



Palestine Liberation Organization
Negotiations Affairs Department
Negotiations Support Unit

THE PALESTINIAN REFUGEES

Towards a just & agreed upon solution

August 2009

The Palestinian Refugees: 1948-2009

1948



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2009



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Who are the Palestinian refugees?

- **Palestinian refugees are the oldest and largest refugee community in the world. They are the result of three waves of forced displacement:**
 - *1948 Refugees: At least 726,000 and their descendants;*
 - *1967 Refugees: Approx. 300,000 (incl. 180,000 displaced for the first time) and their descendants;*
 - *Post-1967 Refugees: Hundreds of thousands displaced as a result of:*
 - ID card and residency revocations;
 - Demolition of Palestinian homes and expulsions;
 - Construction of the Wall, settlements and settlement infrastructure.

THE PALESTINIANS' HISTORIC COMPROMISE

WHAT ISRAEL IS IMPOSING UNILATERALLY



100%
OF HISTORIC PALESTINE



44%
OF HISTORIC PALESTINE



22%
OF HISTORIC PALESTINE



12%
OF HISTORIC PALESTINE

The current situation

- **Approx 8m refugees & IDPs (4.7 RRs and 6m 1948 refs).**
- **Over 70% of Palestinians are refugees.**
- **Most Palestinian refugees are stateless.**
- **Majority of Palestinian refugee properties held by Israel.**
- **Israel selling refugee properties: 282 tenders 2007- 2009.**
- **No recognition of responsibility provided by Israel.**
- **No reparations for losses provided to refugees by Israel.**

The current situation contd.

- **29 % of RRs (over 1.4m) still live in 58 UNRWA camps.**
- **Palestinian refugees are the only refugee group not to fall entirely under the auspices of UNHCR.**
- **UNRWA has no protection mandate re. durable solution.**
- **Gaza: 50,000 ppl sought refuge in 50 UNRWA schools.**
- **Iraq: From 34,000 to 15,000 with 2,773 living in camps.**
- **Israel hosted 16,500 non-Palestinian refugees in 2008.**

Mapping the displacement

PALESTINIAN VILLAGES DEPOPULATED IN 1948 AND RAZED BY ISRAEL



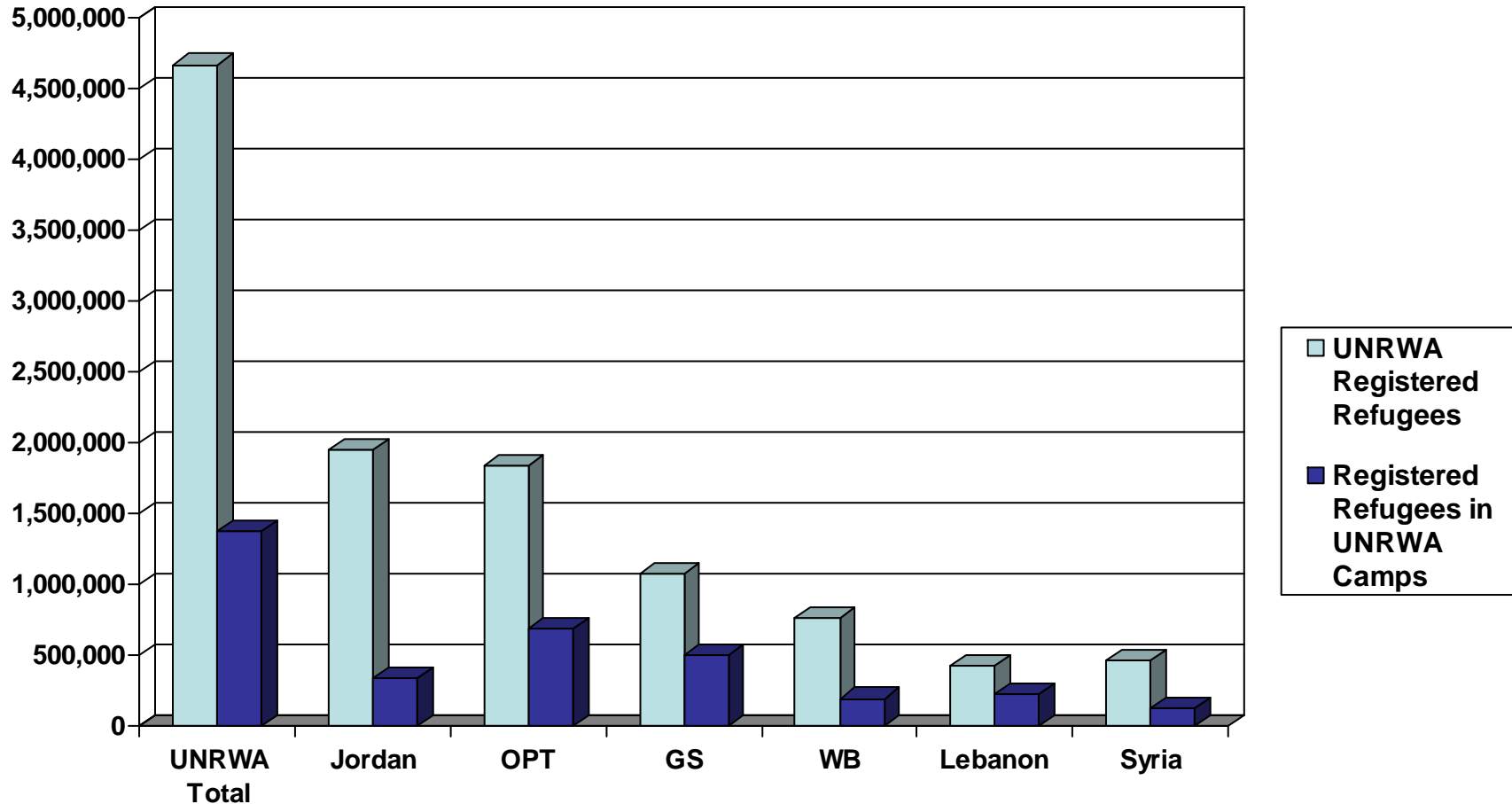
Source: Adapted from Palestinian Academic Society for the Study of International Affairs (PASSIA)

