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Vol 15 No. 4 & Vol 16 No. 1, 08/09 / **The Refugee Question**

Focus

The Implementation of the Right of Return

A realistic solution for the Palestinian refugees to exercise the right of return is for Israel to become a truly democratic country.

by [Salman Abu Sitta](#)

One of the most important lessons we have learned from the 60-year Palestinian-Israeli conflict is that the essence of the struggle has not changed: It is the expulsion of the people of Palestine from their homes and the confiscation of their land. Since then the Palestinian refugees have been dispersed all over the world, many of them living in deplorable conditions in exile, others suffering under occupation or virtual siege, harassed by friend and foe alike. The implementation of their inalienable rights is the key to a permanent peace. All else, including a Palestinian state, so-called regional cooperation or other contrived devices to obscure this fundamental issue, is peripheral. In addition, the misrepresentation of the Right of Return by Israel and its defenders, the United States in particular, is driven more by fear about, rather than interest in, their rights. However, the refugees issue is still the main problem to contend with and is imposing itself on every agenda of negotiating the question of Palestine.¹ This article will propose a practical and reasonable solution for the refugees to exercise their right to return to their homes.

Resettlement Plans

Today, the majority of the refugees live in Palestine and environs. According to the United Nations Relief and Works Agency (UNRWA), at the end of June 2005, 4,283,892 Palestinian refugees were registered with UNRWA. Approximately 41.9%, or 1,795,326, were registered in Jordan; 22.6%, or 969,588, in the Gaza Strip; 16.1%, or 690,988, in the West Bank; 10%, or 426,919 in the Syrian Arab Republic; and 9.4%, or 401,071, in Lebanon. Of the registered refugees, 30.3%, or 1.3 million, lived in 58 UNRWA camps. Many refugees are still not registered for reasons explained elsewhere. Thus the total number of refugees is 6,322,000 (2005), but 88% of all Palestinians are still living in Palestine and in surrounding countries.

The proximity of the refugees and their unquenched desire to return home explains the feverish Israeli attempts to bring in as many

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immigrants as possible from such diverse places as Ethiopia and Russia, just to fill the depopulated Palestinian areas. It is not surprising therefore that over four dozen schemes proposed and promoted vigorously since 1948 to dispose of the refugees anywhere in the world, except their homes, have utterly failed.

Why Should the Refugees Return?

First, it is perfectly legal in accordance with international law. The well-known UN General Assembly Resolution 194 has been affirmed by the international community 135 times in the period 1948-2000. There is nothing like it in UN history. This universal consensus elevates the weight of this resolution from a "recommendation" to an expression of the determined will of the international community. International law also prohibits mass denationalization of a people if the territory in which they live undergoes a change of sovereignty. Thus the refugees are entitled to return to the homes they lost and to a restoration of their nationality as well. The Right of Return is supported by the Universal Declaration of Human Rights and the many regional conventions based on human rights law. It is also derived from the sanctity of private ownership, which is not diminished by change of sovereignty, occupation or passage of time.

Second, the Right of Return is sacred to all Palestinians; they have no intention of abandoning it. Third, there is no acceptable reason why they should not return. None of the Israeli claims to the contrary withstands serious scrutiny.⁵

The Demographic Case

It is often claimed that there is no room in Israel for the refugees' return. In fact, this is not true. Previous studies on the subject can be summarized as follows:

It is possible to divide Israel's 46 natural regions (before re-division) into three groups: Group A, 1,628 square kilometers, has a Jewish population of just over 3 million (67% of Israel's total Jewish population). This area is, roughly, the land acquired by Jews during the period of the British Mandate. Most Jewish settlement after the creation of the state centered around this initial area.

Group B, 1,508 square kilometers, is almost the same size but not in the same location as the land owned by the Palestinians who remained in Israel after the 1948 war. (Since 1948, Israel has confiscated two-thirds of the property of its Palestinian citizens). In this area, there are 436,000 Jews, or 9.6% of all the Jews in Israel, along with 92,000 of Israel's Palestinian citizens. Thus, 77% of Jews live in 15% of Israel's territory.

That leaves Group C, 17,381 square kilometers, located in two large blocks, corresponding roughly to the Northern and Southern Districts as per Palestine and Israel's administrative divisions. This is the land and heritage of about 6 million refugees who were expelled from

their homes in 1948 and their descendants. About 1 million Jews live in Group C, but 80% of them live either in cities that were originally Palestinian, many of which are now mixed, or in a number of small new "development towns."

This leaves 200,000 rural Jews who exploit vast areas of refugee land — the largest part of the remainder of the land is used for military purposes and afforestation. Most of these rural Jews (160,000) are residents of the moshavim (cooperative farms) and kibbutzim (collective farms). Today only 8,600 kibbutzniks live on agriculture. Thus, the rights of 6 million refugees are pitted against the prejudices of 8,600 kibbutzniks.

