

The Two Sides of Return: Palestine and the Refugees

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The Palestine documents that were disclosed by the AlJazeera channel at the end of January included “alternative” proposals for relinquishing the Palestinian right to return. Such a move would mean legitimizing Israeli custodianship of the property of Palestinian refugees now living in the Diaspora and within the borders of historic Palestine. It further means the wholesale adoption of the Israeli discourse, which conditions and restricts the Right of Return to within the borders of a future Palestinian state, whatever they may be, without humanitarian, moral or legal justification. The tragedy of the Palestinian refugees predates the negotiations and the plans for a future Palestinian state; their roots run deep into the land of Palestine, and not a “State of Palestine”. Their property still remains on that land, fresh in their memories, as they wait to return to it.

In addition to the land and real estate, the property of the Palestinian refugees include private and public movable property, bank accounts and commercial shares, their literary and cultural legacy stored in private and public libraries, together with art works, records, documents, etc., in addition to Islamic *Waqf* properties including mosques, cemeteries and other buildings. Israel legitimized its appropriation of this property after the Palestinian *Nakba* (“catastrophe”) of 1948 by enacting the *Absentees' Property Law* in 1953, under which the Palestinian refugees (including the internally-displaced persons) were declared “absentees” and their property was transferred to the *Custodian of Absentees' Property* in order to “protect” such property until such time a solution could be found for the refugees’ issue. Despite United Nations condemnation and objections to the enactment of the law, Israel managed to calm the storm that blew up at the time by issuing a clarification that Israeli custodianship over these properties was temporary, to last only until a future political agreement on the issue could be reached with the Palestinians.

However, over the 60-plus years since the *Nakba*, Israel has neglected and relentlessly exploited this property, with no legal justification, treating it as spoils of war, without supervision. It has either transferred it to the Jewish National Fund or to what is known as the “Development Authority”, which has leased out houses, mosques and other refugee property on 99-year contracts and sold off a large proportion of them through auctions or deals, both open and confidential. And this is to say nothing of the buildings that fell into ruin and become dilapidated over the decades since 1948 as a result of deliberate neglect and disrepair.

In August 2009, the Knesset enacted a law that allows the “privatization” of 800 thousand dunams of land, including a large portion of Palestinian refugee land. Under this law, the land can be marketed and sold on the open market to individuals and profit-making entities, provided they are Israeli citizens or Jews according to Israel’s Law of Return. This law was intended to complete the takeover and liquidation of what remained of the properties by means of public auction, given a legal cover, in total disregard of international conventions UN General Assembly Resolution 194, which provided for the immediate return of the Palestinian refugees to their land and homes.

It is therefore no surprise that Israel has shrouded the use it has made of Palestinian property, private, public and *Waqf*, since the *Nakba*, to allow it to develop a strategic plan to eliminate the rights of the Palestinians to this property and abolish the Right of Return. In this context, the aforementioned law that was enacted in 2009 constitutes a “legal” shift to the next stage in this campaign of elimination: the final sale of the refugees’ property. Israel would not have taken such action in this public way were it not for the existence of the political atmosphere in favor of the absurdly unbalanced negotiations between itself and the Palestinians. Israel managed to overturn the established and legitimate formula built on the organic correlation that exists between the Right of Return and the property of the Palestinian refugees. Deleting the first half of the equation necessarily and directly leads to the deletion of the second, in light of other facts that have been imposed by Israel. However, we have seen – as the documents exposed by AlJazeera reveal – that as a result of the negotiations process, the premise that “the Right to Return is denoted by and confined to the establishment of the Palestinian State” is now dealt with as irrefutable fact. The issue of the refugees’ property and the sale thereof was thus sidelined, and their return became a surreal fantasy.

As part of the plan to eliminate Palestinian ownership of the “absentee’ property”, Israel sought to establish a monopoly on information regarding this property, concealing the facts from the refugees themselves, as well as researchers and even the negotiators. Recent legal attempts to expose the list of properties appropriated by Israel and transferred to the “Custodian of Absentee’s Property,” and their current fate, have ended in failure. Petitions submitted to the Israeli courts and requests for information have been denied, based on the allegation that “this information could prejudice Israel’s foreign interests and relations”! Thus Israel is masterfully playing its role as a colonial power in controlling this information and its sources. It has made this information a private, internal Israeli issue, thereby reducing the Palestinian people’s share in and right to it, as information with the power to shape the features of the Right to Return, rendering it either an empty right or an attainable one.

And is it not only Israel that is withholding the information, as the UN is also implicated in the issue. The Palestinian Conciliation Commission, which commenced its work in January 1949, in accordance with Resolution 194, was charged with the task of estimating the land and property belonging to the Palestinian refugees in Palestine. However, the UN kept the information confidential in archives located throughout the world and never used them to assist the refugees. Furthermore, numerous sources contend that the Palestinian Authority obtained a copy of this information, but made no serious or meaningful effort to demand data from Israel regarding the fate of the refugees’ property. Instead, all it did was to estimate the total financial value of the property.

In conclusion, there are two sides to the issue of return: Palestine, and the refugees. Both exist and will continue to do so, and thus return cannot be merely symbolic, formal or figurative. The right and the content thereof are clear: what the Palestinians must do is to reformulate the components of the equation of the Right of Return, based on Palestine the land, and Palestine as refuge.

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