

The Right to Refuse: Abject Theory and the Return of Palestinian Refugees

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Abstract

The Palestinian claim for the right of refugees to return to places from which they were displaced in 1948, and the notion that return, if implemented, might bring them back to areas now part of Israel within the Green Line², touches raw nerves for Palestinians and Israelis alike. Measures to redress the tragedy of Palestinian refugees, once implemented, could have far reaching practical consequences for many. Not least, they could redefine people's sense of historic justice, individual and collective choice, identity, morality and destiny.

This essay follows two trajectories. One explores the cultural, historical and political origins of the meta-narratives that inform Palestinian and Israeli mainstream views of return. The other is a thought experiment that seeks to bridge theory and practice. Cognizant of the merits of transitional justice and sceptical about the feasibility and efficacy of closure, it presents a formula for settlement which could transform the lives of a substantial proportion of the 1.36 million refugees most urgently in need of such a change. Working from Julia Kristeva's abjection theory, I propose the right to refuse as a viable alternative to the elusive and impractical quest for universal return. This attempt to fuse theory and practice invites some humbling thoughts on the role of intellectuals in political negotiations.

1.

The tragedy of Palestinian refugees, and their quest to return to the country and specific locations from which some 750,000 of them were displaced in 1948, remains a contentious, seemingly irreconcilable component of the Israeli-Palestinian conflict. Having appeared briefly in the Madrid-Oslo process of the early 1990s, the issue resurfaced more robustly as part of the negotiations in Camp-David in July 2000 and in Taba in early 2001. Failure to make headway on the refugee issue in fact contributed to the collapse of that particular initiative and to the outbreak in October 2000 of the Palestinian uprising known as Intifadat al-Aksa. The stalemate that characterized the first decade of the 21st century, interspersed by half hearted attempts on the part of Israel under Ariel Sharon and Ehud Olmert to create a semblance of ‘progress’ vis-a-vis the Palestinians, left the plight of refugees deeper in limbo. Things could change of course if President Obama’s June 2009 attempt to restart a process of Israeli-Palestinian reconciliation matures into a viable project.

Arguments for and against return reflect divergent meta-narratives of the history of the Israeli-Arab conflict. The Palestinians see themselves as an ancient nation, invaded in the 20th century by Western colonialism, spearheaded by an opportunistic and belligerent Zionist segment of the Jewish people. In their view this trajectory was the root cause of the dispossession and dispersal in 1948 of 750 thousand Palestinians – approximately 85% of the Palestinian inhabitants of the area that eventually became the state of Israel.

Palestinian refugees now make the longest standing and largest refugee

community of our time. In 2009 the UN Relief and Work Agency UNRWA, established in 1949 to cater for the Palestinian refugees, indicated that it had 4,168,141 Palestinians as ‘registered refugees’³, and Palestinian sources estimate the total number of refugees at almost 6.5 million⁴. Whatever the grand total, there seems to be agreement that the 1.36 million refugees still living in camps in Lebanon (220,809⁵), Syria (123,646⁶) Jordan (335,307), the west Bank (191,408) and Gaza (492,299⁷), are those who suffer most in terms of human rights, socio-economic conditions and life opportunities. Additionally, millions of Palestinians living in Lebanon, Syria, the West Bank and Gaza hold no formal citizenship of any kind, and are hugely restricted in terms of travel, employment and general well being.

The Palestinian view of the historic injustice that befell them is exacerbated by the recognition that most ordinary Palestinians, including those who eventually became refugees, had no control over events that led to their demise in 1948 and over circumstances that determined their fate in exile. This informs an intuitive, self evident moral position featuring four main sensibilities. One - universal return and restitution is the only true rectification of the injustices incurred in 1948 and in exile since. Second - those originally displaced and their descendants make one inseparable and indivisible community. Third – refugees are entitled to a spectrum of remedial options that should include return, indemnities and settlement elsewhere. Finally, the Palestinian themselves, as individuals and as a collective, should have the sole discretion to choose between these options.

Whether or not Palestinians believe all this could ever happen, the moral force and political efficacy of this composite position is compelling. And while Palestinian society has always been divided along regional, class and socio-economic lines⁸, calls for unconditional return provide a unifying cause. The idealized vision of return allows refugees and non-refugees, peasants and urbanites, the rich and the poor, the secular and the religious to rally around one cause. Return has become a self evident ideological duty, an indispensable element of the national canon. It embodies the Palestinians as a community of suffering (Said 1994) who share a common memory of loss (Rabinowitz 1994, cf. Slyomovics 1998, Halbwachs 1992) – a collective whose very identity hinges on return. They are, as it were, a returning people (Cf. Barkan 2005:85, 94).

2.

The sensibilities informing Palestinians' views on return follow an implicit Augustinian trajectory. For St. Augustine the here and now is a sequel to a primordial era in which people's innocence and natural restraint made coercive laws superfluous. It was only following the original sin that god had to intervene, instating a social order as a means for endurance in the physical world while preparing for salvation in the heavenly world beyond.

Palestinian perceptions of the *status quo ante* 1948 invoke an analogous cosmology. The old life tends to be imagined as peaceful, harmonious and

optimistic, with strong community solidarity and a collective spirit. Then came the Nakbah (calamity) of 1948, and marked a break from earlier bliss and the beginning of a dark era of suffering and chaos. This nostalgic effigy of a distant golden age catapults the past into the present, engendering a morally prescribed vision for the future. In truly Augustinian fashion, Palestinian politics, complete with institutions and a proto-state, are construed as entities whose chief remit is to facilitate return.

