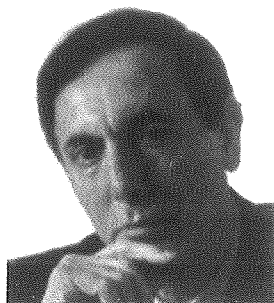


# The Palestinian Refugees: A Reassessment and a Solution

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The Israeli-Palestinian conflict has been riddled with many intractable problems whose solutions have eluded both sides for more than 60 years. None, however, has been as politically and emotionally charged as the Palestinian right of return to the land they inhabited and lived in prior to the war of 1948. As the Israelis and Palestinians prepare for new American engagement with an administration adamant about pursuing the peace process, they will soon find themselves once again confronting the same old dilemma unless they are able to find feasible and realistic solutions to a problem politically and psychologically embedded in both peoples' narrative history.

## Who Perpetuated the Refugees' Plight?

For most Palestinians the symbolic value of the right of return transcends the actual return. At the heart of this dilemma are the collective memory, history and national identity of the Palestinian people. The right of return has remained a constant in Arab narratives since what the Arabs term *Al-Nakba* (the catastrophe) 60 years ago. As such, it has evolved into a highly political issue, preventing many Arab leaders from showing any flexibility on the matter, for fear of public condemnation. The problem of the refugees has always been at the top of the Arab states' agenda and, to prove this, they have insisted that the refugee camps remain intact to ensure their temporary status, and to find a solution only through the right of return. This is precisely why the Arab media and intellectuals treat the right of return as a non-negotiable issue. In 1965 the Arab League advised its members that, while it is necessary to grant Palestinian refugees full economic and social rights, they must not be allowed to become citizens, so as to maintain their refugee status.<sup>1</sup> The Oslo Accords in 1993-94 and subsequent Israeli-Palestinian agreements notwithstanding, the Palestine Liberation Organization (PLO) continued to insist on the implementation

of the right of return in all international forums to keep the plight of the refugees alive. Israeli efforts over the years to change the status of the refugee camps in the occupied territories have been vehemently resisted by the Palestinians, who fear that any change in the refugees' status would undermine their basic right of return.

### The Israeli Position

Israel rejects, in principle and in real terms, the Palestinian right of return on a number of grounds, and it does not accept responsibility for the plight of the refugees. The Israeli position is generally predicated on the fact that, in times of war, many people end up being displaced and that history is replete with examples of refugees settling elsewhere, especially when the conditions in their country of origin have changed so dramatically. Moreover, Israel insists that the return of any significant number of Palestinian refugees to Israel proper would obliterate the Jewish identity of the state, which was created as the last refuge for the Jews. Israel further insists that the claim of the right of return is based on United Nations Resolution 194, passed by the UN General Assembly in 1948. Although the resolution stipulates "achieving a just solution to the Palestinian refugee problem... and resolves that the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so...",<sup>2</sup> it was superseded by Security Council Resolution 242, which was accepted by the Arab states and Israel, and which affirms the necessity of "achieving a just settlement of the refugee problem."<sup>3</sup> It is noteworthy that Resolution 242 does not mention the Palestinians by name, as there were also Jewish refugees from Arab lands.<sup>4</sup> In any event, the Israelis argue that Resolution 194 is not legally binding, which is the case for all General Assembly resolutions. Furthermore, the Oslo Accords, which were signed in September 1993 at the White House, stipulated that the refugee problem would be discussed as a part of talks on a permanent settlement, without making any reference to the right of return.

At Camp David in 2000, the Israeli strategy was to induce the Palestinians to concede the right of return in exchange for Israeli withdrawal from most of the occupied territories and, at no point, did Israel agree to accept more than 10,000 refugees under the family reunification framework. In subsequent negotiations in Taba, Egypt, in January 2001, no position papers were exchanged concerning the refugee problem, which was seen as a good sign for open-ended talks. Both sides stated that a comprehensive and just solution to the issue of the Palestinian refugees is central to "a lasting and morally scrupulous peace."<sup>4</sup> Both sides also agreed to adopt

principles and references that could facilitate the adoption of an agreement in accordance with UN Security Council Resolution 242.

### The Palestinian Position

Although the Palestinian position has generally been consistent with the premise of return, from their perspective nothing that has transpired since the early exodus in 1948 has changed their inherent right to return. Hassan Asfur, one of the members of the Palestinian delegation at Camp David, summarized the Palestinian position, noting, "In the Swedish channel just [prior to Camp David negotiations] our position was decisive: To grant each and every Palestinian the right of return. The Israeli side kept trying to negotiate over compensation that would be given to the refugees instead of the right of return, and we refused."<sup>5</sup> Although other Palestinians at Camp David might have agreed to forgo the sweeping right of return, the two sides did not reach a full agreement on the right of return issue through the Swedish channel. The Palestinians demanded that Israel assume legal and moral responsibility for the plight of more than 4 million refugees and also apologize to them — a demand Israel categorically rejected.

