

THE RIGHT OF RETURN



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Refugees Camps In Gaza Strip



Gaza Refugee Camps



Middle East Peace Summit, Camp David, 2000 Israeli Prime Minister Ehud Barak, Palestinian Authority Chair Yasser Arafat, and President Bill Clinton



Middle East Peace Summit, Camp David, 2000 -- Israeli Prime Minister Ehud Barak, Palestinian Authority Chair Yasser Arafat, and President Bill Clinton

An unsuccessful attempt to negotiate a "final status settlement" to the Israeli-Palestinian conflict.

There were three principal obstacles to agreement:

- * Territory
- * Jerusalem and the Temple Mount
- * Refugees and the "right of return"



Middle East Peace Summit, Camp David, 2000

At the 2000 negotiation at Camp David, Israeli Prime Minister Ehud Barak was willing to accept a Palestinian state in the Gaza Strip and most of the West Bank, plus co-sovereignty over Jerusalem, but would not accept a Palestinian right of return to Israel.

Yasser Arafat would not accept any settlement that did not contain at least some provisions on this issue.



Universal Declaration of Human Rights

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.

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

Right of Return

** What is the significance of the change between "State" and "country" in paragraphs 1 and 2?*

** What does "his own" mean?*



International Covenant on Civil & Political Rights

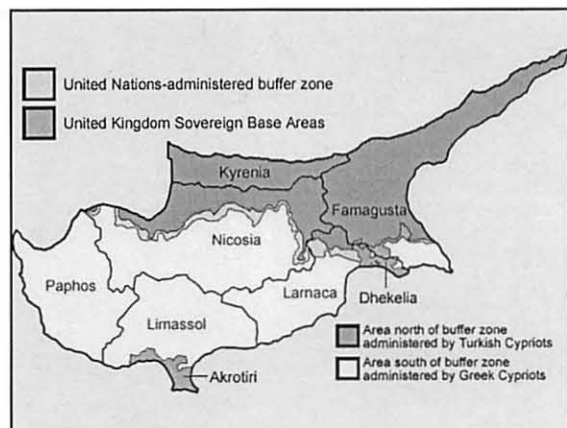
Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

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



Cyprus

* Population: 77% Greek; 18% Turkish; 5% Other

* 1960 -- Independence declared from UK.

* July 13, 1974 -- Military government in Greece led a coup d'etat against Cypriot government of Makarios

* July 20, 1974 -- Turkish military invaded northern Cyprus and secured control of 37% of the island (claiming that this land had been controlled by Turkish Cypriots prior to 1963). Some 200,000 Greek Cypriots were displaced from their homes. Atrocities were committed by both sides.

* November 15, 1983 -- Turkish Republic of Northern Cyprus is proclaimed. Some 150,000 Turkish settlers have come to Cyprus (and 30,000 of the 120,000 native Turkish Cypriots have left). 40,000 Turkish soldiers are stationed in Cyprus.

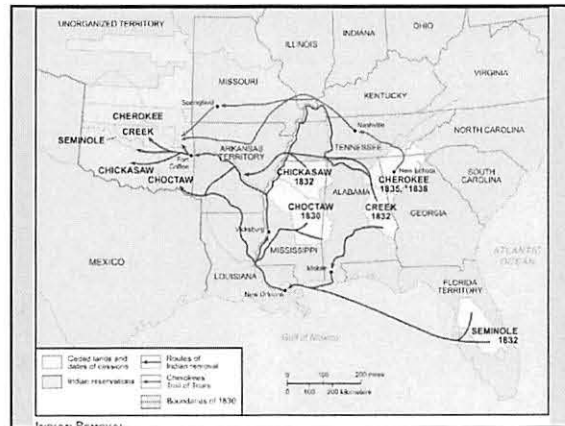
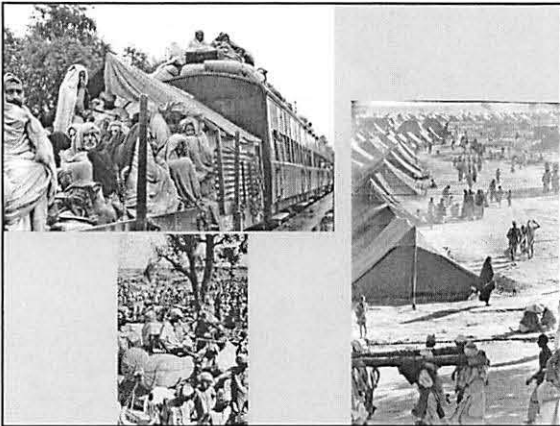
April 24, 2004 -- Turkish Cypriots vote to support Annan Plan, but Greek Cypriots reject it.

