the humanitarian principles governing the protection of civilian persons in time of war” as enunciated in the Fourth Geneva Convention of 1949.⁴⁶

⁴⁵ UN Resolution 181 (II), adopted by the General Assembly on November 29, 1947.

⁴⁶ UN Resolution 237 (1967), adopted by the Security Council on June 14, 1967.

After this latest Middle East conflict, it was clear that the predominant concern of the UN was for the safety of Palestinian refugees. However, this resolution can appropriately be cited as the first official United Nations recognition that alludes to the plight and potential claims of former Jewish refugees. Then-Secretary-General U Thant sent Nils-Goran Gussing, his special representative to the region, and he stated expressly that the provisions of resolution 237:

*"might properly be interpreted as having application to the treatment, at the time of the recent war and as a result of that war, of both Arab and Jewish persons in the States which are directly concerned because of their participation in that war."*⁴⁷

No mention of Jewish refugees but a reference to "Jewish persons," civilians who may require protection in time of war.

In an important precedent, Mr. Gussing, who went to the Middle East primarily to determine Israel's compliance with Security Council resolution 237, also addressed the plight of Jews in Arab countries.

On August 17, 1967, Mr. Gussing sent letters to the Governments of Syria and Egypt, requesting a written report on "the treatment and protection of Jewish persons" in those countries. He stressed that it would be "particularly helpful" to know "how the personal and property rights of such persons had been affected by the recent (1967) war, how many of them might have been and continued to be confined and for what reason, and whether they were free to leave the country in which they are resident." He sent a similar letter to Israel about the status of Arabs in occupied areas.⁴⁸

On September 15, 1967, Mr. Gussing submitted his report to the UN that included a section on "The Question of the Treatment of Minorities." Mr. Gussing reported to the UN General Assembly on his August 29, 1967 visit to Damascus where he discussed the problem of Syrian Jewry with Government officials "at some length." He was told that the Syrian Government "welcomed the chance to assure the Special Representative that the Jewish minority in Syria were treated in exactly the same way as other citizens." With respect to Egypt, Mr. Gussing reported that he had been rebuffed by government officials in his efforts to determine the condition of Jews in Egypt since the six day June war. He further reported that the Egyptian Government "expressed the firm opinion that the Security Council resolution (237) did not apply to the Jewish minority" in Egypt. Nonetheless, Mr. Gussing reported on "persistent allegations that 500-600 Jews had been kept in detention since the beginning of the war...." In his remarks to the General Assembly, Mr. Gussing also referred to reports that "the property of the Jews in Cairo had been confiscated."⁴⁹

Therefore, it cannot be said that the United Nations was unaware of the violations of the rights of Jews from Egypt and Syria. However, whatever concern for

⁴⁷ Gruen, George E., "The Other Refugees: Jews of the Arab World," p. 8.

⁴⁸ General Assembly, 5th Emergency Special Session, Agenda item 5, "The Question of the Treatment of Minorities", A/6797, Sept. 15, 1967.

⁴⁹ Ibid.



Jewish refugees that might have been evidenced as a result of resolution 237 was short-lived.

One year later, the U.N. passed resolution 259, which refers back specifically to resolution 237, albeit with a significant change in language. Now the UN was only concerned with:

"The safety, welfare and security of the inhabitants of the Arab territories under military occupation by Israel."⁵⁰

No mention of "Jewish persons." The concern for Jews had dissipated. The UN reverted back to form.

The second UN resolution that a number of governments (including Israel and the U.S.) contend applies to Jewish refugees is, of course:

UN Resolution 242 (1967): Later that year, on November 22nd, 1967, the Security Council unanimously adopted, Resolution 242, laying down the principles for a peaceful settlement in the Middle East: "withdrawal of Israel armed forces from territories occupied in the recent conflict" and "termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force."⁵¹

Resolution 242, still considered the primary vehicle for resolving the Arab-Israel conflict, stipulates that a comprehensive peace settlement should necessarily include "a just settlement of the refugee problem." An unsuccessful effort was made by the Soviet Union's UN delegation to restrict this "just settlement" only to Palestinian refugees. (S/8236, discussed by the Security Council at its 1382nd meeting of November 22, 1967, notably at paragraph 117, in the words of Ambassador Kouznetsov of the Soviet Union). Justice Arthur Goldberg, the American delegate who was instrumental in drafting the unanimously adopted resolution, has pointed out that:

"A notable omission in 242 is any reference to Palestinians, a Palestinian state on the West Bank or the PLO. The resolution addresses the objective of 'achieving a just settlement of the refugee problem.' This language presumably refers both to Arab and Jewish refugees, for about an equal number of each abandoned their homes as a result of the several wars...."⁵²

The United Nations has also discussed, at great length, the issue of "refugee properties"; however, a plethora of UN resolutions have only addressed properties of Palestinian refugees. Beginning in 1948, the issue was addressed at virtually every annual meeting of the General Assembly, progressively expanding the focus on "refugee properties" of Palestinians.

⁵⁰ UN resolution 259, adopted by the Security Council on September 27, 1968.

⁵¹ United Nations, United Nations Information System on the Question of Palestine, Resolution 242 (1967).

⁵² Goldberg, Arthur J., "Resolution 242: After 20 Years", published in Security Interests, National Committee on American Foreign Policy, April 2002.

However, with reference to Jewish 'refugee properties,' the UN, by resolution or otherwise, never affirmed like it did for Palestinians, that "compensation should be paid... by the Governments or authorities responsible" (resolution 194); never called for "assessment and payment of compensation" for Jewish property losses (like it does for Palestinian refugees in resolution 394); did not call for an "identification and evaluation of ...refugee's immovable properties" in Arab countries (like it does for Palestinian refugees in resolution 1725); did not ask "...the Secretary-General to take all appropriate steps... for the protection and administration of...property, assets and property rights" (like it does for Palestinian refugees in resolution 36/146); nor reaffirm that Jewish refugees "be entitled to their property and to the income derived there from, in conformity with the principles of justice and equity" (like it does in resolution 51/129).

Moreover, unlike the Palestinians, Jewish claims do not only concern private property but also significant Community assets that were expropriated in many countries – synagogues, schools, community centers, cemeteries, ritual baths, etc.

In addition to the value of individual and communal properties left behind by the Jews of Arab countries, the State of Israel has spent hundreds of millions of dollars in the transport and absorption of these former refugees, most of who arrived destitute or with almost no wealth. Such amounts have to be taken into consideration in the overall evaluation of the compensation issue.

D) THE RESPONSE OF UN AGENCIES

Since 1947, only one UN entity – the United Nations High Commissioner for Refugees (UNHCR) - has responded to the needs of Jewish refugees from Arab countries. By contrast, numerous existing UN Agencies addressed the wide-ranging needs of Palestinian refugees, including:

United Nations Conciliation Commission for Palestine (UNCCP): Established in December 1948 (General Assembly Resolution 194) the UNCCP was given the mandate to assist the governments and authorities concerned to achieve a final settlement of the Palestine question, and to provide protection and promote a durable solution for Palestine refugees.⁵³

United Nations Relief and Works Agency for Palestine Refugees (UNRWA) Immediately after the Arab-Israeli hostilities of 1948, emergency assistance to Palestine refugees was provided by international organizations such as the International Committee of the Red Cross, League of Red Cross Societies and the American Friends Service Committee. On December 8th, 1949, the UN General Assembly adopted Resolution 302 (IV) creating UNRWA specifically for the provision of assistance to Palestinian refugees.

Today, UNRWA provides basic relief, health, education and social services to some 3.8 million people – the original refugees (UN estimate – 725,000) and their descendents. UNRWA administers 59 refugee camps in its five areas of operation – West

⁵³ Badil, "The Role of the United Nations," p. 1.



Bank, Gaza Strip, Jordan, Lebanon, and Syria – and employs more than 100 foreign nationals and 20,000 Palestinians. UNRWA operations are financed almost entirely by voluntary contributions from governments and the European Union, with United Nations bodies covering staffing costs. Its 2002 budget was \$292 million (US) with another \$55 million (US) for projects and an additional emergency ‘relief’ fund of \$86 million (US).⁵⁴

Several other additional UN entities have subsequently been mandated to deal with the Palestinian issue, including the issue of Palestinian refugees.

- In 1974, the UN established the Committee on the Exercise of the Inalienable Rights of the Palestinian People (General Assembly Resolution 3376), mandated to recommend to the General Assembly a program of implementation designed to enable the Palestinian people to exercise their inalienable rights to self determination, to national independence and sovereignty; and to return to their homes and property from which they have been displaced and uprooted.