In March 2002, however, the Saudis offered a new Arab Peace Initiative (API) and reintroduced it in March 2007, offering Israel a comprehensive peace with all Arab states in exchange for the territories captured in the 1967 war. In line with the general Arab position, the API also stipulated "[a]chievement of a just solution to the Palestinian refugee problem to be agreed upon in accordance with UN General Assembly Resolution 194."<sup>6</sup> This provision is viewed by Israel, both literally and figuratively, as a threat to its very existence as a Jewish state. Israel has thus far refused to embrace the API, especially because of the reference to the right of return. Since the Annapolis peace conference in November 2007, the Palestinians have held fast to their public position throughout the negotiations. Privately, though, they have been signaling some creative ways to circumvent the principle of the right of return.

### Considering the Reality on the Ground

Israel will not accept the right of return even in principle, fearing that such an acceptance will be construed as an admission of guilt. Moreover, Israeli officials have argued over the years that even the principle of acceptance of the right of return could haunt the Israelis indefinitely. There will always exist some extremist Arab groups that could potentially use the Israeli acceptance to make new demands on Israel about Palestinian rights. Ehud Barak recalls that when Yasser Arafat was told at Camp David

in the summer of 2000 that the peace agreement being negotiated is final and would settle all outstanding issues between Israel and the Palestinians, Arafat categorically rejected the concept. He insisted that he had no authority to sign such an agreement on behalf of the next generation of Palestinians. The right of return was central in those negotiations, which ended acrimoniously with no agreement. This explains why Israel has refused, and will continue to refuse, to take any direct responsibility for the Palestinian exodus, specifically because it also blames the Arab states for perpetuating the problem.

Based on realistic developments and a change in Arab sentiment regarding the right of return, it appears that a growing number of Arab officials appreciate that Israel could not accept the right of return and that the solution lies in the refugees' resettlement and/or compensation. Many have come to understand that insisting on repatriation will likely bring any future peace negotiation under the Obama administration's auspices to a quick halt. What most Arabs, including Palestinian moderates, inherently want is, first, for Israel to acknowledge that there *is* a refugee problem, and then to show a willingness to be part of the solution.

Second, ideally, the right of return should be discussed publicly to prepare the Arab public, especially the Palestinians, for the necessary compromises. However, because of the extreme sensitivity of the issue for both sides, the best course is likely to leave it to private negotiations to work out the details. Open-ended public discourse will create public pressure that could torpedo the negotiations on this issue before they even begin in earnest. And to avoid a repetition of the breakdown that occurred during the Israeli-Palestinian negotiations at Camp David in the summer of 2000, both sides need to understand each other's position through quiet diplomacy prior to formal negotiations.

Finally, many Palestinian intellectuals and officials have suggested that the right of return must mean a return to the homeland, to the West Bank and Gaza, and not a return to the 1948 homes. Sari Nusseibeh, the president of Al-Quds University in Jerusalem, has called for the renunciation of the right of return in order to achieve a settlement of the conflict. He argues that the Palestinians cannot simply ask Israel to return all the territories captured in 1967 and then demand that the Palestinian refugees return to their original homes, in what is today Israel, and thereby obliterate Israel as we know it. The Middle East scholar Rashid Khalidi distinguishes between what he terms "attainable" rather than "absolute" justice. He has suggested that while "[i]t must be accepted that all Palestinian refugees and their descendents have a right to return to their homes in principle...

[it must be] equally accepted that in practice *force majeure* will prevent most of them from being able to exercise this right."<sup>7</sup> For Israel, the right of return is a non-starter and the passage of time will not change its position. For the Arab states, and even more for the Palestinians, giving up the right of return is tantamount to tossing away their trump card. They do not, and it is obvious that they cannot, show their hand before Israel indicates its willingness to move clearly in the direction of a two-state solution. To achieve a comprehensive peace agreement, both sides will have to make many painful concessions. Accommodating Israel on the right of return is one of them.

## A Framework for a Solution

Regardless of how sensitive this issue may be for the Palestinians, the existence of Israel as the home for the Jews, in the view of an overwhelming majority of Israelis, rests entirely on securing a sustainable Jewish majority within the state. It is critically important to understand that this is not a question of right or wrong. It is what has been established on the ground and is not subject to change, short of a catastrophic event. The Palestinians do have a right in their homeland, but this right must be addressed justly, primarily through resettlement in the future Palestinian state and through financial assistance and concerted humanitarian efforts from Israel and the international community.



