

INTRODUCTION

In the late fall of 2000, the plane taking me home from conducting research at the United Nations Secretariat archives in New York made a direct pass over the city just after takeoff from LaGuardia airport. As the aircraft banked over midtown Manhattan, I looked down and could see the exact part of town where I had just completed several days examining documents from the United Nations Conciliation Commission for Palestine (UNCCP) relating to the land left behind in Israel by Palestinian refugees in 1948. Among these documents were detailed records of almost every parcel of Arab-owned land in Israel that the UNCCP carefully compiled in the 1950s and 1960s in the hopes that they could prove useful should Israel ever compensate the refugees for their losses. How poignant, I thought, that a detailed and fairly accurate reckoning of the refugees' losses, including the property lost by individual persons, has lain behind locked doors at the UN archives in New York for nearly four decades and thousands of miles from the Middle Eastern refugee camps that still house descendants of the original 1948 refugees. These unutilized records stand as mute testament to the fact that despite the considerable effort and diplomatic activity that has been expended over the years on how to deal with the Palestinian refugee exodus in general and the refugees' property claims in particular, wide-scale restitution or compensation never have been forthcoming, and these claims remain unsettled to this day.

In focusing on the history of abandoned Palestinian refugee property and how this question has fit into the wider Arab-Israeli conflict, this study examines one dimension of what surely ranks as one of the core unresolved issues of that conflict: the Palestinian refugee problem. The refugees' plight long ago emerged both as one of the most central challenges facing the world community in the aftermath of the first Arab-Israeli war of 1948 as well as one of the Arab-Israeli conflict's most intractable problems. The flight of the refugees was the direct result of the partition of Palestine and the subsequent war that broke out between Jews and Arabs in 1948, and constituted a socio-economic and political tragedy of the first order of magnitude for the Arab population of Palestine. More than 726,000 Palestinians—about one-half of the entire population—left their homes in Palestine from late 1947 through

1948. Some fled, while others were driven out by Zionist forces. Some of the refugees left during the Jewish-Palestinian “civil war” that broke out after the November 29, 1947 United Nations General Assembly’s decision to partition Palestine into Jewish and Arab states and that lasted through May 14, 1948. This was particularly true of wealthier Palestinians in the towns and cities, the so-called “middle class refugees.” Many of the rest of the refugees, mostly poorer villagers, departed during the subsequent international phase of the fighting that occurred following the entrance into the fray of forces sent by neighboring Arab states on May 15. In the course of their flight, these refugees left behind huge tracts of farmland, tools and animals, shops, factories, houses of worship, homes, financial assets, and personal belongings.

The refugees’ property losses only served to compound the tremendous political, social, and demographic catastrophe that had befallen them. Not only were they refugees, but by and large destitute refugees as well. The loss of rural farmland was particularly devastating to a village society that had largely been made up of small-scale cultivators. Their abandoned land did not represent only the loss of their homeland, but also of landed capital and, indeed, the loss of a way of life. Unlike some of their middle-class compatriots who managed to take some of their liquid capital with them, these rural refugees were thus lacking the material basis for reconstructing their former livelihoods in exile.

The opposite was true for the new state of Israel that emerged out of the 1948 fighting. Israel quickly extended control over the Palestinian refugees’ land, the exact scope and value of which has been and continues to be debated by scholars and governments alike. Within a few short years of the refugee exodus, the refugees’ property formally was taken over by the Israeli government. After the war Israel had been established on a full 77 percent of the surface area of Palestine even though Jews had owned only some 6.59 percent of that surface area prior to 1948.¹ While much of the resultant difference that accrued to Israel had not been owned by individual Palestinian refugees, the huge amount of land that the refugees did abandon in their flight proved to be an immensely valuable windfall for the struggling Israeli state. The war helped Zionist authorities deal with the nagging demographic “problem” that had faced them before the war: more Palestinian Arabs lived in Palestine than Jews. How could they create a Jewish state amidst large number of non-Jews? After 1948, four out of five of the Palestinians who had lived in what became the Jewish state were gone. But beyond helping to relieve Israel’s demographic “problem,” the vast tracts of abandoned property proved immensely helpful to Israeli authorities on a financial level. The Israeli government profited from the property by leasing some areas and selling