To illustrate the point further, consider this scenario: When the registered refugees in Lebanon (362,000) return to their homes in Galilee (still largely Arab) and the registered refugees in Gaza (759,000) return to their homes in the Southern District (now largely empty: rural Jewish density is nine persons per square kilometer, compared with 7,000 persons per square kilometer in Gaza), there will be a negligible effect on Jewish density in Group A.6

Restoration of Palestinian Villages

Another Israeli claim is that all traces of villages are lost and have been built over by housing for new immigrants. This claim, again, is false.

All the existing built-up areas in Israel today have been plotted, and we superimposed on them the sites of 530 Palestinian towns and villages depopulated in 1948. The striking result is that the sites of an absolute majority of such villages are still vacant. All village sites, except one each in the subdistricts of Safed, Acre, Tiberias and Nazareth, are vacant. Naturally, the area most affected is the coastal strip, especially in the Tel Aviv suburbs. There, a dozen village sites have been built over as a result of the expansion of the city. The displaced refugees from these built-over areas now number 110,000, or only 3% of all registered refugees. A number of village sites west of Jerusalem, and north and south of Tel Aviv, have been built over.

However, well over 90% of the refugees could return to empty sites. Of the small number of affected village sites, 75% are located on land totally owned by Arabs and 25% on Palestinian land in which Jews have a share. Only 27% of the villages affected by new Israeli construction have a present population of more than 10,000. The rest are much smaller.

The accommodation of the returning refugees from the affected villages is fairly simple, at least from an operational point of view: As in Bosnia, they could retain the property rights and grant a 49-year lease to existing occupants, most of which are institutions. Meanwhile, they could rent or build housing for themselves in the vicinity.

We are, however, left with the comfortable prospect that the

overwhelming majority of the refugees would be able to return to currently empty sites. Their housing should not be an insurmountable problem. In addition to Israel's tenfold increase (through both natural increase and immigration) of its 1948 Jewish population of 600,000, we can cite the examples of Amman's expansion (10 times), Beirut's (six times), and Kuwait's (33 times), in which the Palestinian refugees themselves played a key role. A study was also conducted on the housing needed and it was found that it could be built entirely by Palestinian hands.

What Is the Cost-Benefit Account?

If a historical conflict is solved by the return of 6 million refugees to their homes in accordance with international law, what is the price of this huge achievement?

The 160,000 residents of moshavim and kibbutzim who would be affected may decide to stay and rent land from the Palestinian owners, or they may decide to relocate. As for the kibbutzim, today less than 3% of Israelis live on kibbutzim, most of which are near bankruptcy, with only 26% of them producing 75% of the total agricultural output of kibbutzim.

The area of irrigated fields cultivated by the kibbutzim decreased from 213,628 acres in 1987 to 189,564 acres in 1991. The economic return of these vast resources is meager and diminishing. In addition, a major change in government policy affecting kibbutzim and moshavim land has taken place in the last 10 years. This policy in effect transferred the Israel Land Administration (ILA)-controlled land into private and industrial ownership, including permitting the rezoning of agricultural land for residential construction to accommodate Russian immigrants or to build commercial outlets, shopping malls and private apartments. The kibbutzim, according to this change, would be compensated for this transaction at 51% of its value. This made the bankrupt farmers very rich overnight, allowing them to pocket the value of (Palestinian) land they never owned in the first place. Since the ILA started this policy, its average annual contribution to the treasury amounted to \$2 billion, excluding compensation to the kibbutzniks.

Ariel Sharon, the former prime minister, was quoted as saying, "The only way to absorb the immigrants was by taking land from the Kibbutz.... I knew the [economic] hardship they are experiencing... it is better they build on the land and sell houses."⁷

Thus, the return of 6 million refugees and the end of the historical conflict is weighed against the livelihoods of 8,600 kibbutzim, an economically bankrupt movement now mostly abandoned by the Israelis themselves.⁸

Water and Agriculture

Water can be a cause of war in the Middle East. It has been widely

reported that Israel's invasion of the West Bank and Syria in 1967 was designed to control the headwaters of the Jordan River and its tributaries and aquifers of the West Bank. Israel's desire to maintain control of these water sources is one of the main reasons for its refusal to seal an agreement with Syria. Each of these resources, diverted from Syrian and West Bank waters, amounts to 500 million cubic meters per year, much of which is wasted. Since 1948, two-thirds of Israel's consumption of 2,000 million cubic meters per year is stolen from Arab sources.