Palestinian return is a concept that is profoundly stirring for Israelis too. Zionism is premised on the idealized concept of Jewish return from an anguished and dangerous diaspora to a tranquil and abundant ('milk and honey') ancestral haven. Not surprisingly, claims by Palestinians to have a right of return to the very territory is an anathema for Israelis. Not only does it challenge Zionist sensibilities about cosmic justice and inherent rights, it also forces Israelis to face the consequences that 1948 had for their Palestinian victims – something the Israeli canon shrouds under thick screens of denial and unarticulated guilt⁹.

Most Israelis accept that once an independent Palestinian state emerges in the West Bank and in Gaza, considerable numbers of refugees will return to settle in it. But Palestinian refugees returning to their original locations *within* Israel remain unthinkable for an unshakable majority of Israelis. Part of this is erstwhile Israeli anxieties about demography, focusing on the fear of becoming a minority again. Another aspect is that the notion of Palestinian return, which weighs so heavily against key symbols of culture and identity of Israelis,

threatens to subvert the course of Israeli time. The era that began in 1948, characterized by a remarkable growth in Israel that many genuinely experience as a belated rectification of injustices inflicted on the Jews for many centuries, could be in jeopardy.

This Israeli view reflects an essentially Hobbesian outlook on society and history. Rather than a temporal entity, the state of nature it perceived as a cyclic and repetitive syndrome, a chaotic scene in diametric opposition to civilized order¹⁰. Thus, when order dissipates, even descent humans, fearing they might lose access to essential resources, might resort to violence. The result is an insatiable thirst for safety and security, a race to build more iron walls. The fact this often breeds anxiety, fear and terror posing as preventive violence tends to be misrecognized by most proponents of this outlook.

It is interesting to note that early Israeli concepts of society were premised on a more Rouseauesque outlook, with individuals inspired by a belief in solidarity based on the general will. The troubled relationship with the Arab world, however, soon eroded this world view. Suspicion and anxiety became the order of the day, producing an endless state of emergency (Agamben 2004) and an ever-escalating militarization of the Zionist project (Rose 2005, cf. Rabinowitz 2005).

The Augustinian and Hobbesian tendencies I attribute to Palestinians and to Israelis respectively are not reflections of essentialized cultural traits or socio-psychological collective tendencies. Palestinians are not preoccupied with Augustinian theory any more than Israelis study Hobbes as bed-time reading.

Nor do these divergent views reflect some magic moments of persuasion. Like socio-political sensibilities in general they are shaped by relational constructions and circumstantial approximations of what reality and the existential perils it entails might look like. Thus, Sophist and Socratic thought were shaped by contemplation of imperfections in the Athenian Polis.

Machiavelli's *The Prince* and *Reflections on Titus Flavius's Account of Ancient Rome* must be read in light of the return of the Medicis to a chaotic Florence and a fragmented Italy. Bodin's ideas on sovereignty and the *Raison d'etat* was informed by religious wars in 16th century France over political legitimacy. Hobbes wrote within and of the restoration, Hegel reflected the dilemmas which gripped the Germanic universe in the late 18th century, and so on.

Ulrich Beck, in his analysis of contemporary western societies (Beck 1994), suggests that for most people most of the time, public matters boil down to what he calls 'new politics': a host of managerial challenges relevant to people's immediate routine realities such as consumerism, town planning, taxes, welfare or distribution of public goods. Matters that transcend these horizons to conjure up collective existential matters are seldom present in contemporary politics. The right of Palestinian refugees to return is clearly such an exception. Both Palestinians and Israelis see the fate of refugees as a critically important element that would shape collective destiny, a zero sum game whereby blame and ultimate responsibility could spell survival or demise for the entire national project. Concessions are often equated with collective suicide or, worse still, treason (cf. Kelman 2001:187). Idealized, fetishized,

politicized, talk of the refugees and their eventual fate tend to be sketchy and declarative, frozen in ideological clichés and rigid slogans.

3.

Palestinian visions of return are linked to images of the venerated homeland and what it may have looked like in the past. Depictions of the old country have rolling empty hills and olive orchards, Fig and Cyprus copses, wild springs at the edges of peaceful and abundant villages where citrus trees abound. That universe, however, is hardly present any longer on the ground. The Israeli economy, with an average GNP growth of ca. 5% per annum since 1948, feeds an agile and efficient nationalizing project whereby a constant stream of settlements, designed to maximize control of territory (see Kimmerling 1983, Rabinowitz 1994a, 1997, Kedar and Yiftachel 2000) has transformed the territory beyond recognition. Only a fraction of the Palestinian villages and towns destroyed in 1948 are even visible as ruins. Many have since been covered over by forests (cf. Cohen 1993), agricultural plots and a multitude of rural and urban settlements¹¹. Areas left unsettled are, for the most part, peripheral and underproductive, detached from regional and metropolitan employment centers and economic hubs.

Palestinian evocations of return are based on effigies of a pre-1948 social universe that largely overlooks the 600,000 members of the Jewish *Yishuv*¹², their well developed communal institutions, territorial presence and economic

impact. The selective memory of pre 1948 Palestine, coupled with a reluctance to take on board the full dimensions of contemporary reality in Israel, facilitates an abstract, utopian discourse of return.

The idealized misrecognition on the part of Palestinians of this demographic transformation and its capacity to rule out massive return is mirrored in the way most Israelis overlook the suffering of Palestinian refugees. Official Israel consistently underestimated the number of refugees, and remains incredulous towards Palestinian renderings of the size and circumstances of contemporary refugee communities¹³. Israelis underestimate the hardships refugees endure, and prefer to blame the Arab states and the refugees themselves for their unfortunate predicament, thus effectively diverting attention from the moral and political import of the issue.