much of it to the Jewish National Fund, the premier Zionist land purchasing agency whose charter forbade it ever from alienating its land or from leasing it to non-Jews. Produce from abandoned fields, orchards, and citrus groves was exported for hard currency. Moveable property was sold. The government even leased abandoned stone quarries and sold cactus fruit from abandoned areas. Beyond this monetary gain, control of the refugees' property allowed Israel and the Jewish Agency to settle as cheaply as possible the hundreds of thousands of new Jewish immigrants who began pouring into Israel after 1948. Some of these newcomers were Jews from Arab countries who themselves had left behind homes and property under duress. While declaring that this land had been alienated permanently out of the refugees' hands and would not be returned, Israeli authorities pledged to compensate the refugees for their losses. In this lies the kernel of the refugee property question.

This last point is one of the few aspects of the refugee property dilemma on which many parties have agreed over the decades since 1948: The refugees should be compensated for their abandoned property. Israel, the Arab states, some Palestinians, the United States, and the United Nations have all agreed on this issue. Yet to date, compensation has not taken place. Why? The answer to that question forms one of the major subjects handled by the present study. In short, the humanitarian dimension of the Palestinian refugee property issue has not been resolved because the question became enmeshed in the political dimensions of the Arab-Israeli conflict, and its importance—even its parameters—have ebbed and flowed over the decades since the onset of the first Arab-Israeli war of 1948. Much serious talk and research on refugee property compensation initially took place in the first fifteen years after 1948, especially on the part of the United Nations Conciliation Commission for Palestine (UNCCP). The UNCCP held conferences, tried to effect compensation plans, developed a general “global estimate” of the refugees' property losses, and eventually carried out a massive program to identify and value virtually every parcel of Arab-owned land in Israel as part of its efforts on behalf of the refugee property issue. During these early years the compensation issue became embroiled with and complicated by a number of factors, among which were Israel's linkage of compensation with compensating Jewish emigrants from Arab countries for their own property losses; Israel's insistence that compensation be dealt with as part of a wider peace process; U.S. attempts to link compensation with the controversial subject of refugee resettlement; and the Americans' reluctance to stray beyond certain “red lines” they had drawn for the refugee issue (red lines that usually corresponded with Israeli stances); the Arabs' converse insistence that compensation could not be equated with the abandonment of the refugees' “right of return” (right to repatriation); and

the different directions taken by the Arab-Israeli conflict after the 1956 Suez War and, especially, the 1967 Arab-Israeli war, directions that sidelined the property issue. The UNCCP's efforts eventually foundered, the commission ceased to function actively, and after the 1967 war the property compensation question generally faded from active public consideration for more than two decades. Talk of property compensation again returned to the level of active discussion as a result of Arab-Israeli peace process that started in Madrid in 1991. This was particularly true of the Israeli-Palestinian peace process that followed the September 1993 Oslo Accord. But little progress had been made at all on the compensation issue by early 2003, at which point the Israeli-Palestinian talks were stalled amidst the onset of renewed Israeli-Palestinian violence and the virtual collapse of the peace process.

This study examines this issue with an eye toward answering certain questions. How much land did the Palestinian refugees actually leave behind in the areas of Palestine that became Israel, and how much was it worth? Why have the refugees' claims to this vast amount of land and moveable property remained unsettled over the past fifty years, despite widespread recognition of the refugees' right to compensation for their losses? How has the property issue affected—and been affected by—the overall, changing nature of the Arab-Israeli conflict? Why did the UN prove unable to effect compensation for the refugees' property and ultimately end up as at best a marginal player in resolving the Arab-Israeli conflict? How did U.S. policies toward the conflict and the refugees in particular contribute to the marginalization of the UN in this regard? How have the various parties to the conflict dealt with the property question, and why did it fade from active discussion twenty years after the refugee exodus? How and why did Israel raise counter claims for Jewish property in Arab countries? Who produced studies of the scope and value of Palestinian refugee property, and why even today is there no consensus on this issue? Why has the Arab-Israeli peace process, a process that has led to two full-scale peace treaties (Israel and Egypt, and Israel and Jordan) along with the ongoing peace talks between Israel and the Palestinians, not led to a breakthrough on the property issue?