- In 1977, the UN established the Division for Palestine Rights (General Assembly Resolution 32/40). The Division assists in planning and organizing international meetings, preparing studies and publications relating to the issue of Palestinian and Palestinian refugees and organizing the annual commemoration of the International Day of Solidarity with the Palestinian People on November 29.

- In 1994, the UN established the Office of the United Nations Special Coordinator for the Occupied Territories (UNSCO) to provide guidance and facilitate coordination among UN programs and to assist the Palestinian Authority and donors in coordinating international assistance. UNSCO was not established specifically to address the Palestinian refugee issue, but relates to Palestinian refugees in the West Bank and Gaza Strip as residents of the occupied territories through its mandate.⁵⁵

A host of other UN affiliated programs provide some level of services to Palestinian refugees. These include: the United Nations High Commissioner for Refugees (UNHCR) dealt with Palestinians who did not fall under the mandate of UNRWA; the Joint United Nations Program on HIV/AIDS (UNAIDS), the United Nations Development Program (UNDP), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Population Fund (UNFPA), the United Nations Children’s Fund (UNICEF), and the World Health Organization (WHO).⁵⁶

As noted earlier, the sole UN body that has dealt with the needs of a segment of those Jews fleeing from Arab countries was the Office of the UN High Commissioner for Refugees (UNHCR). Beginning in 1957 and continuing through to the early 1970s, the UNHCR undertook significant initiatives, trying to expedite the transfer of assets after Jews had resettled in new countries of residence. However, notwithstanding good intentions, the protection and rehabilitation provided to Jewish refugees by the UNHCR did not even represent a miniscule fraction of the overwhelming support provided by the international community to Palestinian Arab refugees.

⁵⁴ United Nations Relief and Works Agency for Palestinian Refugees in the Near East website, “Finances.”

⁵⁵ Badil, “The Role of the United Nations”, p. 2.

⁵⁶ Badil, “The Role of the United Nations,” p. 3.



V) JEWISH REFUGEES FROM ARAB COUNTRIES: THE CASE FOR RIGHTS AND REDRESS

I) Jews from Arab Countries and the Israeli-Palestinian Peace Process

It would be an injustice to ignore, in the Israeli-Palestinian peace process, the rights of Jews from Arab countries. It would be a distortion of history, and would constitute a fundamental inequity, to recognize a right in Palestinian refugees to redress without recognizing a right to redress for Jewish refugees displaced from Arab countries. The case of displaced Jews to redress is as strong as, if not stronger than, the case of Palestinian refugees.

Yet, that is exactly what appears to be happening. Occasionally, the two sets of claims have been put on equal footing. A United Nations Security Council Resolution adopted in 1967 calls for "a just settlement of the refugee problem" without distinction between Palestinian and Jewish refugees.⁵⁷ The Camp David Framework for Peace in the Middle East of 1978 (the "Camp David Accords") includes, in paragraph A (1)(f), a commitment by Egypt and Israel to "work with each other and with other interested parties to establish agreed procedures for a prompt, just and permanent resolution of the implementation of the refugee problem" - again without distinction between Palestinian and Jewish claims. President Carter stated in a press conference in 1977 that "Palestinians have rights...obviously there are Jewish refugees... they have the same rights as others do."⁵⁸

But in practice that is not how things are working out. In 1991, the Madrid Peace Conference established a Multilateral Working Group on refugees. Its mandate was to "consider practical ways of improving the lot of people throughout the region who have been displaced from their homes". But as Kara Stein writes,⁵⁹ those involved in the Working Group, "save perhaps the Israelis," view their efforts as relating to Palestinian refugees only.

Several aspects of the 1994 Israel-Jordan Peace Treaty are worth noting. The Article 8, Paragraph 1, entitled "Refugees and Displaced Persons" recognizes 'the massive human problems caused to both Parties by the conflict in the Middle East'. What is significant about this provision is that it is clearly not limited to Palestinian refugees.

While the Parties commit themselves to alleviate problems on the bilateral level, they also affirm in paragraph 2, that problems 'cannot be fully resolved on the bilateral level' and therefore commit themselves to seek solutions in accordance with international law 'in negotiations, in a framework to be agreed, bilateral or otherwise, in conjunction with and at the same time as the permanent status negotiations...'

