

Resolutions and requests: An analysis of the United Nations and Palestinian Refugees

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Introduction

The United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) claims that there are 5.9 million Palestinian refugees and descendants that would be eligible to receive help from the Agency.ⁱ This accounts for the past two waves of refugees and descendants, with the first wave from the Nakba of 1948 and the second from the Six Day War in 1967.ⁱⁱ These refugees face issues such as extreme poverty, lack of food and water, and limited access to medication or children's education.

This paper aims to discuss the current issues of Palestinian refugees, and the United Nations' reluctance to find a viable solution. First, it will offer historical context regarding the refugees, then it will move on to provide the framework for how Israel has violated numerous humanitarian and international laws. This paper will then recount the steps the United Nations has taken towards solving this refugee crisis and will outline several explanations for why the United Nations has not done more.

Historical context

The creation of the Israeli state began in 1917, when the Balfour declaration empowered Zionists to push for a Jewish state.ⁱⁱⁱ After World War I, the British took control of modern-day Israel through the British Mandate for Palestine and remained in power until 1947, when the United Nations passed a resolution that would have created a Jewish and an Arab state in the region. However, there was pushback from the Palestinian Arab population, and, in the chaos, Britain withdrew its mandate and Israel declared its independence.^{iv} The day after Israel declared independence, five Arab states – Jordan, Egypt, Lebanon, Syria, and Iraq – invaded the new state.^v The conflict lasted until 1950, when a tentative peace was reached. By the end of the war, Israel had fought off the Arab states, in what is now known as the first Arab-Israeli war, and gained more territory than they had originally been promised. However, in the two years of the conflict,

over 700,000 Palestinians were driven from their homes and land in what they refer to as the “Nakba,” the Arabic word for “catastrophe.”^{vi} The scholar Abed-Rabbo explains that:

Israel swiftly moved to ethnically cleanse Palestine of its indigenous Palestinian population, replacing it at first with European Jewish colonists transported from Europe and absorbed mainly through German reparation payments. From 1947 to 1949, approximately 700,000 Palestinians were evicted while 717,923 Jewish colonists, of whom 373,852 were Holocaust survivors, immigrated to Palestine.^{vii}

This ethnic cleansing and forced displacement of Palestinians, over time, led to increased tensions in the Middle East. A second war, the 6 Day War, took place in 1967 between Israel and Jordan, Syria, and Egypt. The Arab countries planned a surprise attack but were quickly overrun by the Israelis and suffered massive losses. In the end, Israel gained control over the West Bank, the Gaza strip, and a few other pieces of territory.^{viii} The Israeli government has continued to drive Palestinians from their lands to create settlements for their citizens. This has led to multiple uprisings, the latest of which began in 2000 and lasted until Israel announced it would remove its troops from the Gaza Strip in 2005.^{ix} A year later, Hamas, an Islamist terrorist group, gained control of the Gaza Strip which prompted Israel to impose a blockade on Gaza that remains currently in effect. This has worsened the living conditions of those in the Gaza Strip and has ensured the continued poverty and oppression of Palestinian refugees from the Nakba and the 1967 war.^x This history should provide some context for how the Palestinian refugee crisis was created and why it still exists today.

Israel's defiance of international conventions

One clear way the Israeli governments have violated international humanitarian laws is by preventing Palestinians from returning to the homes which they fled from in 1948. As Akram discusses, there are many easily refuted

arguments as to whether Israel has any legal obligation to allow the refugees to return.^{xi} The first is the Israelis' and their supporters' argument that humanitarian law does not require Israel to recognize the right of return since the Palestinians left voluntarily — primarily since humanitarian law does not distinguish between refugees who left voluntarily and those who were forced to move. Even so, humanitarian law, and the Geneva convention in particular, does distinguish between protected persons such as civilians and prisoners of war, and non-protected persons such as combatants.^{xii} As such, a tenet of humanitarian law is that there shall be no transfer of civilian populations from their homes during hostilities, and if they are, for military or safety reasons, they should be allowed to return to their homes as soon as possible, once the armed conflict stops.^{xiii} This has not happened in the case of the Palestinians.