The Palestinian refugee property issue is examined here in roughly chronological fashion beginning with its inception in late 1947. The study focuses broadly on the interconnectedness of this issue with the wider, ever-changing diplomatic context of the Arab-Israeli conflict, and more narrowly on the specific question of property compensation (as distinct from the right of return). Among the specific aspects of this issue covered here are the legal mechanisms by which Israel seized and utilized the land; the UN's efforts on behalf of property compensation in the 1950s; the Arabs' insistence that com-

compensation not be equated with the forfeiture of the refugees' right of repatriation to their homes; American thinking to the contrary; Israel's linkage of compensation to compensating Jewish emigrants from the Arab world; the various (and contradictory) Israel, Arab, and UN estimates of the scope and value of the abandoned property; the UNCCP's massive study of the property question, a study that never publicly released its figures on the land's value (but that are presented here for the first time); the eventual failure of the UNCCP in its compensation efforts and its relegation (as well as that of the UN generally) to mere tertiary status in Arab-Israeli diplomacy; the fading public prominence of the refugee property issue after 1967; and its return to open discussion but not resolution after 1991.

In the final analysis, this study tackles the question of why the world community has not proved able to effect compensation or restitution for the 1948 Palestinian refugees and thus why the refugee property question remains unresolved. The central thesis it argues is that the property issue immediately became intertwined intimately with the diplomatic vicissitudes of the wider Arab-Israeli conflict after 1948 despite considerable global concern over the refugees and their plight and despite repeated regional and international efforts to isolate and solve this human tragedy separately from the wider political context of the conflict. The losers in this process were of course the refugees and their descendants. Efforts toward compensation, restitution, or the lack of such efforts, thus were politicized and subject to the changing nature of the Arab-Israeli conflict from the beginning.

Despite the rhetoric, the refugees and their property were never isolated from the overarching context of the conflict and dealt with on a strictly humanitarian level. This was played out on two different levels. First, it meant that the refugees' needs for resolving their property claims waxed and waned in the minds of Arabs, Israelis, Americans, and the global community in direct correlation to the various political and military crises that punctuated the Arab-Israeli conflict over the decades. The early 1950s witnessed a high level of activity on this question, given that the refugee exodus was still fresh in the minds of all concerned and given the absence of major military flareups among Arabs and Israelis. The outbreak of the Arab-Israeli wars of October 1956 and particularly of June 1967, however, eventually shifted the focus of the conflict away from the refugees and other lingering problems from 1948 and toward securing peace among states on the battlefield. Israel's growing military strength over the decades hardened its resolve, ironically just as their continuing defeats did for the Arabs, just as the cold war rivalry between the United States and the USSR (Soviet Union) also changed and hardened the conflict.

The second level on which the property question also has been fundamentally affected by the vicissitudes of the wider Arab-Israeli conflict over the years is seen in the ways in which it was subject to the shifting conceptual approaches to the conflict that have emerged over time. These conceptual approaches were related to political and military events on the ground, but still constituted an entirely different dimension of the conflict. In the first years after 1948, diplomatic efforts at resolving the Arab-Israeli conflict were understood conceptually to involve managing the effects of 1948. In addition to armistice agreements, borders, and cease-fire lines, the fate of the refugees displaced by the fighting was another micro-level problem that loomed large on the global stage given that the refugees constituted one of the most visible legacies of 1948.

With flareup of armed conflict between Israel and the Arab states starting in 1956 and most significantly in 1967, however, the world began viewing the Arab-Israeli conflict as an ongoing interstate matter that transcended 1948. The Arab states now saw that their involvement in fighting Israel was not limited to that first war. Diplomats viewed solving the conflict on the macro level by arranging cease fire agreements among nations, of bringing about conciliation on the basis of “land for peace,” while the fate of the stateless refugees retreated from active consideration. Another conceptual shift concerned how the parties viewed the UN’s role in the conflict and the refugee problem in particular. The failure of the UN to effect a resolution to either problem was in no small way the result of American muzzling of its efforts via certain political “red lines,” and led to the world body’s marginalization as a significant player. Finally, the refugees were affected by their own changing conceptualizations of themselves. The growth of a Palestinian national movement in the 1960s and the strength of the Palestine Liberation Organization (PLO) hardened the refugees’ earlier resolve to continue the armed struggle for their homeland and not to accept anything that symbolized the abandonment of their right to return to their homes, including accepting compensation for the lost property. And just as war did not resolve the refugee property question, neither has the Palestinian-Israeli peace process as these lines are being drafted (early 2003). Ironically then, if the shifting nature of the conflict has continually confounded resolution of the refugees’ property claims as it ebbed and flowed over the decades, the supposed “end” of conflict between Israel and some of her Arab neighbors has likewise confounded such efforts at resolution.