At Camp David Ehud Barak put refugees on the agenda.

Israel has a moral responsibility to be part of the solution by making it possible for all Palestinians wishing to resettle in the West Bank and Gaza to do so with absolutely no restrictions. While the Palestinians must accept the reality that they cannot return to their original homes in Israel proper, Israel must not impose limitations on those who choose to return to their ancestral homes in Palestine. Israel should also be prepared to accept 20,000-25,000 Palestinians under the framework of family reunification, a number that has been discussed in various forums in past negotiations.

Moreover, as Israel must eventually evacuate nearly 100 settlements scattered all over the West Bank (other than the blocs of settlements west of the separation wall) it must leave these settlements intact to allow Palestinian refugees to occupy them as the Palestinian Authority sees fit. More than 200,000 refugees can resettle in these homes and farms if they should choose to do so. Israel has invested billions of dollars in the settlements and the infrastructure, and their transfer to the Palestinians would represent a great humanitarian gesture that may go a long way towards reconciliation. In addition, Israel should offer technical support and expertise in resettlement to pave the way for neighborly relations.

In looking at the current Palestinian places of residency, it is obvious that nearly 60% live in the West Bank and Gaza. They are, in fact, displaced people rather than refugees, in spite of the fact that the majority live in refugee camps. The solution for these Palestinians must be found through resettlement in their homeland in the West Bank and Gaza, which will require substantial capital to provide individual compensation and development for housing projects and job creation.

The majority of Palestinian refugees living in Jordan are likely to stay in their host country, as the Jordanian government, unlike any of the other Arab states, offered the majority of the Palestinian refugees full citizenship with equal social and economic opportunities. The few who might opt to resettle in Palestine should be able to do so as part of the general resettlement program. Here, too, it will be necessary to fund the resettlement projects.

In Lebanon, the Palestinian refugees will likely require special dispensation, as the Lebanese government strongly opposes resettlement of the nearly 400,000 Palestinian refugees, fearing a major tilt in the demographic balance between Christians and Muslims and concerns over breakouts of violence. A violent confrontation similar to what took place in the summer of 2007 between Palestinian militants and the Lebanese army could escalate the conflict and push Lebanon into another devastating civil war. In this case, two options might be available: to grant the Palestinians citizenship with proper compensation while they continue to live in Lebanon

as permanent residents with social and economic rights, or to facilitate the resettlement of those who wish to leave and live in the West Bank or Gaza.

A similar option may be provided for the refugees living in Syria. Most Palestinians in the Gulf states and the United States who are better off will most likely stay where they are. All in all, only a few hundred thousand refugees may opt to relocate from the Arab states, a number that does not represent the nightmare scenarios which many observers have contemplated.

Other than agreeing on a difficult political settlement, the question of cost and who would pay it remains central to finding a lasting solution to the Palestinian refugees. Estimates of the cost involved for resettlement and rehabilitations run between \$50 billion and \$150 billion. Again, these amounts have been toyed around with, because no definitive study has been conducted to determine the real cost involved. Unfortunately, there are no short cuts, and the money must be found if a solution to this tragic problem is to be reached. The Obama administration knows only too well that without a solution to the Israeli-Palestinian conflict there will be no prospect for stemming the rise of Islamic extremism and no end to regional turmoil. The question is whether the U.S., the EU and oil-producing Arab states raise the necessary money that it will take. Any sum that may be required must be weighed against the consequences of doing nothing.

## Endnotes:

1. Abbas Shibliq, "The Palestinian Refugee Issue: A Palestinian Perspective," Chatham House Briefing Paper, February 2009.
2. From Article 11 of UN General Assembly Resolution 194, passed on December 11, 1948.
3. From Article 2 of UN Security Council Resolution 242, passed on November 22, 1967.
4. Israeli private response to the Palestinian refugee proposal of January 22, 2001, "Non-Paper - Draft 2," January 23, 2001, Taba.
5. Uriya Shavit and Jalal Bana, "Everything You Wanted to Know about the Right of Return but Were Too Afraid to Ask," *Haaretz*, July 16, 2001.
6. From the text of the Arab Peace Initiative, which can be found at: [http://www.jordanembassyus.org/arab\\_initiative.htm](http://www.jordanembassyus.org/arab_initiative.htm).
7. "Palestinian Refugees and Final Status: Key Issues," Palestinian Refugee ResearchNet, ([http://www.arts.mcgill.ca/mepp/new\\_prnr/background/background\\_resolving.htm](http://www.arts.mcgill.ca/mepp/new_prnr/background/background_resolving.htm)).