These gaps between reality and vision explain why representatives have been reluctant to develop and discuss concrete plans for the future of Palestinian refugees. A genuine attempt to consolidate the Palestinian narrative of history into a practical remedial plan for refugees would have forced Palestinian envoys to make a difficult choice regarding Israel. Developing a plan that implies inserting Palestinian returnees into Israeli time requires a radical departure from canonic Palestinian visions of return. Arguing for the return of refugees into a future whereby Israel no longer is the demographic and political entity it is would be unthinkable for Israelis.

Incorporating Palestinian returnees into Israeli time also implies that they become a sub-set of the existing community of Palestinian citizens of Israel – a

feature of this complicated puzzle that is seldom part of the debate of putative return.

Much has been written since the 1990s about the Palestinian citizens of Israel, now representing ca. 17% of Israel's population, and their predicament¹⁴. Benefitting from certain advantages of the rapidly expanding Israeli economy, Palestinian citizens of Israel remain de-facto second class citizens. With limited access to state-controlled resources such as land (Kedar and Yiftachel 2000), water, or incentives for economic development (Rabinowitz et. al. 2000), the relative free movement they enjoy in Israel and abroad does not compensate for institutionalized and spontaneous discrimination against them. Their equality before the law is tenuous (see Ratner and Fishman 1997a, 1997b). Many of them in fact regard their Israeli citizenship, and the inherent right to vote and to be voted, as a meaningless, minimal formality (Rabinowitz and Abu-Baker 2005). Marginal to Israeli public life and politics, their influence on policy and process is almost non-existent.

The gap between idealized versions of pre-1948 Palestine and the tenuous position of the Palestinian citizens in contemporary Israel, in other words, is quite dramatic. It considerably complicates the task of bridging idealized nostalgic visions of return with the realities that would inevitably shape the lives of returnees.

4.

Having sketched the complexities associated with notion of return, some thoughts about the role of intellectuals in attempts to overcome them. While in my view such role can be most useful, my comments are nevertheless guided by some humbling thoughts on the dynamics that ensue when politicians seek such input and proceed to use it.

The importance of a proper moral basis and sound theoretically informed ideas for all political processes hardly needs advocacy or elaboration. Procedures that neglect these elements could easily deteriorate to a 'might is right' conundrum, yielding unjust and unsustainable outcomes. One obvious responsibility of intellectuals, when invited to help design a process, provide information or suggest ideas for possible solutions, is to ensure the process stays in touch with moral principles and makes coherent theoretical sense.

But intellectuals who provide moral foundations for an essentially political process often find that as the process nears its crucial final stages they as persons and the ideas they represent tend to be brushed aside and make way for more pragmatic sensibilities. It is not because politicians are less philosophical or moral - Aristotle long ago negated this generalization. Rather, it is the pace and urgency of the negotiation process, and the conjunctural considerations that guide it which triggers an eclipse of moral values at the crucial moment. Insult sometimes adds to injury as distorted versions of ideas provided by well-meaning intellectuals early in the process resurface later as fig-leaf rationalizations for outcomes that are faint shadows of the initial

concept.

This is not merely a call to strengthen inputs of morality and theory to politics. It is also to alert us to the fact that pragmatism – often understood as the capacity to marry desirability with workability – does not ensure neutrality. On the contrary. Forward looking and given to a view that any change is better than no change, pragmatism tends to treat prevailing conditions as the only point of departure to the future. The result is an a-historical outlook which *apriory* favours those endowed. Unlikely to undo past wrongs or compensate for them, the chances it would revolutionize the lot of those already dispossessed are slim.

Input on the part of academics to the debate on Palestinian refugees differs by discipline. Social scientists have focused on capacities. Economists looked at potential sources to fund rehabilitation (Efrat 1993; Abdel-Jaber and Klinov 1997) and the extent to which Palestinian economy can integrate financial input of the kind that is expected with physical return and remuneration (Klinov 1997, 2003). Sociologists examined the ability of Palestine and Israel to absorb large contingents of new-comers (Hanafi 2003, Zureik 2003), and the compatibility between Palestinian family norms and the challenges associated with relocation (Hanafi 2003). Political scientists analyzed the existing record of negotiations between Israel and the Palestinians on the fate of refugees in an attempt to improve the outcome in the next rounds (Brynen 1998, Klein 1998, 2001, 2003, Damper 2003, Helton 2003).

Lawyers, whether in favor of a Palestinian right to return¹⁵ or against it¹⁶,

tend to structure their inquiry as exercises in law finding. Invoking international practices, UN declarations and resolutions, international treaties and rulings of a variety of tribunals, they seek the ultimate trump card: decisive legal language that would 'objectively' define 'the international law perspective' on the matter and thus settle it.

This is not easily attained. Components of international law are fluid and hierarchies between them are ill defined, with binding rules and guidelines few and far between. This is complicated by the non-reflexive nature of legal discourse, whereby writers are reluctant to explicitly recognize how political trajectories and affiliations guide them. The result is often legal experts on either side talking past each other (see Zilbershats 2007 and Boling 2007).