Chapter 1 examines the Palestinian refugee exodus of 1947–1948 and what the State of Israel did with the property the refugees left behind. It details the legal mechanisms by which the new Jewish state confiscated this

land and then utilized it for economic production, leased or sold it to a variety of groups, associations, settlements, and the Jewish National Fund, and settled it with Jewish immigrants. It also discusses initial Israel attempts to determine the scope of this land.

Chapter 2 examines early global diplomatic activity on behalf of the refugee property question during the first several years after the refugee exodus. Particularly important in this regard was the establishment of the UNCCP, which would be the agency that expended the greatest amount of energy on the refugee property question over the years. The UNCCP soon produced the Global Estimate, the first of two official reckonings of the scope and value of refugee land that the commission would produce. The chapter also studies the reasons why its failure to realize progress on the issue prompted the UNCCP to adopt a new, less ambitious role for itself within a few short years of functioning.

The third chapter examines early Israeli policies toward the refugee property issue in the 1950s and 1960s, including Israel's decision to link Palestinian refugee compensation with counter claims for compensation for Jewish property abandoned in Arab countries. The question of German reparations to Israel also became wrapped up in the politics of the refugee issue. During this time the UNCCP was able to make some progress on the property issue by arranging for Israel to release frozen refugee bank accounts. Chapter 4 deals with early international activity on behalf of the question, including Arab and UN estimates of the property's value and the international political activity on behalf of compensation. It also notes how the 1956 Suez War shifted the Arab-Israeli conflict in a direction that further sidelined attempts to compensate the refugees.

Chapter 5 is devoted entirely to the second and most thorough of the UNCCP's attempts to calculate the scope and value of refugee property losses, the Technical Program. Completed from 1952 to 1964, the results of this study still remain the most thorough and accurate reckoning of the question despite criticism directed at it both by Arabs and Israelis. Although the UNCCP publicly released figures on the scope of the property, it kept the value of the property secret, literally locked up in the UN Secretariat archives in New York. This chapter reveals these figures for the first time. Chapter six examines the follow up to the Technical Program, including the UNCCP's Johnson Mission and other activities that explored whether or not compensation for the refugees could be arranged. It also discusses the effective demise of the UNCCP in 1966. Finally, the last chapter looks at how the refugee property question was affected by the vicissitudes of the Arab-Israeli conflict as the struggle meandered from war to cold peace, to war again, and eventually

to a halting peace process. The chapter examines how the June 1967 Arab-Israeli war further minimized the property question and also sheds light on how the Arab-Israeli peace process has revived the issue since 1991, particularly as a variety of Jewish, Israeli, Arab, and Palestinian parties have sought statistics and data to support their eventual claims for compensation or, in the case of some Palestinians, restitution.

This study reflects research carried out on a number of levels and in a number of places in six countries on three continents. The main basis for this study are primary source documents. In the course of my research I conducted and commissioned research into primary archival sources at the Central Zionist Archives in Jerusalem; the Israel State Archives in Jerusalem; the British Public Records Office in London; the United Nations Secretariat archives in New York; the United States National Archives and Records Administration in College Park, Maryland; and the Jordanian National Library/Center for Documents and Documentation in Amman. I also carried out research into non-archival primary sources at several offices of the Jordanian government in Amman and at the Institute for Palestine Studies (IPS) in Washington and Beirut. At IPS I was able to access the records produced by the UNCCP's Technical Program from 1952 to 1964. A full listing of these sources, as well as other primary and secondary sources, is found in the bibliography.