Another argument made in favour of the Israelis is that the right of return only applies to nationals of that country, and since the Palestinians who left in 1948 never became Israeli citizens, they do not have any right to return to their homes. Nonetheless, the counter argument borrows directly from the International Covenant on Civil and Political Rights, which says that "No one shall be arbitrarily deprived of the right to enter his own country."^{xiv} Akram argues that the use of "own country" signifies a definition less narrow than the idea of nationality, and that it can apply to those who have had their nationality stripped away or whose nation changed or merged with another.^{xv} Israel is a signatory to the International Covenant on Civil and Political Rights and through the restriction of the Palestinian peoples' right of return, they are therefore violating an international humanitarian covenant.^{xvi}

Another piece of global governance that Israel has violated is the Rome Statute of the International Criminal Court. Now, while Israel has signed the statute, they have not yet ratified it; nevertheless, they should be judged according to this statute which most other democratic countries have ratified.^{xvii} This statute clearly states that the "forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present" is a crime against humanity.^{xviii} Amnesty international says that "Israel has demolished tens of thousands of Palestinian homes and other properties across all areas under its jurisdiction and effective control," which amounts to displacing the Palestinians who were there before.^{xix} This displacement of Palestinians to create space for Israeli settlers started in 1948 and continues to this day and, as the International Criminal Court makes clear, is a crime against humanity.^{xx} When the Prime Minister of Israel, Benjamin Netanyahu, spoke

to the United States congress in 2011, he said that "the Palestinian refugee problem will be resolved outside the borders of Israel."^{xxi} This reinforces the idea that Israel sees no future in which the Palestinian refugees can return to their homes. It also shows how Israel has no intentions of ratifying the Rome Statute because then the International Criminal Court would have jurisdiction over crimes against humanity committed within Israeli territory.^{xxii}

History of the United Nations and Israel

The United Nations was, of course, active in the creation of the Israeli state, through its acceptance of the partition plan and the subsequent sponsorship of peace talks between the Arab states and Israel.^{xxiii} The United Nations then created UNRWA, an agency that provides humanitarian services for Palestinians to this day. Quigley says that the right of return for Palestinians is "an annual agenda item for the General Assembly," which shows how often it is discussed.^{xxiv} Each time the resolution comes up, the Assembly asks Israel to repatriate the Palestinian refugees who were displaced throughout Israel's modern history, particularly in 1948. The General Assembly, in 2016, "noted with regret" that Israel had not made headway on conforming to Resolution 194, and thus "indicated its view that repatriation was legally required."^{xxv} This resolution was adopted in 1948, by the General Assembly, and originally focused on both the return of refugees and compensation, but that was quickly reduced to compensation alone. Then, with the multiple crises that occurred in Israel after this resolution passed, even compensation fell by the wayside.^{xxvi} In 1967, The United Nations Security Council called for the repatriation, or a "just settlement" of the Palestinian refugees, which they deemed a necessity to start creating lasting peace in the Middle East.^{xxvii} However, nothing was done. These resolutions and declarations, and the fact that they have not been resolved in 75 years, illustrate that the United Nations has not been forceful enough regarding this issue.

On a similar note, in practice, Palestinians are not provided the same rights as other refugees. They are often unrecognized as refugees by other — primarily Western — states, and this, along with their inability to return to their homes, puts them in a dangerous position.^{xxviii} Since they are typically left out of the legal mechanisms for refugees, they are unable to find asylum in other states, or effectively argue for their rightful compensation. The faults, as argued by Akram, are largely because the UNHCR, or the United Nations Refugee Agency, does not equally safeguard the rights of refugees from the Occupied territories.^{xxix} The UNHCR would typically work with the state from which the refugees emerge, but it has not done so in the case of Israel. Under normal circumstances the UNHCR

would develop a durable solution along with the offending state and the refugees, but it has been absent from the discussions.^{xxx}

Inaction of the United Nations

The first reason the United Nations has not done more directly relates to the UNRWA. The agency has been given very little guidance or any real tools to ensure the safety and security of Palestinian refugees. It has no legal authority, and reports to the General Assembly, which means that it does not have an executive system to make real decisions.^{xxxi} While the agency provides much needed support to Palestinian refugees, it could be more effective.