Reference to massive human problems in a broad manner, and the commitment of the parties to find ways to resolve these problems, suggests that the plight of all

⁵⁷ Resolution 242.

⁵⁸ October 27, 1977.

⁵⁹ "The Madrid Peace Conference and the Refugee Working Group" a soon to be published paper by Kara Stein, Assistant Director for Domestic Policy and Legal Affairs at the American Jewish Committee.



refugees of 'the conflict in the Middle East', including Jewish refugees from Arab lands, was envisaged in this Treaty.

To the extent that individual claims by Jewish refugees may exist against Jordan (in particular for property damaged or expropriated during the 1948-1967 period), Article 24 of the Israel-Jordan Peace Treaty notes that the parties agreed to establish a claims commission for the mutual settlement of all financial claims although this commission was never set up in practice.

The rights of Jews displaced from Arab lands were discussed at 'Camp David II' in July 2000. On July 28, 2000 President Clinton was interviewed on Israeli television and stated clearly:

"There will have to be some sort of international fund set up for the refugees. There is, I think, some interest, interestingly enough, on both sides, in also having a fund which compensates the Israelis who were made refugees by the war, which occurred after the birth of the State of Israel. Israel is full of people, Jewish people, who lived in predominantly Arab countries who came to Israel because they were made refugees in their own land".

This candour by President Clinton has not been replicated by others in leadership positions. If one thought of Israel, the West Bank and Gaza as on the moon rather than in the Middle East, this blinkered approach, looking only at Palestinian refugees in isolation from displaced Jews, might have a certain logic to it. Redress due to displaced Jews is not due from the Palestinian leadership. Jewish refugees did not, for the most part, flee the West Bank and Gaza.

However, if one looks at the peace process in context, if one places Israel in the Middle East, where it obviously is, if one accepts that peace in the Middle East means peace with Israeli's Arab neighbours as much as with the Palestinians, then it is impossible to overlook the issue of displaced Jews. A settlement of outstanding disputes between Israel and its neighbours must resolve this dispute.

A comprehensive peace must be enduring and endurable. There can be no peace without truth or justice. Recognition of the past is essential to the integrity of the Middle East peace process. Rejection of memory is a rejection of peace. Justice in the Middle East includes justice for Jews from Iran and Arab countries. Unless the displacement of Jews from Arab lands and Iran is acknowledged within the Middle East peace process, unless Jews displaced from Arab lands and Iran are treated equitably in the Middle East peace process, there will be no true, just peace.

II. The Injustice

Some 850,000 Jews were displaced from Arab countries after the creation of the State of Israel. About 600,000 of those settled in Israel. While somewhat different in context, there was victimization, and a right to redress also exists, for another 57,000 Jews displaced from Iran.

These people were not, for the most part, voluntary migrants seeking to leave their home countries for economic reasons or wanting to immigrate to Israel for religious or ethnic reasons. They were mainly refugees forced to flee to save themselves. Before they were displaced, they were threatened, harassed and persecuted. Before they were displaced, as part and parcel of the persecution they suffered, or after, their property was forfeited or confiscated. The Jews who were displaced from Arab countries and Iran are a victim population, people who suffered human rights violations at the hands of the governments and populations in the countries in which they lived.

The story of that victimization has been described many times.⁶⁰ That victimization creates a right to redress.

III. Redress

In international law, any human rights violation gives rise to a right to redress. The right belongs both to the victim and the beneficiaries of the victim. The duty to make redress falls on the state responsible for the human rights violations.

Today, there are regimes, most notably in Iraq and Egypt that are not the regimes that were in place at the time the violations occurred. Even in those cases, it can be argued that successor regimes should provide reparation to the victims.

Reparations should be adequate, effective and prompt. They should be proportionate to the gravity of the violations and the harm suffered.