PALESTINIAN REFUGEES, 2001



Source: Adapted from Palestinian Academic Society for the Study of International Affairs (PASSIA)

UNRWA Figures 31.12.08



The way forward

- A solution to the refugee issue is possible.
- The solution must be just, comprehensive and respect refugee choice.
- The solution should be accepted by all parties.
- The Palestinian proposal offers the appropriate **framework** for a just and balanced solution.

The Palestinian view

- ‘a **just** solution to the Palestinian refugee problem to be **agreed upon** in accordance with U.N. General Assembly Resolution **194.**’
- Arab Peace Initiative
- To be implemented by an **international mechanism.**

UNGA 194

11. *“Resolves that the refugees **wishing** to return **to their homes** and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those **choosing** not to return and for loss of or damage to property which, under principles of international law or in equity should be made good by the Governments or authorities responsible.”*

**A JUST SOLUTION
TO BE AGREED UPON IN ACCORDANCE
WITH UNGA RESOLUTION 194**



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Just & Agreed Solution: FUNDAMENTAL PREMISES

- **The solution should be *comprehensive*:** two main aspects of the issue should be addressed
 - **Right of return**/resettlement/integration & rehabilitation
 - **Reparations:** Satisfaction, restitution & compensation
- **The solution should dispense *individual justice*.**
 - Return/resettlement/integration based on free choice
 - Reparations made to individuals