The self explanatory morality that guides the Palestinian claim that the only acceptable redress is unconditional and universal return poses a challenge to moral philosophers. This is particularly relevant to those prepared to accept Zionism as a legitimate and moral project, at least for as long as it was saving Jewish lives from violence and other forms of anti-Semitism in the aftermath of World War II. Gans (2007) for example accepts cultural nationalism in principal, endorses Zionism as the particular expression of Jewish nationalism, and accepts the concomitant right of Jews to embody their national awareness as an ethno-territorial project in Palestine, as long as it is restricted to the Green Line border. This guides him to conclude that Palestinian returnees should mainly be offered to return to the future Palestinian state, with only a few allowed to return to Israel within the Green Line.

Marmor (2004) follows a similar logic, but introduces a further stipulation. Since any forceful seizure of territory is immoral, the only parts where Israel can carry out a legitimate ethno-territorial project are those assigned to it in the 1947 UN partition plan¹⁷. This distinction, which excludes additional territories captured by Israel during the war of 1948, collapses the distinction so dear to the majority of Israelis, between the areas seized in 1948 and the West Bank and the Gaza strip, captured in 1967. Marmor's conclusion is, accordingly, that at least some Palestinians should be allowed to return to uninhabited areas inside Israel that were assigned by the partition plan of 1947 to the Arab state.

Waldron (2004) argues that immoral acts like dispossession and forced exile, if superseded by events and processes that make redressing them untenable, are sometimes best left unrectified. Due consideration should thus be given to the passage of time, the replacement of those exiled by others, generational transformations amongst the dispossessed, the extent that matters lost still have material or symbolic value for those who lost them, how the dispossessed voiced grievance over time, changed circumstances on the ground and so on. In the final analysis, the moral force of claims for restitution and return should be weighted against the costs that might ensue if restitution creates a new wave of displacement.

Methodologically sound, these arguments can certainly inform real progress. Their main drawback however is their neglect of social fact. Gans and Waldron tend to override important Palestinian sensitivities, while Marmor

neglects some major Israeli fears. A thing they have in common is a yearning for epiphany: magic moments in which either Israelis or Palestinians – preferably both – miraculously see the light, tolerate the enemy’s narrative of history and trust its vision of the future – an unlikely scenario by any standard.

The thought exercise that I propose next approaches the issue in the opposite direction. Rather than look for vocabularies of justification that might satisfy the legal thinker or the moral philosopher’s logic, and then attempt to guide the actors through a journey that would raise their consciousness to a similarly lofty level, I seek to start from the Palestinian and the Israeli sensibilities as analyzed above. Working from them, I look for morally acceptable, theoretically informed and politically doable solutions that could accommodate those sensibilities.

5.

One of the assumptions underwriting notions of Transitional justice (see Crocker 1999, Kiss 2000, Bhargava 2000, Rhot-Arriaza and Mariezcurrena 2006) is that physical and material issues often represent much deeper cognitive, sentimental and even spiritual undercurrents; and that dealing with them can diffuse bitterness and other emotional residues and improve the odds of reaching an accord. Lustick and Lesch (2005) follow a similar trajectory as do Peled and Rouhana (2007) who imply that in the case of Palestinian refugees redress for some could have symbolic resonance for many others.

Violent dispossession, they argue, does not cease when hostilities are over. It haunts the victims for decades, humiliating them further by excluding them from the political arenas where their fate is determined and their claims for justice are deliberated and decided. This logic informs Peled and Rouhana's preference for *recognition* of the right of return over full *implementation*. The transitional mechanism they suggest is restitution and return for the 300,000 Palestinian citizens of Israel (Cohen 2002) who, having been displaced in 1948 nevertheless remained within or somehow returned to Israel. Currently residing in Palestinian communities and mixed towns other than their ancestral ones, these people, Peled and Rouhana suggest, should be allowed to return to their old locations, redeem their properties or collect remuneration instead. The symbolic impact this would have on Palestinians generally, they imply, will compensate for the failure to offer all other refugees an equal option to return.

Cognizant of the efficacy of transitional dynamics, Susan Slyomovics's work on Morocco and Algeria (Slyomovics 2003, 2008) suggests that political activists who had been incarcerated, tortured and humiliated in the past, and who were recently invited by their governments to a process leading to indemnities and reparations, tended to take the symbolic aspects of the process more seriously than the material ones. Their primary preoccupation was to obtain official acknowledgements of having been wrongfully persecuted and stigmatizing decades ago, and to receive belated formal apologies and clemency. Restitution, compensation and indemnities came a distant second. Significantly, they showed no signs of haste to reach closure: the presence of

procedures that took on board the mental, emotional and spiritual aspects of their situation was more important¹⁸.

Transitional justice must involve symbolic elements as well as tangible redress. In the case of Palestinian refugees, however, it cannot be restricted to the internally displaced alone. To be effective, a settlement must first and foremost cater for Palestinians outside Israel, particularly those in refugee camps. What follows is a framework for a theoretically grounded solution along these lines.

6.

In *Powers of Horror: An Essay on Abjection* (Kristeva 1982) Yulia Kristeva identifies the power to refuse as a necessary step towards empowerment and growth. The case she looks at is the ability – or lack thereof - of a child to reject unpalatable food presented by a parent. Her example is the quintessential milk skim. Dearly believed by parents of a certain generation to be highly nutritional, it was nevertheless despised by many children. When such an undesirable substance is pushed upon a child by an over-bearing parent, Kristeva argues, it becomes physically *revolting* – a poignant term at once denoting disgust, protest and rebellion. It triggers outcry and, sometimes, a bodily uprising, manifest in tears, convulsion, spit, vomit, indigestion, excrement. These obnoxious, embarrassing, off-putting moments of corporeal disagreement become the backbone of Kristeva's theoretical endeavor. The

alternative scenario, whereby detested substances are not refused and are incorporated, thus signaling resignation, self effacement, servitude and subjugation, emerge as truly pathological,

The Freudian parallels between forced consumption of unpalatable food and other undesirable bodily interferences are obvious, and have of course informed the theoretical and legal drive for recognition of the rights of individuals who are about to be, or have been, sexually abused. The argument however becomes more nuanced when we remember that unlike sexual abuse, rejected milk skim may be unpleasant but is essentially benevolent.

