

PERSPECTIVES ON RETURN DURING THE WAR



- ❖ While Palestinians were being uprooted during the war, the question arose of what to do with the refugees. Should they be allowed to return when the war was over or not?
- ❖ One view at the time is suggested in this quote from Golda Meir (*The Birth of the Palestinian Refugee Problem Revisited*, Benny Morris), from the Protocol of the meeting of the Jewish Agency Executive on May 6, 1948:
*"[Should the Jews] make an effort to bring the Arabs back to Haifa, or not[?]
Meanwhile, so long as it is not decided differently, we have decided on a number of rules, and these include: We won't go to Acre or Nazareth to bring back the Arabs. But, at the same time, our behavior should be such that if, because of it, they come back – [then] let them come back. We shouldn't behave badly with the Arabs [who remained] so that others [who fled] won't return."*

IMPLEMENTING POLICIES AGAINST RETURN



- “(1) Destruction of villages as much as possible during military operations.**
- (2) Prevention of any cultivation of land by them...**
- (3) Settlement of Jews in a number of villages and towns so that no ‘vacuum’ is created.**
- (4) Enacting legislation**
- (5) Propaganda”**

- From a memorandum by Yosef Weitz to Ben-Gurion, “Retroactive Transfer, A Scheme for the Solution of the Arab Question in the State of Israel” (June 5, 1948)

- ❖ However, as the war progressed, the Israeli side came to adopt a strict policy of preventing return.
- ❖ The strategies summarized in the above memo were the ones that prevailed. Villages were razed to the ground. Jews were settled in some areas formerly populated by Arabs, and other village sites were transformed into parks (often eventually covered by those familiar pine tree forests) or closed military zones. Often Israeli forces shot Palestinian refugees who were trying to return to their villages.
- ❖ On June 16, 1948, the government had said, “they’re not returning.” This fateful decision, and measures to implement it, were a necessary condition for the establishment of a Jewish state with a large Jewish majority.

LEGAL MECHANISMS INHIBITING RETURN

ABSENTEES' PROPERTY LAW, 5710-1950*

1. In this Law -

LAND ACQUISITION (VALIDATION OF ACTS AND COMPENSATION) LAW, 5713-1953*

1.

- (a) In this Law --
 - "the Minister" means the member of the Government whom the Government shall authorise for the purposes of this Law by notice published in *Reshumot*;
 - "Development Authority" means the Development Authority established under the Development Authority (Transfer of Property) Law, 5710-1950(1);
 - "property" means land;
 - "acquired property" means property vested in the Development Authority in pursuance of section 2;
 - "date of acquisition" means the date on which property vests in the Development Authority in pursuance of section 2;
 - "owners", in relation to acquired property, means the persons who immediately before the date of acquisition were the owners of, or had a right or interest in such property, and includes their successors;
 - "the Court" means the District Court in the area of whose jurisdiction acquired property is situated.
- (b) In the case of a person who has a right or interest in property, any reference in this Law to property shall be deemed to be a reference to such right or interest.

2.

- (a) Property in respect of which the Minister certifies by certificate under his hand--
 - (1) that on the 6th Nisan, 5712 (1st April, 1952) it was not in the possession of its owners; and
 - (2) that within the period between the 5th Iyar, 5708 (14th May, 1948) and the 6th Nisan, 5712 (1st April 1952) it was used or assigned for purposes of essential development, settlement or security; and .
 - (3) that it is still required for any of these purposes--
 shall vest in the Development Authority and be regarded as free from any charge, and the Development Authority may forthwith take possession thereof.
- (b) The property shall vest in the Development Authority as from the date specified in the said certificate; the certificate may only be issued within one year from the day of the coming into force of this Law, and shall be published in *Reshumot* as early as possible after the day of its issue.
- (c) Property vested in the Development Authority as aforesaid shall be registered in the Land Register in its name, but non-registration shall not affect the validity of the vesting of the property in the Development Authority.