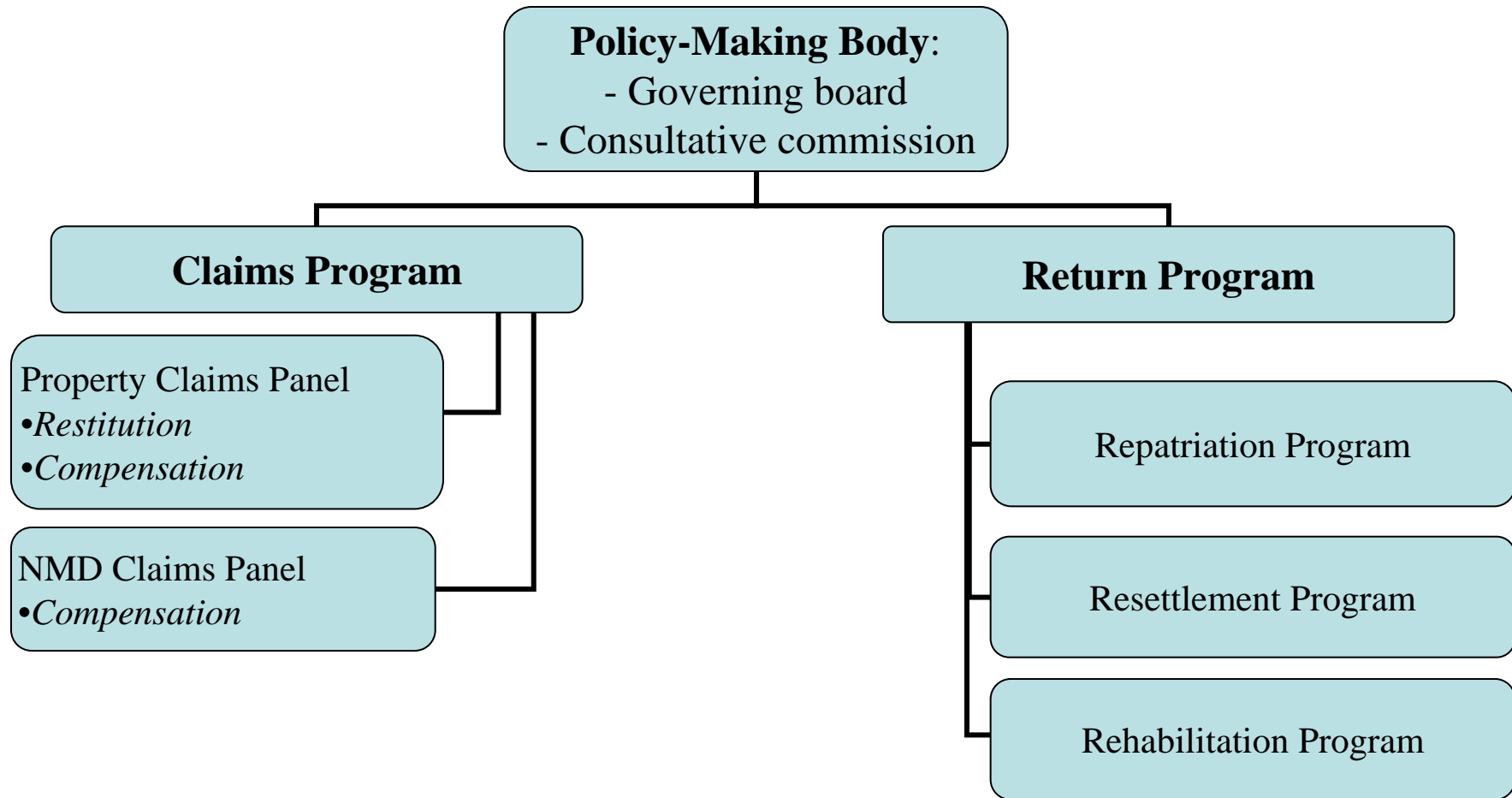
IMPLEMENTING THE SOLUTION: THE INTERNATIONAL MECHANISM



IM: Introduction

- IM is a tool to implement a just, comprehensive and definitive agreement on refugees
- **Palestinian proposal was developed:**
 - *with the assistance of international experts & with reference to international best practice*
 - *tested in workshops involving refugee representatives and NGOs and presented to key players*

IM: Design



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IM: Legal standards

- **Legal standards**
 - Restitution in kind as the primary remedy
 - Right to choose between restitution and compensation
 - Full value as the standard of compensation
 - Compensation for displacement (non-material damage)

IM: Financial contributions

Principle: To be based on parties' responsibility

- **Property claims:** Israel
- **Displacement claims:** Israel, international community
- **Return process:** Israel, international community

IM: UNRWA's role

- **UNRWA's know how and structures in host States are needed for implementation.**
- **No termination of UNRWA before full implementation of the solution and resolution of refugee status issues.**
- **Role of UNRWA to be transformed during the implementation period in coordination with IM.**

IM: Summary

- **Palestinian proposal on the mechanism would:**
 - *Facilitate refugee's endorsement*
 - *Adapt to the terms of the solution*
- **IM will not prevent the parties from agreeing on sensitive political issues (return, responsibility etc)**

Conclusion

- **A solution to the refugee issue is possible.**
- **The solution must be just, comprehensive and respect refugee choice.**
- **The solution should be accepted by all parties.**
- **The Palestinian proposal offers the appropriate framework for a just and balanced solution.**

Questions / Discussion





BANK

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International law on RoR

(1) Art.13(2) of the Universal Declaration of Human Rights (10/12/1948):

- *“Everyone has the right to leave any country, including his own, and to return to his country.”*

(2) Art. 5(d)(ii) of the Intl Convention on the Elimination of All Forms of Racial Discrimination (21/12/1965):

- *“... State Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color, national or ethnic origin, to equality before the law, notably in the enjoyment of... (t)he right to leave any country, including one’s own, and to return to one’s country.”*

(3) Art. 12(4) of the Intl Covenant on Civil and Political Rights (16/12/1966):

- *“No-one shall be arbitrarily deprived of the right to enter his own country.”*

Pinheiro Principles

Preamble:

“voluntary return in safety and dignity must be based on a free, informed, individual choice and that refugees and displaced persons should be provided with complete, objective, up-to-date and accurate information, including on physical, material and legal safety issues in countries or places of origin”

Pinheiro Principles

Principle 2: **The right to housing and property restitution**

2.1 All refugees and displaced persons have the right to have restored to them any housing, land and/or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and/or property that is factually impossible to restore as determined by an independent, impartial tribunal.