Revolt, then, is at least as relational as it is substantive. Something can be off-putting if it is experienced as inherently foul, but also if the relational significance associated with those administering it is negative. A child refusing food might utter to a parent ‘yes of course I eat this sometimes, but only when aunt Agnes makes it’. Importantly, whatever the trigger for refusal and rebellion, it is the ability to say no or, more precisely, ‘do no’ that becomes a precondition for autonomy and freedom.

Application of psychoanalytic models to socio-political analysis was in vogue in the 1980s, and have since come under justified critique. In light of this, my use of abject theory is cautious. One justification for it is that Palestinians refugees are at the same time members of a political collective and persons struggling to reconstitute their disrupted lives. Any propositions made to them will ultimately be accepted – or rejected – by them as individuals and families.

Palestinians are not children and Israel is certainly not the responsible adult in the Middle East conflict. This notwithstanding, the empowerment implied in the theory of the abject is relevant here also because the Palestinian refugee community and, metonymically, the Palestinian project generally, is not autonomous. Its fate is regularly sealed by regional and global powers, leaving it with limited control over its destiny and a desperate quest to break the shackles of dependence.

What follows assumes that the next significant step towards resolution of the Israeli-Palestinian conflict will be an internationally sanctioned Comprehensive Final Settlement (CFS) between Israel and a future independent state of Palestine. In short, a two state solution¹⁹. When it comes to refugees, a CFS is likely to feature a number of components that have already been floated as part of Israeli-Palestinian negotiations and principally agreed. These include (1) recognition on the part of Israel of its primary responsibility for the initial creation of the Palestinian refugee problem. (2) Israeli acceptance in principal of the right of Palestinian refugees to return. (3) Unlimited return of refugees to the Palestine state. (4) A generous scheme of remunerations and compensation to Palestinians for property lost and suffering incurred in 1948 and since, underwritten by the international community and funded with substantial contribution from Israel²⁰. (5) Meaningful immigration quotas for Palestinian refugees to developed countries in Europe, the Americas, the Arab world and Oceania; and (6) Substantial contributions from the international community to enable Lebanon, Syria, Jordan and of course Palestine to implement an

energetic plan for integrating Palestinian refugees as citizens with equal rights and privileges. Additionally, the CFS will probably include facilitation on the parts of Israel and Palestine of free movement within each and between them for individuals seeking employment, trade, family visits and religious pilgrimages.

Some Palestinians are willing to accept this range of practical solutions as a basis for a settlement. Others may accept them as collective remedy but individually refuse them in defiant acts of empowerment and pride²¹. Others still might say that in the absence of universal return to homes and properties, including inside Israel, financial substitutes are a degrading form of bribery and an affront to national honor, and an agreement premised on them is illegitimate²². If, they say, Palestinians were ever willing to 'sell the homeland'²³ – they could have reached a settlement decades ago.

An acceptable settlement must thus walk the extra mile and offer, over and above the six elements just cited, actual return of a substantial number of Palestinian refugees to Israel within the Green Line.

Israeli negotiators at the Taba conference in January 2001 were apparently authorized to imply tacit agreement on the part of Israel to the return of a limited quota of refugees, as family reunification²⁴. Quotas were rumored to be around the fifty or a hundred thousand mark, although no figure was actually cited, let alone officially confirmed. Almost a decade later, let us presume for the sake of argument that Israel could be persuaded to raise the figure to around 200,000 – a figure carrying symbolic import to which I will soon come back to.

Such a quota of course covers only one seventh of the 1.36 million refugees whose fate preoccupies us most here. This means that if a quota of this magnitude is ever offered and accepted, the Palestinians will have to determine which individuals will be the first to have the option to return – a kind of right of first refusal.

Whichever criteria the Palestinians choose for the delicate task of allocating this priority, a number of steps on the part of Israel could considerably contribute to a constructive outcome of the process.

One is to decouple citizenship from residence. A refugee offered the option to return who cannot or will not relocate to Israel will be allowed to claim her Israeli citizenship, identity card, passport, social security payments, compensation, remuneration and other entitlements inherent in her status as a citizen without ever visiting, let alone relocating to Israel. Necessary liaison with the relevant Israeli departments could be available at consulate-like bureaus, to be established near communities of Palestinian refugees²⁵.

A refugee who opts for decoupled citizenship and does not relocate to Israel will be able to keep his Israeli citizenship for a substantial but ultimately finite period – perhaps a decade. At the end of this period, if he does not want to relocate to Israel, his citizenship is terminated and his option is transferred to someone else who will then have a similar period to benefit from citizenship and to decide between full residential and decoupled citizenship. The scheme, in short, could impact more individuals and families than the amount implied by the initial quota.

Some of the refugees who will be offered this right of first refusal to return will probably turn it down. This will not be an indication that the scheme has failed. It is precisely here that Kristeva's abject theory assumes a social resonance that transcends the individual framework for which it was initially conceived. A refugee offered the option to return who then declines it is at once an individual making a personal decision and a political agent operating, as it were, in full view of the audience. Her abjection will have a redeeming value for herself, as well as deep significance for other Palestinians. The older, more esteemed and venerated such refuseniks are, the more dignified and emancipating their choice becomes for others.