May 2004 -- Cyprus joins European Union.



In what has been termed as *the greatest human migration*, some 15 million people were displaced from their homes as a result of the partition with Hindus in Pakistan moving to areas in Punjab and other bordering areas, and many Muslims left India to to to Pakistan. The partition was marred by large scale violence resulting in the death of 1.0-1.5 million individuals.





Other Mass Relocations

* *Bulgaria-Greece Treaty of 1919*— 46,000 Greeks moved from Bulgaria to Greece and 96,000 Bulgarians moved from Greece to Bulgaria.

* *Greece/Turkey 1922* – 2,000,000 Greeks left Turkey for Greece and 500,000 Turks left Greece for Turkey.



Other Mass Relocations

* *Potsdam Declaration* – German populations in Poland, Czechoslovakia, Hungary, and Austria were forced to return to Germany – some 2,000,000 died in this process.



The Rights of the Jewish People to Return to Israel

Balfour Declaration, November 2, 1917:

* "His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people and will use their best endeavours to facilitate the achievement of this object."

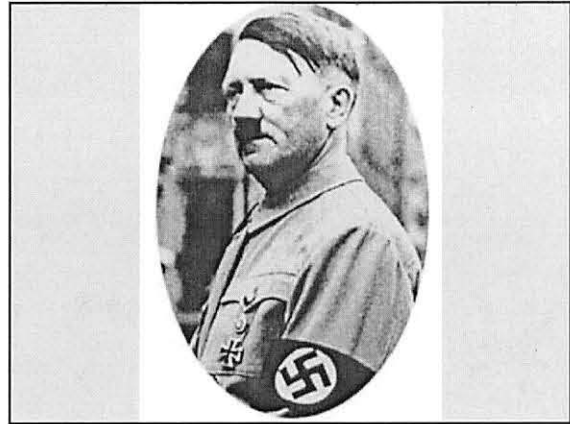
* "nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine."

The British Mandate of Palestine, enacted by the League of Nations in 1922:

* "The Administration of Palestine... shall facilitate Jewish immigration under suitable conditions and shall encourage, in cooperation with the Jewish agency... close settlement by Jews on the land..."

* The mandatory power shall "safeguard the civil and religious rights of all the inhabitants of Palestine, irrespective of race and religion."





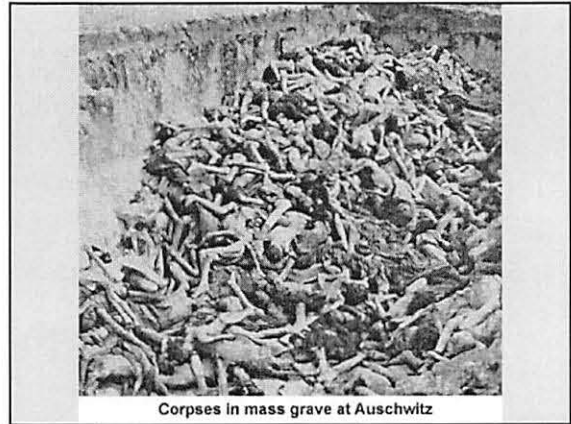
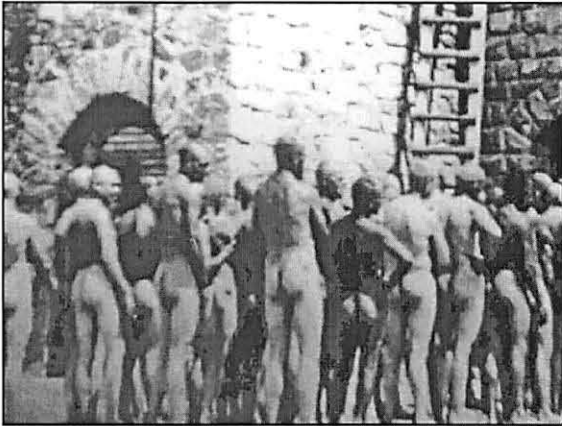
The Holocaust (1933-45)

* Jews were the primary victims -- six million were murdered.

