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Right of return and self-determination Principles and priorities



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Principles and priorities

The right to self - determination, as a principle, has started to take shape with the escalation of peoples' need for freedom, independence and liberation from various forms of colonialism and dependency. Although the basic principles of this right have found some manifestations in the Charter of the United Nations and the Universal Declaration of Human Rights, but the confirmation of this right has always been subject to international circumstances and equations, in addition to patterns of domination and sharing imposed by the influential states on vulnerable countries after World War I, with lasting repercussions even after World War II with the consolidation of authority of the strong to rule over the weak (Sykes-Picot Treaty, Versailles Treaty, Yalta Conference, etc).

However, the world vulnerable people started to realize the nature and risks of colonialism with its two forms, the old and the new. They started to revolt against the imposed reality utilizing various forms of opposition and struggle starting with coups against pro-colonialism ruling gangs, through the popular and armed revolutions, and ending with the establishment of international and regional organizations, bodies and blocs to face the new reality. The Non-Aligned Movement was one of the most important forms of opposition that occupied an influential position in the international arena after the World War II, which helped confronting the logic of hegemony and subordination, as well as recognizing the legitimacy of the peoples' struggle for their right to freedom, independence and self - determination.

The international community has acknowledged the right of peoples to freedom and independence, when the United Nations General Assembly adopted during its fifteenth session the Resolution 1514 on 14 December 1960, which included a declaration of the need for granting of independence to colonial countries and peoples. Just as the liberation of many peoples and countries in Asia, Africa and Latin America, has contributed effectively to consecrate the principles and the right to self-determination in the texts and Charter of the United Nations. Part 1 of Article 1 of the "International Covenant on Economic, Social and Cultural Rights" recognizes the right of all peoples to self-determination, including the right to "freely determine their political status", and to pursue their economic, social and cultural goals.

In the same context, the decisions of the International Conference on Human Rights, which was held in Tehran in 1968, have emphasized the need to examine means and ways that lead to ensuring international respect of the right of peoples to self-determination. In the year 1971, the United Nations General Assembly confirmed the legitimacy of the struggle of peoples under colonial and alien domination, for the implementation of their right to self-determination, including the Palestinian people.

Tehran conference courses of action stepped further towards materializing, through their legislation internationally, in the Resolution 2588 of the General Assembly of the United Nations during its twenty-fourth session of 15 December 1969, which adopted decisions similar to those of the Tehran conference. In 1970, the United Nations reaffirmed the decisions of Teheran Conference and called for the creation of mechanisms and action plans, for the full implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples according to UN Resolution 2621 during the twenty-fifth session on 25 October, 1970.

In view of these positive developments in the international understanding of human rights, and the right of peoples to self-determination, and as a result of the escalation of the struggle of oppressed and colonized peoples, especially the peoples of Palestine and

South Africa, the international community position on the question of Palestine and the right of its people to self - determination has changed. The resolution of the United Nations General Assembly 2649 of its 25th session held on 30 November, 1970 represented an important qualitative leap in dealing with the issue of Palestinian people, as it condemned those Governments that deny the right of peoples to self - determination, especially the peoples of Palestine and South Africa.

On the 8th of December of the same year, the United Nations adopted during the same 25th session the Resolution 2672 A-D, recognizing explicitly the right of the Palestinian people to self - determination. In 1971 the UN General Assembly affirmed the legitimacy of the struggle of peoples under colonial and alien domination, recognized as being entitled to the right of self - determination, including the Palestinian people.

Thus, and contrary to the international community will, international law, all international conventions, norms and laws, and contrary to all international legitimacy resolutions affirming the rights of the Palestinian people, and the legitimacy of their struggle for these rights, Israel backed by the United States of America, and the colonial powers in the world has showed complete disregard to all of these decisions, conventions and laws, and has continued its colonial settlement and aggressive policy against the Palestinian people inside and outside their homeland. For over fifty years, Israel has adopted a systematic policy aimed at blocking any historical contexts that may lead to the development of an independent Palestinian national figure as one of the pillars of the right to self - determination of one united Palestinian people. This has been clearly manifested in Israel's policies towards the Palestinian people on three lines:

First: Israel's policy toward the Palestinians in the territories occupied in 1948

Israel policy towards this group of Palestinian has been characterized by unfair and racist actions and laws trying to marginalize it at all political, economic, social, and cultural and other levels.

The most dangerous of these laws, are those relating to the issue of political participation, since it requires from the Palestinian Arab minority, the explicit recognition of Zionist identity of the state, as a state for Jewish people, which represents a racist and cruel denial of national, patriotic and cultural rights of indigenous people of the country and rightful owners of the land.

One of the most prominent manifestations of this racist behavior is the denial of the right of more than 250,000 Palestinian Arab citizens inside the Zionist entity to return to their original towns and villages and the restitution of their legitimate property, and expropriating it through a series of iniquitous military laws despite being registered as citizens of the State of "Israel".