Reparations for the taking of property are also due to foreign nationals; that is, nationals of another country other than those of the regime that did the taking, whether victims of human rights violations or not. In this case, the state to which the foreign national belongs is entitled to assert the right of its national to reparations.⁶¹

⁶⁰ See Itamar Levin, in Policy Forum publication number 22, published in 2000 by the Institute of the World Jewish Congress, titled "Confiscated Wealth: The Fate of Jewish Property in Arab Lands," which detailed the victimization of the Jews of Iraq, Syria and Egypt; Itamar Levin, "Locked Doors: The Seizure of Jewish Property in Arab Countries", Praeger, 2001; "Why Did They Leave" in "Jews from Arab Countries: Background Briefing Notes" prepared by the American Sephardi Federation found at www.jewishrefugees.org; "The Jewish Refugee from Arab Countries: An Examination of Legal Rights: A Case Study of the Ethnic Cleansing of Iraqi Jews," soon to be published paper by Carole Basri, of WOJAC; Co-Chair, Middle East Committee, International Section, American Bar Association; and Adjunct Professor, University of Pennsylvania School of Law; "Responsibility for Persecuting Jews in the Arab Countries," soon to be published paper by Ya'acov Meron, Professor, Hebrew University.

⁶¹ "Private Property Rights in International Law - The Property of Jewish Refugees from Arab and Moslem Countries" a soon to be published paper by Alberto M. Aronovitz, Staff Legal Advisor at the Swiss Institute of Comparative Law;

Arbitrary deprivation of property is itself a violation of a fundamental human right, forbidden by the Universal Declaration of Human Rights.⁶² There does not have to be violation of another right accompanying the arbitrary deprivation in order for human rights to be violated.

IV. Remedies

A. The High Commissioner and Mandate Refugees

The Statute of the Office of the United Nations High Commissioner for Refugees obligates the High Commissioner to provide for the protection of refugees falling under the competence of his office by, amongst other duties, "endeavouring to obtain permission for refugees to transfer their assets and especially those necessary for resettlement."⁶³ This provision is noteworthy, not only because of the duty it imposes on the High Commissioner, but also because it covers all assets.

There need be no nexus between the human rights violations that had caused the flight and the assets left behind to trigger the duty owed by the High Commissioner. Indeed, the assets may remain under the ownership of the refugee. As long as there are any restrictions on the transfer of the assets out of the country fled, the Statute of the High Commissioner requires him to act. Although many of the Jews from Arab countries were displaced decades ago, many are still suffering financial and other resettlement difficulties that emanated from their displacement.

In order for a refugee population to fall within the mandate of the High Commissioner, the High Commissioner or some other instance has to determine that the population has or had a well-founded fear of persecution.⁶⁴ The High Commissioner has made such a determination for Jews from Arab countries.

In the first instance of this determination, in his first statement as newly elected High Commissioner, Mr. Auguste Lindt, at the January 29, 1957 meeting of the United Nations Refugee Fund Executive Committee (UNREF) in Geneva, stated:

*"Another emergency problem is now arising: that of refugees from Egypt. There is no doubt in my mind that those refugees from Egypt who are not able, or not willing to avail themselves of the protection of the Government of their nationality fall under the mandate of my office."*⁶⁵

In the second such instance, Dr. E. Jahn for the Office of the High Commissioner wrote to Daniel Lack, Legal Adviser to the American Joint Distribution Committee, on July 6, 1967:

"Considerations Applicable to Compensation for Jews Ejected from Arab Lands" soon to be published paper by Steven C. Sheinberg, Assistant Director, Legal Affairs, Anti-Defamation League.

⁶² Article 17(2).

⁶³ Article 8(e).

⁶⁴ Article 6B.

⁶⁵ United Nations High Commissioner for Refugees, Report of the UNREF Executive Committee, Fourth Session – Geneva 29 January to 4 February, 1957.

"I refer to our recent discussion concerning Jews from Middle Eastern and North African countries in consequence of recent events. I am now able to inform you that such persons may be considered prima facie within the mandate of this Office."⁶⁶

The High Commissioner has gone about endeavouring to obtain permission from Arab governments for Jewish refugees to transfer their assets from the Arab countries they fled.⁶⁷ Mostly, those efforts did not succeed. However, the efforts themselves are noteworthy. They remind us that the High Commissioner is available, still, to pursue the transfer of assets. As well, the determination by the High Commissioner that these refugees fall within his mandate is a determination by an international instance that these refugees have or had a well-founded fear of persecution.

Persecution is any serious violation of human rights.⁶⁸ Such persecution was clearly documented in the first section of this paper. The UNHCR made an independent determination, and confirmed publicly on at least two occasions, that Jews from Arab countries were victims of serious human rights violations that caused their flight. That determination remains valid and has contemporary legal consequences, beyond the previous efforts of the High Commissioner to obtain permission from persecuting governments to transfer refugee assets.