* Roma and Sinti (Gypsies), people with mental and physical disabilities, and Poles were also targeted for destruction or decimation for racial, ethnic, or national reasons.

* Millions more, including homosexuals, Jehovah's Witnesses, Soviet prisoners of war, and political dissidents, also suffered grievous oppression and death under Nazi Germany.





Corpses in mass grave at Auschwitz

Liberation of Buchenwald, 1945



United Nations



UN General Assembly Resolution 181 (1947)

"Independent Arab and Jewish States and the Special International Regime for the City of Jerusalem...shall come into existence in Palestine two months after the evacuation of the armed forces of the mandatory Power has been completed but in any case not later than 1 October 1948."

[Adopted by a vote of 33-13, with 10 abstentions]



Refugees and the right of return

As a result of the first Arab-Israeli war, 700,000 Palestinians fled or were expelled from their homes.

These refugees and their descendants numbering more than four million today.

The Palestinian side has argued that any meaningful peace settlement would have to take the future of these people into account. In particular, they called for a right of return or just compensation and an Israeli acknowledgment that they too had been responsible for the creation of the refugee problem.

The Israelis countered that a larger number of Jewish refugees had been pushed out of Arab countries since 1948, and were not compensated, and that most of them ended up in Israel.



Palestinian "Right of Return"

What are the rights of those forced to leave their homes prior and during the 1948 Arab-Israeli war?



UN General Assembly Resolution 194 (Dec. 11, 1948) outlined the right of the Palestinian refugees to return:

"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..."

Security Council Resolution 242 (1967)

The Security Council;
...**Emphasizing** the inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in which every State in the area can live in security, ...



Affirms that the fulfillment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

- Withdrawal of Israeli armed forces from territories occupied in the recent conflict;
- 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;
- Affirms further the necessity ...
- For achieving a just settlement of the refugee problem;
- For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones; ...

Beginning in 1981, UN General Assembly Resolutions Made References to the Palestinian Refugees' Entitlement to Their Property and the Income Derived From It.

Resolution 38/83.J
(Dec. 15, 1983) referred to the refugees' "inalienable right of return."



Impact on Israel

If all the 4,000,000+ Palestinian refugees and their descendants were to return to their original home within Israel this would lead to a demographic shift which would end Israel's status as a Jewish state.

Israel's current population is composed of about 5.5 million Jews and 1.3 million Muslim and Christian Palestinian Arabs.

A very large majority of Jewish Israelis see the demand for a Palestinian Right of Return as merely another way of arguing for the destruction of Israel as a Jewish state, and demand that the Palestinians recognize that Israel has a right to exist as a Jewish-majority state.



Annan Plan for Cyprus (2004)

* Acknowledged the "legitimate claims" of both the refugees and those who currently reside on their property.

* Noted the passage of time, and "the fact that the events in Cyprus happened 30 to 40 years ago and that the displaced people have had the to rebuild their lives and their economies during this time."

* Each municipality or village would have to absorb no more than 20% of its population

* Each of the two political entities would have to admit refugees consisting of not more than 10% of its population.

* [The Greek Cypriots voted against this Plan in 2004, because only 20% of the Greek Cypriot refugees could return, while the Turkish Cypriots would have a full right of return.]



Conclusions Regarding "the Right of Return"

* The forced migration of citizens has occurred frequently in recent human history.

* Although such migrations are now condemned as illegal "ethnic cleansing," the relevant state practice has accepted past migrations and has not required massive relocations as part of a settlement process.

* The Israelis and Palestinians need to be flexible on this point, to permit Israel to remain a Jewish state, to recognize the hardships suffered by both sides, and to utilize compensation as part of the remedy, in the place of an absolute "right of return."