2.2 States shall demonstrably prioritize the right to restitution as the preferred remedy for displacement and as a key element of restorative justice. The right to restitution exists as a distinct right, and is prejudiced neither by the actual return nor non-return of refugees and displaced persons entitled to housing, land and property restitution.

Pinheiro Principles

Principle 3. **The right to non-discrimination**

- 3.1 Everyone has the right to be protected from discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, disability, birth or other status.

- 3.2 States shall ensure that de facto and de jure discrimination on the above grounds is prohibited and that all persons, including refugees and displaced persons, are considered equal before the law.



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Just & Agreed Solution: COMPONENTS

(1) Right of return

(2) Reparations

- *Satisfaction: Recognition of refugee rights & Israel's responsibility*
- *Restitution*
- *Compensation including for non-material damages*

(3) International implementation mechanism

Just & Agreed Solution: RIGHT OF RETURN

- **Recognition / Implementation of the right of return**
- **Menu of options per refugee choice**
 - **Return to Israel** (to be agreed with Israel)
 - **Return/Resettlement in Palestine** (Palestinian domestic issue)
 - **Integration in host states** (with their consent)
 - **Resettlement in third countries** (with their consent)

Just & Agreed Solution: REPARATIONS

(1) Recognition & Responsibility

- *Recognition of refugee rights*
- *Recognition of Israel's responsibility*

(2) Restitution

- *Primary remedy for unlawfully confiscated property*
- *Return of property or full compensation*

(3) Compensation

Just & Agreed Solution: COMPENSATION

- **Whatever is not restituted should be compensated in full**
- **Compensation for:**
 - *Material damages (real estate, personal items, livelihood)*
 - *Non-material damages (longstanding displacement & suffering)*

IM: Structure

- **Policy-making body**
 - *Should have separate management and policy-making arms:*
 - Governing board: management
 - Consultative commission: policy-making
 - *Should represent:*
 - Israel & Palestine
 - Intl Comm. (eg. UNSC, UN, World Bank)
 - Host countries
 - *Precise composition, number of members, and allocation of veto power subject to negotiation and agreement*

IM: Structure cont.

- **Return program**
 - Return/resettlement/integration & rehabilitation (based on free choice)
- **Claims program**
 - Property Claims
 - Restitution of refugee properties
 - Claims for compensation for damage to and loss of property
 - Claims for compensation for displacement

IM: Policy-making body

- **Resolution of policy issues not resolved in the permanent status agreement**
- **Development of a work program**
- **Development of compensation criteria**
- **Establishment of deadlines for requests for return and filing of claims**
- **Appointment of director for the return program**
- **Appointment of members of the claims commission**
- **Approval of budget**

IM: Return Program

- **Administrative process staffed by professionals and experts**
 - *Identification of refugees and determining their chosen destination*
 - *Organization, management and operation of the repatriation process*
 - *Resettlement of refugees in their chosen destination (Israel, Palestine, third countries)*
 - *Rehabilitation (housing, medical services, education, professional training)*

IM: Claims program

- **Quasi-judicial process**
 - *Claims for compensation for displacement (“refugeehood”), property restitution, damage to and loss of property*
 - *Two claims panels*
 - NMD / Displacement claims (compensation)
 - Property claims (restitution & compensation)
 - *Secretariat to provide legal, technical and administrative support*
 - *Access to governmental and intergovernmental records*

IM: Guiding framework

- A **new mechanism** is required to solve the refugee issue.
- The IM mandate should be **comprehensive** to ensure efficiency and the end of the problem.
- The solution will have to dispense **individual justice** to refugees.
- The mechanism requires **international participation**.
- **International best practice** in the resolution of refugee matters is helpful and was used to shape the Palestinian IM proposal.
- The IM should be **effective, efficient, transparent and accountable**.

IM: Funding

Creation of a “Compensation and Development Fund” consisting of two accounts:

- Funding of return process
- Funding of compensation claims