The Palestinians could take age as a primary criterion for the right of first refusal, thus effectively singling out those actually born in pre-1948 Palestine²⁶. If they go down that road, a number of interesting consequences could ensue.

First, privileging individuals whose lives were most directly disrupted in 1948 and granting them an early option to return will have significant symbolic meaning. Secondly, since people over 60 are not likely to want to move without their off-springs²⁷, and given recent survey data suggesting that elderly Palestinians are most resistant to the notion of living under Israeli sovereignty and most willing to substitute physical return for compensation and remuneration²⁸, many older refugees are likely to decline the option of return. Discarding Israel in that way, these older refugees of 1948 will raise an individual choice to a poignant public act.

If Palestinians do decide to prioritize age, they could ease Israeli fears about demography. Israelis, who total less than 6 million and are surrounded by a similar number of Palestinians and 50 times more Arabs, habitually equate a Palestinian return with a stampede that will change their country and their lives for ever. Since older refugees are mostly past their reproductive age, Israelis who learn of the Palestinian intention to prioritize older refugees for return could be persuaded to agree to a higher numeric quota, thus edging nearer a figure acceptable for Palestinians.

In terms of Israeli law, the return of refugees under this scheme will need to be matched by comprehensive modifications of the existing acts that govern immigration and citizenship, such as the Law of Absentee Properties (1950)²⁹, the Law of Return (1950), the Nationality Law (1952) and others.

7.

The framework presented here for staggered limited return of Palestinian refugees into Israel within the Green Line, is conceptualized assuming it will be implemented alongside an array of additional measures designed to transform the lives of refugees most urgently in need. These additional measures, already introduced and by and large agreed in earlier phases of negotiations, include unlimited return of refugees into the independent state of Palestine, integration in Middle Eastern countries where refugees reside today, immigration quotas to various countries in Europe, the Americas and Oceania, remuneration for lost

property and compensation and indemnities for suffering.

But return to Israel, as I hope the first part of the essay demonstrated, is not merely another item on the list. While other measures mainly require political will, economic capacity and administrative resolve, return of Palestinian refugees to Israel within the Green Line conjures up a host of deep seated tensions that go to the very core of this long standing conflict: history and justice, trust and the belief in reconciliation, the destiny of both communities and, some might argue, their very survival.

The framework suggested here, I'd like to think, features provisions that could diffuse some of these tensions. Let me, by way of a conclusion, list the particularly salient ones and how they are related to some of the knots described in the early section of this essay.

First, like any relatively detailed plan for action, it can productively demystify the problem. This is anything but trivial. Return, fetishized in Palestinian discourse as an ultimate *panacea* and solidified in Israeli canons as the beginning of the end of Israeli time, has turned into a conundrum seen by many in terms of 'all or nothing'. The framework stipulated here, which forces them to narrow the schism between composite ideal versions of the world and its concrete realities, fruitfully problematizes this dichotomy, pushing it from a realm whereby winners take all to a terrain where incremental practical decisions must be made.

Secondly, the framework for staggered limited return to Israel could offer

refugees meaningful choices between options that stand to improve some salient aspects of their lives today. Like Kristeva's nutritious skim, these options will be easily discernable by refugees as beneficial. Contemplating them will raise genuine dilemmas. Refusing them will exact an undeniable price.

Third, the framework involves both symbolic and practical elements. In particular, if the quota for returning Palestinians into Israel is fixed at more or less the estimated number of surviving first generation refugees (those born before 1948 in areas currently subsumed within the Green Line, now estimated at around 200,000³⁰), this could create significant symbolic resonance that could become conducive to transitional justice.

Fourth, the framework leaves the actual choice between various options entirely to refugees. These include the principal decision whether or not to join the program in the first place, whether to relocate, whether to take financial benefits associated with citizenship, and so on. This fruitfully subverts depictions within Palestinian public discourse of return as the pinnacle of national redemption *and* a self-evident route to ultimate salvation for every individual³¹.

Fifth, the framework makes cautious use of time. For one thing, a process that extends over at least a decade can somewhat mitigate Israeli anxieties about a demographic upset. Additionally, affording Palestinian individuals and families a considerable length of time to reach decisions and letting them leapfrog between the various options without pretence of imminent closure

could help develop faith in the process from grass roots upwards.

Sixth, success or failure of the program is not contingent on the extent or pace of its actual implementation. The program will have a positive impact even if a good proportion of entitled refugees decline to return, avail themselves of the financial options offered to them and go on with their lives elsewhere, .

Finally, the framework could diffuse another major preoccupation on the part of Israelis, who often wonder what it is that Palestinians actually want when they demand return. Is it the best available solution for as many of the refugees who had been hardest hit in 1948? Or does the abstract plea, consistently devoid of practical detail, conceal a disposition whereby the R word stands for secret Palestinian wishes to undo the Israeli project?

This anxiety subsumes a more concrete one: will granting Palestinians the right to return result in an overwhelming stream of returnees who will change Israel for ever, or are the Palestinians more likely to prefer financial settlements that would enable them to have a fresh start somewhere else? While some, myself included, believe that the majority of Palestinians, once faced with a concrete option to relocate to Israel will go elsewhere, a vast majority of Israelis believe the opposite. Rather than wait for a miraculous transformation that would turn their view around – a wait that could prove far too long for many Palestinians - this framework could facilitate a low risk process which could in turn gradually create a positive shift in disposition.

