

COMPENSATION FOR THE PALESTINIAN REFUGEES OF 1948:  
AN ANALYSIS UNDER INTERNATIONAL HUMAN RIGHTS LAW

A THESIS

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Diana Nazic Buttu

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## **Abstract**

This thesis attempts to analyze potential property claims by Palestinian refugees from 1948. The thesis begins by examining the origins of the Palestinian-Israeli conflict, followed by an analysis of the various methods used by Israel to expropriate Palestinian lands.

The mechanisms included the Absentees' Property Law and several Emergency and Security Regulations. Land was then transferred to the Custodian of Absentees' Property after which it was sold to the State and to the Jewish National Fund. These laws, coupled with general immigration laws that impeded the return of Palestinians, ensured that Palestinians could not gain access to their lands. For those Palestinians who live in the area that is now Israel, they too were unable to return to their homes due to the legal mechanisms. As a result, they are internal refugees.

The United Nations expressed its opinion regarding the matter in 1948. It has continued to call for the return of Palestinians to their homes and compensation for their losses. Yet, to date compensation and return have not been effected.

This thesis also analyzes international law as it relates to expropriation. It demonstrates that traditional international law in this area is in a state of disarray.

This is due, in part, to the nature of international law, with its focus on states and the accompanying power imbalances that result from such a system. International law also fails to provide redress to those Palestinians who reside in Israel.

This thesis takes a different approach to the issue of compensation by advocating that international human rights law should guide the analysis of compensation.

This approach mandates that the individual be placed at the center of its inquiry, rather than the paying state, as is the case in traditional international law. This approach transcends the boundary erected in international law between states and its nationals by advocating that the same analysis be used to assess the claims of nationals of a state; not simply aliens. It therefore mandates that compensation be viewed from “the bottom up,” thereby looking to the experiences of the refugees who were dispossessed.

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# Table of Contents

CHAPTER I .....	1
I.    Introduction .....	1
II.   Historical Background.....	5
CHAPTER II .....	13
Efforts by the United Nations & the Development of Resolution 194(III) .....	13
I.    The Early Efforts of the United Nations.....	13
II.   Legislative History of Resolution 194 (III).....	17
III.  Efforts of the Conciliation Commission .....	22
CHAPTER III.....	27
Israeli Treatment of Palestinian Arab Property and Refugees.....	27
I.    Gaining Control of Palestinian Lands .....	28
A.    The Absentees' Property Law, 1950.....	28
B.    Emergency and Security Regulations.....	31
II.   Transfer of Ownership.....	34
III.  Role of the Israeli Courts .....	35
IV.   Compensation Offers .....	37
V.    Israeli Approaches to Refugees .....	42
CHAPTER IV.....	51

I.	The General Structure of the International Legal System .....	52
II.	Traditional International Law on Expropriation .....	54
A.	General .....	54
B.	Standing Issues .....	58
C.	Compensation Standards .....	65
1.	Full Compensation Standard.....	65
2.	The Calvo Doctrine .....	72
D.	Procedures for Compensation .....	78
1.	International Claims Tribunals .....	79
2.	United Nations Compensation Commission .....	81
3.	Lump Sum Agreements .....	83
E.	The Correct International Standard? .....	84
III.	An International Human Rights Approach to the Question? .....	90
A.	Property for Personhood - An Analysis .....	95
B.	Property Claims in a Human Rights Perspective .....	101
	CHAPTER V .....	114
	Conclusion.....	114
	Bibliography .....	117