B. The High Commissioner and Convention Refugees

The Refugee Convention also has a restitution provision requiring contracting states to give sympathetic consideration to the transfer of assets of refugees.⁶⁹ An obligation to give sympathetic consideration is more than mere words. While an obligation to give sympathetic consideration does allow a contracting state to say no to a request to transfer assets, all treaties must be performed in good faith.⁷⁰ Sham consideration, unsympathetic consideration would be a violation of the treaty.

Treaties do not have retroactive force.⁷¹ However, the obligation to transfer assets is not a retroactive obligation. It is a contemporary obligation, as a matter of Treaty interpretation. As long as the assets still exist, and the request to transfer is current, we are dealing with present facts and not past facts.

It would frustrate the purpose of resettlement of the Refugee Convention to interpret the Convention not to apply to assets in a contracting state belonging to refugees who fled before the contracting state acceded to the Convention. Where transfer of assets is necessary for resettlement, then allowing transfer means that there

⁶⁶ United Nations High Commissioner for Refugees Document No. 7/2/3/Libya.

⁶⁷ "The United Nations High Commissioner for Refugees (UNHCR) and Former Jewish Refugees from Arab Countries," a soon to be published paper by Stanley A. Urman, Director, Justice for Jews from Arab Countries.

⁶⁸ Office of the United Nations High Commissioner for Refugees Handbook on Procedures and Criteria for Determining Refugee Status, paragraph 51.

⁶⁹ Article 30.

⁷⁰ Vienna Convention on the Law of Treaties, Article 27.

⁷¹ Article 28.

will be resettlement. Refusing transfer means that there will not be true resettlement. An interpretation of the treaty that would facilitate resettlement has to be favoured over an interpretation that would frustrate resettlement.

C. An International Fund

The United Nations Compensation Commission and Fund provides a model for a remedy that could be negotiated as part of an Arab-Israeli comprehensive settlement.⁷² The United Nations Compensation Commission and Fund were established by Security Council resolution of May 1991, to compensate foreign nationals, companies and governments for injuries suffered as the result of the Iraqi invasion of Kuwait.⁷³

This model could be used to arrange for compensation for Jewish refugees arising out of the Arab-Israeli conflict. Moneys could come from the governments of the countries from which the Jews were displaced. But the source of the funds could be broader. It need not be restricted to those governments.

The intended beneficiaries of the fund could also be broader, allowing all those displaced, both Jewish and Palestinian, to make claims against an international fund established specifically for that purpose whether or not the Jews are in Israel, whether or not the Palestinians are in refugee camps or in the West Bank and Gaza. Though the remedy here is patterned after the UN Compensation Fund, the remedy would not be a UN Fund, but rather a fund established as part of and the result of an Arab-Israeli comprehensive settlement.

It may seem strange to arrange for settlement of all Jewish claims from Arab states in the context of an Israeli-Palestinian peace agreement when many of those Jewish persons with claims are not Israeli citizens and when the claims are almost entirely not against Palestinians or their representatives. But one objective in the negotiations is to ensure that an Arab-Israeli settlement would constitute an end to all claims arising out of the conflict, including private claims. The private claims of Palestinian refugees would have to be limited to the avenues of relief expressly created in an Arab-Israeli settlement and extinguished otherwise.

It may unreasonable to expect that an Arab-Israeli settlement would limit within a fund established by the agreement and otherwise extinguish Palestinian claims but neither extinguish nor limit Jewish claims. Whatever differences may exist between Palestinian and Jewish claims, these may have to be addressed within an Arab-Israeli settlement and the mechanisms for compensation from the fund.

If it were otherwise, if Jewish claims were not satisfied within the Arab-Israeli settlement and extinguished outside that agreement, then Palestinians might also argue that their claims too are not extinguished by virtue of the settlement. A crucial dispute would remain unresolved.

⁷² “The United Nations Compensation Commission: A Model Compensation Regime for Jewish Refugees from Arab States?” a soon to be published paper by Elie Haymovitz and Talia Magnas, Claims Analysts at the Conference on Jewish Material Claims Against Germany.

⁷³ Security Council resolution 692, May 20, 1991.