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Notes

¹ Work on this essay has continued over a period of some seven years. It began with a project initiated at Tel-Aviv University Law-School's Cegla Center for Rights Research, headed by Eyal Benvenisti and Haim Gans, and I am grateful Human to them and other members of the research group for useful comments in the initial period of research. A preliminary version of the argument was presented at the conference on Palestinian Refugees held at the Max Plank Institute in Heidelberg in 2003. I am grateful also to participants at the Research seminar at New-York University's Kevorkian Center (November 2003) and to Central European University's research seminar in Sociology and Anthropology (September 2006) for additional feedback and suggestions. Earlier versions of the essay appeared as part of a joint Israeli-Palestinian edited volume on the refugees published by the Max Plank institute in Heidelberg (Rabinowitz 2007) and in a volume edited by Barbara Johnston and Susan Slyomovics on Reparations and indemnities (Rabinowitz 2009). I am grateful to the editors of *Critical Inquiry* for input that has helped reshape the text to its current form. Sole responsibility for the content, and the argument remains with me.

² The Green Line is, by and large, the demarcation of the territory controlled by Israel at the end of the 1948 hostilities with Lebanon, Syria, Jordan and Egypt respectively. This boundary, which encloses some 20,500 sq. Kilometres, was traced in the cease fire agreements that were signed in Rhodes in 1949 and 1950, and was subsequently recognized as the international border of Israel.

³ Unrwa website figures for June 30th 2008. Source: <http://www.un.org/unrwa/publications/index.html> (accessed May 15th 2009)

⁴ Abu Sitta (2008:24) suggests that in 2005 the total number of refugees was 6,322,000, with 88% of them still living in Palestine and in the surrounding countries.

⁵ UNRWA 2009. Khalili (2005, Table 2.1) indicates that the total number of Palestinians registered with UNRWA in Lebanon is just under 400,000, and goes on to cite UNRWA June 2003 figures that suggest that the number of Palestinians living in refugee camps in Lebanon is 211,769

⁶ GAPAR, the Syrian based General Association for Palestinian Arab Refugees, estimates the number of Palestinian refugees in Syria to be more than 400,000, 370,304 of whom are 'registered refugees of 1948 and their descendants with records at UNRWA (Chatty and Lewando-Hundt 2005:11). They mostly (but not exclusively) live in ten refugee camps and three additional sites, the largest of which is the Yarmouk camp with a population of 90,000 (idem)

⁷ UNRWA 2009

⁸ For analyses to this effect by Palestinian scholars see, amongst others, Khalidi (1998), Seikali (1995), Sayigh (1979).

⁹ cf. Podeh, 2005:41 n. 3

¹⁰ For Hobbes the order that metaphorically replaced an earlier chaotic state resembling the state of nature was of course the monarchy he dearly wanted to see restored in lieu of Cromwell's republic.

¹¹ Since 1948 Israel established more than 850 new rural, semi urban and urban settlements. About three quarters of them are located within the Green Line borders. The rest were built across the line in territories occupied from Jordan, Syria and Egypt in 1967. Those established on formerly Egyptian controlled territory, in Sinai and the Gaza strip, have been transferred over the years back

to Egyptian (Sinai) and Palestinian control (the Gaza strip)

¹² The Hebrew word for the Jewish community in pre 1948 Palestine, literally meaning 'settlement'.

¹³ For many years official Israeli figures claimed the number of Palestinian refugees in 1948 was around half a million, a figure considerably smaller than the more realistic 750,000 now more or less agreed amongst historians.

¹⁴ A selection of works in a variety of disciplines includes Peled 1992, Smooha 1995, Rabinowitz 1997, Ghanem 2001, Rouhana 2001, Rabinowitz and Abu-Baker 2005, Yiftachel 2006.

¹⁵ See Quigley (1998) Mallison and Mallison (1986) Lawand (1996), Wakim (2001) and Boling (2002).

¹⁶ See Benvenisti and Zamir (1995), Benvenisti 2003, Zilbershatz 2007, and to a lesser extent Artz and Zughaib (1992).

¹⁷ The areas designated for the Jewish state in the partition plan (11,000 square kilometres, some 4,400 square miles) represents only sixty percent of the territory of Israel within the internationally recognized Green Line borders of 1949. Approximately 40% of the territory of Israel within the green line is thus territory which in Marmor's terms, was as illegally seized as the territories that Israel took from Jordan, Syria and Egypt in 1967 or those it occupied between 1982 and 2000 in Lebanon.

¹⁸ Slyomowics recognizes similar priorities amongst elderly Jewish holocaust survivors who in recent years are offered forms of indemnities and reparations in Post-Socialist countries (Slyomowics, personal communication, 2006)

¹⁹ A Comprehensive Final Settlement is likely to include the following arrangements. **Territory:** Israeli withdrawal from all territories occupied in 1967 barring minimal border alterations. **Economy:** Israel and Palestine forming one customs, commerce, labor, insurance and possibly currency zone. **Sovereignty and territorial integrity:** Each state has full sovereignty on its land sea and air borders, Gaza and the West Bank connected through two land corridors detached from Israeli infrastructure. **Jerusalem:** West Jerusalem remains the capitol of Israel while East Jerusalem will be established as the capital of Palestine; Municipally, Jerusalem will be managed by one unified urban administration, with no checkpoints between its Jewish neighborhoods and its Palestinian neighborhoods. A state that wants to can establish checkpoints between the part of the city under its control and the remainder of its territory. **Holy places:** Access to all holy places will be free for all, with key Jewish and Muslim sites (e.g. Wailing wall, Haram a-sharif) administered by Israeli and Palestinian authorities as applicable. **Security:** Israel and Palestine mutually forgo the use of military force. They take upon themselves to alert each other of terrorist initiatives organizing in their respective territories against the other, and not to allow foreign armies in their territories. Unilateral breach of the latter clause will give the other full and automatic right to self defense.