However, the biggest reason that the United Nations has done virtually nothing is that the United States has effectively blocked the United Nations from making any decisions that might challenge Israel or otherwise interfere in American interests in the Middle East.^{xxxii} Since the inauguration of the United Nations, the United States has always been forceful in bending the international system to its will. American leadership often pushes the United Nations towards an initiative or decision, but in regard to the Middle East, the Americans also push the United Nations away from any solutions. Bennis says that “despite a myriad of largely unenforced resolutions over the years (those that were not vetoed outright in the Security Council), the U.S. has managed quite successfully to keep the UN out of the decision-making side of Middle East diplomacy.”^{xxxiii} That is, the United Nations, an organization meant to embody cooperation between states, has instead begun to move their focus off a volatile region. Bennis also argues that the timing of the United Nations decreasing involvement in the Middle East coincides with the increase of the use of the American veto power in the Security Council.^{xxxiv} This shift happened approximately in 1974, but, crucially, it occurred after the 1967 war between Arab countries and Israel. The United States has used its veto numerous times to block Security Council decisions which critique Israel’s illegal occupation of the Palestinian territories, and as a result, the Palestinians have been stuck in limbo for 75 years, while their rights are debated repeatedly and they have “their search for self-determination and statehood interrupted every step of the way.”^{xxxv} This means that tensions only continue to rise in the region, halting peace processes, if they ever manage to pass through the Security council without an immediate American veto.

It must be acknowledged that while Israel was effectively colonizing Palestine, the rest of the Global South was going through a process of de-colonization. The Global South wanted to avoid the interference of West-

ern powers in their new states, so, in many parts of the world, anti-Israeli sentiment grew. On the other hand, the public opinion on Israel in the United States had shifted to a positive one for many reasons, in part because of effective Cold War messaging and pro-democracy sentiment. Many Americans felt more open towards the Israelis than the Arabs, who were frustrated over the continued occupation and colonial sentiment.^{xxxvi} So, although many resolutions critiquing Israel and supporting Palestinians have progressed through the United Nations with nearly full support, the United States backs Israel every time. Occasionally, there have been other, smaller, states that rally alongside Israel, but the United States has never voted for a motion that was against its main ally in the Middle east – Israel.^{xxxvii} The United States also uses its veto power in the Security Council to protect Israel from binding resolutions, as seen in 2018, when a resolution condemning Israel for excessive force in Gaza failed at the Security Council level due to an American veto. The same resolution, though non-binding, passed in the General Assembly, though the United States, Australia, and Israel, along with a handful of others, voted against it.^{xxxviii}

A question to be asked is why the American governments have been so eager to support Israel, outside of the public support. The Secretary of State in 1985, George Shultz, made it clear when he said that the United States supports Israel, “not only for Israel’s safety, but for our own.”^{xxxix} This quote shows that the United States’ interest in Israel’s safety and prosperity is at least partially selfish in nature. They felt, and feel, threatened by the rising powers in the Global South that are more partial towards the Palestinians, and towards the Arab states in general. The American governments believe that this presents a threat to global stability, and that any critique of Israel it detracts from Western control in the region.^{xl} We can then see that while the United Nations General Assembly may have tried its best to condemn the Israeli government and its occupation, the all-powerful voice of the United States has blocked any real action from occurring.

Conclusion

This paper is an analysis of why the United Nations has not prevailed in creating a lasting solution, or any solution, for the growing issue of the Palestinian refugees. The historical context is always critical for the Israeli-Palestinian problem because there are complicated motivations at play for both sides. The Israeli State has violated multiple humanitarian and international criminal laws, while has facing virtually no consequences from the United Nations, even though the international body has been involved since the beginning, due to their approval of a partition plan for Palestine in 1947, and they are still involved to

this day. On the other hand, there is a stalemate in the General Assembly and the Security Council because of the American interests in Israel. Therefore, this paper has

shown that the reason the United Nations has not solved the Palestinian refugee issue is largely the fault of the United States, its connection to Israel, and its veto power.

Notes

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