(a) "property" includes immovable arid movable property, moneys, a vested or contingent right in property, goodwill and any right in a body of persons or in its management;

(b) "absentee" means -

- (1) a person who, at any time during the period between the 16th Kislev, 5708 (29th November, 1947) and the day on which a declaration is published, under section 9(d) of the Law and Administration Ordinance, 5708-1948(1), that the state of emergency declared by the Provisional Council of State on the 10th Iyar, 5708 (19th May, 1948)(2) has ceased to exist, was a legal owner of any property situated in the area of Israel or enjoyed or held it, whether by himself or through another, and who, at any time during the said period -
 - (i) was a national or citizen of the Lebanon, Egypt, Syria, Saudi Arabia, Trans-Jordan, Iraq or the Yemen, or
 - (ii) was in one of these countries or in any part of Palestine outside the area of Israel, or
 - (iii) was a Palestinian citizen and left his ordinary place of residence in Palestine
 - (a) for a place outside Palestine before the 27th Av, 5708 (1st September, 1948); or
 - (b) for a place in Palestine held at the time by forces which sought to prevent the establishment of the State of Israel or which fought against it after its establishment;
- (2) a body of persons which, at any time during the period specified in paragraph (1), was a legal owner of any property situated in the area of Israel or enjoyed or held such property, whether by itself or through another, and all the members, partners, shareholders, directors or managers of which are absentees within the meaning of

ABOVE: [Absentees' Property Law](#) (1950).

LEFT: [Land Acquisition Law](#) (1953).

- ❖ In the immediate aftermath of the Nakba, one of the most effective measures taken to prevent the return of Palestinian refugees was the passage of the Absentees' Property Law in 1950. Adalah, the Legal Center for Arab Minority Rights in Israel, [offers this summary](#) of the law:

"Defines persons who were expelled, fled, or who left the country after 29 November 1947, mainly due to the war, as well as their movable and immovable property (mainly land, houses and bank accounts etc.), as "absentee". Property belonging to absentees was placed under the control of the State of Israel with the Custodian for Absentees' Property. The Absentees' Property Law was the main legal instrument used by Israel to take possession of the land belonging to the internal and external Palestinian refugees, and Muslim Waqf properties across the state."

- ❖ This law had, and continues to have, wide-ranging effects on Palestinians. It was the means by which internally displaced persons (Palestinians who remained within Israel's borders, but were not allowed to return to their lands) were transformed into "present absentees" – that is, present in the country but absent from their homes and lands.

LEGAL MECHANISMS INHIBITING RETURN (continued)

- ❖ In conjunction with the Absentees' Property Law, the 1953 Land Acquisition Law was also used to confiscate the homes and lands of Palestinians, including those who had fled their homes but remained in what became the state of Israel.
- ❖ Adalah [offers this summary](#) of the law:

"Today, approximately 93% of the land in Israel (excluding the OPT) is owned by the state and the JNF. Only 3-3.5% is owned by the Arab population, as compared to 48% in 1948. The massive transfer of land located within the borders of the state on the eve of the establishment of the state of Israel in 1948 was executed through two primary laws, the Land Acquisition Law (Actions and Compensation) and the Absentees' Property Law (1950). Through the Land and Acquisition Law (Actions and Compensation), 1.2-1.3 million dunams of land were expropriated from the Arab population. These lands were confiscated from a total of 349 towns and villages, in addition to the 'built-up areas' of about 68 villages, whose precise area was not included in the expropriation orders."
- ❖ Laws preventing the return of Palestinian refugees to their land and properties were intertwined with and reinforced by the very laws that allowed for the immigration and citizenship of Jews coming to the newly-formed state.
- ❖ The [1950 Law of Return](#) applies only to Jews, and stipulates that every Jewish person has the right to immigrate to Israel and be granted automatic citizenship. In contrast, even Palestinians who were born in areas that are now part of Israel are not offered any such guarantees.
- ❖ The [1953 Citizenship Law](#), which grants citizenship to anyone who immigrates according to the Law of Return, also deprives Palestinian refugees who resided in Palestine before 1948 of the right to acquire residence status or citizenship in Israel.