The waste in water has been noted by many authors. Some advocate reducing agricultural activity or switching to more profitable crops, which would free up the water for other uses. One study notes that "the evidence strongly suggests that Israel's water quantity crisis is more a result of misallocation than absolute scarcity."⁹ Another recommends that the wasted water could be "sold" to Jordan and the West Bank in a peace deal. Apart from the irony that Israel would be selling illegally confiscated water back to its rightful owners, the fact is that Israel's enormous water and land resources are exploited by so few to produce so little. If this land and water were turned over to the lawful owners, there would be little loss to Israel — despite common claims to the contrary — and tremendous gain in peace prospects.

To be sure, there are problems to solve. Many refugees would have to change their present occupations and hold a balance between industry and agriculture. Tighter controls on water consumption will have to be applied. At some cut-off point, say, a maximum of 1,300 million cubic meters per year, agriculture has to be industrialized. New and improved crops will have to be grown. In all this, Israeli research may be useful. Certainly the Palestinians would be enthusiastic workers, since they would be returning to their land cultivated by their families for centuries. All in all, the return to peace and a stable region far outweighs any application problems.¹⁰

The "Jewish Character" Syndrome

The claim that the "Jewish character" of Israel would be threatened is repeatedly cited to justify the denial of the fundamental right of Palestinians to their land and property. But what is the meaning of "Jewish character"? If it entails policies that deny the return of refugees and allow unlimited numbers of Jewish immigrants in their place, this is best described by Mallison¹¹ as "a euphemism for the Zionist discriminatory statutes of the state of Israel which violate the human rights provisions of the Partition Resolution.... The United Nations is under no more of a legal obligation to maintain Zionism in Israel than it is to maintain apartheid in the Republic of South Africa." The U.S. State Department rejected any special meaning for the Jewish citizens of Israel by stating that it "does not recognize the legal-political relationship based on the religious identification of American citizens.... Accordingly it should be clear that the Department of State does not regard the 'Jewish people' concept as a concept of international law." This is not an isolated view. In 1998 the UN treaty-based Committee on Economic, Social and Cultural Rights

said that Israel's "excessive emphasis upon the State as a 'Jewish State' encourages discrimination and accords a second-class status to its non-Jewish citizens." Israel cannot maintain this position for long. The moral and legal weight of human rights will catch up with it one day.

All the facts concerning this concept indicate that the notion of the numerical superiority of Jews is a cruel time game in which the refugees rot in their camps until the Israelis realize, or admit, that this contention is a horrible hoax, intended to keep the conquered land empty until its owners give up or are gotten rid of by a "final solution" to the Palestinian problem.

If the "Jewish character" refers to religious practice, this has rarely been a problem in the Arab and Islamic world. Numerous historians have demonstrated that Islamic and Arab societies have treated Jewish minorities far better than Christian European societies.

There is no ethical or legal justification for the maintenance of a "Jewish character" that denies human rights or violates international law. The real reason for Israel's racist practices is to maintain its hold on Palestinian land and keep it as a reserve for future Jewish immigration. The new attempted legislation against Israel's Palestinian citizens is a clear demonstration of Israel's racist policies which are considered repugnant worldwide.

Conclusion

Both Israelis and Palestinians agree that there can be no peace without a resolution of the refugee problem, but they differ on the method of resolution. Israelis believe that they can extend and legalize their original ethnic cleansing operation. This is an illusion. The fact that all of their so-called "resettlement schemes" have been nipped in the bud by governments and people alike is proof enough of that.

The Israelis have no legal, ethical, practical, demographic or economic reason to persist in denying the refugees' rights. Israel's position is solely derived from racist policies, and as the only one left in the world to deny Palestinian refugees' rights, is condemned by the rest of the world.

It is a matter of conjecture to estimate how many Israeli Jews would wish to live in a non-racist democratic country. Nor does anyone know how many would leave for fear of indictment of war crimes and crimes against humanity. But this is a fruitless exercise, since the principle of "universal jurisdiction" would chase them anywhere.

The price Israel has to pay for permanent peace is far less than imagined. In a land that is relatively underpopulated today in most parts, in which half its citizens are, on average, outside the country at any given time and where the appetite of its young people for war has waned considerably, peace — especially a peace that guarantees

the rights of Jews and Palestinians under international law — should be highly desirable. All Israel has to do is become a truly democratic country for all its citizens and interpret its Law of Return to mean “right of return” on a legal, not a racist, basis. In its absorption capacity, it should give priority to those who are lawfully qualified to return, not those who bring seeds of conflict and war. Priority should be given to those who own, not those who conquer.

Endnotes

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This is a shortened version of an earlier article entitled “The New Intifada: Resisting Israel’s Apartheid,” London, New York: Verso, 2001.

1For more details on the refugee original causes and their plight, see references 1-4 below.

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The Palestine-Israel Journal gratefully acknowledges the support of UNESCO for the initial development of the website.
The Palestine-Israel Journal gratefully acknowledges the support of the European Union for the maintenance and development of the website.