²⁰ The distribution mechanism, to be detailed in the CFS could be based on claims by and dispensation to individuals; on a bilateral collective agreement and lump sum payment between governments; or on a combination of the two. A development and rehabilitation fund for Palestine will have the task of ensuring that a proportion of the funds is diverted to infrastructure and other public projects. Mechanisms will be developed to ensure some of the funds go to personal and collective investment in education, vocational training, small businesses and other growth generating activities.

²¹ This, incidentally, is what some Jewish Israeli survivors of the holocaust

did in the 1950s and 1960s, after Israel signed an indemnities and compensation agreement with Germany. The agreement included substantial German aid to Israel, as well as packages of compensation and remuneration for named individuals who had been through the holocaust which some of those entitled refused to collect. Some survivors, however, famously and defiantly rejected it, claiming that 'blood money' is morally wrong and offers clemency for unforgivable crimes against humanity.

²² In the summer of 2003, a press conference was organized by Khalil Shkaki's public survey agency in Ramallah. The aim was to unveil survey data which indicated widespread willingness amongst Palestinians to forgo actual return in exchange for a fair remuneration and compensation arrangement. The press conference was disrupted, and eventually interrupted, by a dozen or so activists who claimed the data was 'degrading national honor' and 'subverting the national interest of full return'.

²³ 'Selling the homeland' is of course a highly charged derogatory idiom in Palestinian and in many other cultures. For the use of this idiom in the debate on Palestinian return see <http://www.arts.mcgill.ca/MEPP/PRRN/abu-sitta.html>

²⁴ These returnees would presumably be rejoining kinsfolk who stayed put in 1948 and later became citizens of Israel, along the lines of earlier family reunification schemes authorized by Israel in the 1950s, 1960, and following the 1967 war. The number of refugees allowed to re-enter Israel in this manner over the decades is estimated at between one and two hundred thousands.

²⁵ While residence is often assumed to be a prerequisite for citizenship, many states acknowledge non resident citizens as a legitimate sub-category and go out of their way to cater for them. EU countries have old age pensions, social security remittances and entitlement to educational rights extended to citizens abroad. Some states extend tax relief and other financial incentives to expatriates abroad. Some allow their citizens to vote abroad in consulates and

so on. Turkey recently adopted 'citizenship light' (Caglar 2004) to allow individuals of Turkish origins naturalized in Germany to own property in Turkey while keeping their German citizenship. Israel itself extends potential citizenship to Jews around the world who are entitled to be naturalized as Israeli citizens as soon as they arrive, and so on.

²⁶ Assuming that the population of Palestinian refugees in 1948 had a normal demographic structure in terms of age set distribution, the majority of first generation refugees (FGR) alive today, who are by definition aged 59 and upwards, were between the ages of 0 and 30 in 1948. This age set would have made roughly 40% of the entire population. With ca. 730,000 refugees all told, their number in 1949 would have been ca. 290,000. Allowing for mortality, the current number of FGR survivors is estimated at around 200,000.

²⁷ The reluctance of elderly people to relocate without their families, which is valid anywhere, is particularly strong with Palestinian refugees. This is brought into relief quite clearly by Chatty and Lowendo-Hundt 's (2005) account of the immense emotional, social and economic investment older refugees have in their off-springs and their kin at large.

²⁸ A 2001 survey conducted by the Israel Palestine Center For Research and Information (IPCRI 2001) which had some 1600 respondents in 16 communities of Palestinian refugees in the West Bank and Gaza, found that only 11.7% of those over 60 indicated a willingness to return to their original places if it meant living under Israeli sovereignty, compared to 85.2% of the general population. 29.7% of those over 60 indicated they were undecided, and 58.6% declared complete refusal to live under the sovereignty of Israel. In a similar vein, while only 2% of all respondents declared a willingness to take money if denied return, amongst respondents over 60 the proportion indicating willingness to consider such a trade-off was 16.4%

Likewise, Almost 70% of all respondents indicated willingness to return

even if it involved relinquishing a right to monetary compensation. Amongst those over 60 less than 1% were willing to do so. And, 21.9% of those above 60 were willing to accept integration into the communities where they currently reside, or resettlement (in a different place but not in Israel) instead of return. The proportion amongst all respondents who indicated similar propensity was only 3.6%. These findings are corroborated by a similar survey conducted by Badil, which indicates for example that almost half of the original refugees refuse to go back to their old place if the original family house no longer stands. With the majority of structures long ruined, such an assertion is highly suggestive. The survey conducted by Khalil Shikaki published in mid July 2003 came up with similar results.

²⁹ The primary aim of the Law of Absentee Property (1950), apart from legally transferring rights of Palestinian property to Israeli control, was to make sure Palestinian refugees cannot claim citizenship in Israel on the strength of birth right. By defining those who were living in areas controlled by 'forces opposed to the state of Israel' for any length of time at any point after November 1947 as 'absentees' - a condition which applies to the overwhelming majority of all Palestinians – the law stripped most of them not only of their inherent right to Israeli citizenship but, in effect, to any citizenship at all.

³⁰ See note 26 herein.

³¹ Talmon (1956) characterized such attempts to collapse the public good and individual happiness 'Totalitarian Democracy'.