D. Foreign Courts

The likelihood of Jews obtaining justice in the courts of the countries from which they were displaced is small. Indeed, part of the persecution they suffered was the perversion of justice, the absence of an effective remedy in their home countries. By way of example, the Camp David Framework for Peace in the Middle East of 1978 (the "Camp David Accords") includes, in paragraph A (1)(f), a commitment by Egypt and Israel to "work with each other and with other interested parties to establish agreed procedures for a prompt, just and permanent resolution of the implementation of the refugee problem." It could be argued that the unqualified reference to the "refugee problem" can be regarded as an indication that Egypt and Israel envisioned a broad resolution of the refugee problem that included both Palestinian and Jewish refugees.

Moreover, Article 8 of the Treaty provides that the "Parties agree to establish a claims commission for the mutual settlement of all financial claims." In practice, this commission has not been established and no lawsuits filed by former Jewish refugees from Egypt in Egyptian courts have ever been satisfactorily resolved.

This failure raises the question of the availability of foreign justice. The use of foreign courts raises two questions. One is whether the law of the foreign state allows a remedy.⁷⁴ The other is whether international law allows a remedy.

There have been a number of developments in the international arena in recent years to suggest that the principle that a state may allow a litigant to seek reparations against a foreign state for violations of fundamental human rights has reached the status of customary international law. Customary international law is the practice of states that they view as legally binding upon them. Developments include the Statute of the International Criminal Court,⁷⁵ the writings of the International Law Commission,⁷⁶ the reasoning of the International Criminal Tribunal for the Former Yugoslavia⁷⁷ and legal opinions of states expressed in the United Nations Commission on Human Rights and General Assembly.⁷⁸

⁷⁴ For the United States, see the soon to be published paper by Marc D. Stern, Assistant Executive Director, American Jewish Congress, "American Law on Recovery of Illegally Expropriated Property."

⁷⁵ Article 75.

⁷⁶ Appendix to the annex to the report on the work of the fifty-first session of the International Law Commission, 3 May-23 July 1999, United Nations document A/54/10.

⁷⁷ *Prosecutor v. Furundzija*, December 10, 1998, paragraph 155, Judges Mumba, Cassese and May.

⁷⁸ "The Response of the United Nations to the Issue of Refugees Arising out of the Arab-Israeli Conflict," soon to be published paper by Stanley A. Urman; "Jewish Refugees and the United Nations Commission on Human Rights," soon to be published paper by Andrew Srulevitch, Executive Director, UN Watch; United Nations Commission on Human Rights in 2001 passed a/ resolution 62, paragraph 6.



V) JUSTICE FOR JEWS FROM ARAB COUNTRIES: THE SPONSORING ORGANIZATION

I. PURPOSE

There exists a moral imperative to ensure that justice for Jews from Arab countries assumes its rightful place on the international political and judicial agenda and that their rights be secured as a matter of law and equity.

II. OBJECTIVES

1. To educate public opinion on the causes, and plight, of Jews who were displaced from Arab countries; and
2. To advocate for, and secure rights and redress, for former Jewish refugees who suffered as a result of the Arab-Israeli conflict.

III. STRUCTURE AND LEADERSHIP

Justice for Jews from Arab Countries (JJAC) was founded in the United States under the auspices of the *Conference of Presidents of Major America Jewish Organizations*, the *American Sephardi Federation* and the *World Organization of Jews from Arab Countries*. Major organizations that participate in the work of *JJAC* include the *American Jewish Committee*, the *American Jewish Congress* and the *Anti-Defamation League*.

IV. PROPOSED ACTIVITIES

1. *To complete the compilation of records in order to preserve the historical narrative as well as to document the claims for physical and material losses suffered by Jews displaced from Arab countries.*
2. *To document the bases, in international law and jurisprudence, for potential claims to rights and redress for the loss of individual and communal property.*
3. *To encourage relevant governments and international bodies, in any and all Middle East peace process discussions, and pursuant to principles of international law and equity, to support the legitimate call for rights and redress for Jews displaced from Arab countries.*
4. *To mobilize political, legal and other support, from a variety of national and international entities, on behalf of the rights of Jews from Arab countries.*
5. *To undertake a public education and information campaign in support of the international efforts to secure rights and redress for Jews displaced from Arab lands.*

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