Second: Israel's policy toward the Palestinians in the territories occupied in 1967

Since its occupation of the West Bank and the Gaza Strip in 1967, Israel has worked to undermine the foundations constituting the unity of the Palestinian people, and to undermine political, social and economic pillars of the community, through expulsion policy, which has been practiced widely directly after the occupation. This action was followed by land confiscation, annexing it to the Zionist entity, and spreading settlements constantly filled with herds of settlers throughout the West Bank and Gaza Strip. Israel's objective has been to obliterate the Palestinian national identity, and to bridle the movement of Palestinian people seeking independence and liberation from under the yoke of occupation.

Third: Israel's policy toward the Palestinians in exile

Israel has long denied the responsibility for creating the refugees' problem, and has dealt with their case as problem of the Arabs in Arab countries and that the responsibility for solving this problem lies in its opinion on the Arab States. Despite this position of Israel on the refugee problem, it has and still considers having this problem unsolved within the Arab world poses a real threat to its existence. For that reason,

Israel's allies in the United States and in West European countries have sought approaches to this problem, based mainly on integrating refugee populations into host Arab countries.

The contemporary Palestinian revolution that emerged from among the refugees has reinforced Israel's concerns in this regard, that is why it has declared and became engaged in an open war against refugee populations. Therefore, Israel committed a number of massacres, fought several wars and sowed the seeds of discord and disunity among Arab societies that incubated the revolution and backed Palestinians in their struggle. Israel was trying to prevent attempts to resurrect an independent Palestinian national identity, and to liquidate the Palestinian Liberation Organization, the symbol of this identity.

The struggle of the Palestinian people against Israel's policies

The Palestinian people inside and outside the homeland have understood Israel objectives, and have strongly resisted and rejected this policy. Despite the Israelization policy practiced by Israel since its establishment and attempts to obliterate national identity through the laws of racial discrimination, the Palestinians in the occupied territories in 1948, did not surrender to these policies and resisted it in any possible form, benefiting creatively from the margin of liberal "democracy" available in the Zionist community to raise their voice and to preserve their identity and cultural and national characteristics, to protect their history and heritage from theft and falsifying attempts, in addition to fighting all attempts of assimilation and marginalization

The struggle of our people in occupied territories in 1948 has progressed, and reached high levels of maturity, materialization, and awareness of the common destiny as an integral part of the Palestinian people in every place. This was demonstrated at its best in the grand national popular uprising, in support of their compatriots facing the occupation bloody brutality, with the outbreak of the blessed Al Aqsa Intifada.

The Israeli occupation of the West Bank and Gaza Strip following the

defeat in June 1967 war produced a qualitative leap in the life and struggle of the Palestinian people in these areas; They have moved from dependence and subordination to Jordan and Egypt to confrontation and direct contact with the Zionist entity which created a new type of compulsive dependence and subordination, and the destruction of Palestinian society economic, political, social and other structures.

The steadfastness of the Palestinians in the West Bank and Gaza Strip thwarted all suspicious projects that the occupation had tried to impose and still facing bare-handed all Israel's policies, aimed at land confiscation, cities and villages Judaization, and spreading out settlements and settlers.

This resilience has led the way for the Palestine Liberation Organization to affirm its sole representation of the Palestinian people. However, the official leadership of the PLO instead of exploiting these facts in a sound revolutionary manner that confirms its leadership of the Palestinian people by adhering to the full national rights of our people represented by the comprehensive national consensus program, rights to return and self - determination, the establishment of an independent Palestinian state with full sovereignty with Jerusalem as its capital, it has gambled on these favorable facts and used them to get a foothold in unequal negotiations, resulted in the Oslo Accords and the subsequent consequences that were not in favor of the Palestinian people.

Palestinian people inside and outside the homeland have realized the size of the damage inflicted by these agreements on the national Palestinian issue, not least shaking the unity of the PLO and splitting its ranks dangerously, which has had the greatest impact on the struggle of our people inside, where quashing the intifada and killing it was one of the most serious objectives of these agreements. As a result of these agreements, a state of mass frustration emerged among the Palestinian people in the diaspora, because these agreements had not paid the issue of refugees and their right of return any attention. Nevertheless, our people from diverse political and social backgrounds, and various geographical locations acted with great responsibility and disallowed

the occupation the opportunity to achieve its objectives by sowing discord and dissension in the ranks of the Palestinian people and their national force, so that all national forces and bodies of different political and ideological orientations were keen to keep the dispute below the main contradiction with the occupation. This has led to establishing a highly effective unity, which provided the nucleus and the incubator for the blessed Al-Aqsa Intifada, after the Oslo accords had reached an impasse.

On the other hand, the Palestinians of the Diaspora and the countries of refugee hood, have faced Israeli plans to obliterate their identity, and eradicate their personality, by refusing to be expelled from their homeland in the first phase, and by rejecting various forms of integration and dissolving, or displacement and "termination". They have adhered to their right of return to their homeland, and sought ways to achieve this, through the broad involvement in national Palestinian and Arab nationalism parties and movements, which placed the banner of liberating Palestine at the top of their priorities and their struggle. They also practiced various forms of social and cultural patterns that have contributed to maintaining the Palestinian particularity in exile and refugee camps, which were enhanced by exclusion and inhuman and repressive policies, practiced by most Arab authorities and governments that had hosted Palestinian refugees on their territory.

This reality has had a significant impact on the surging of the contemporary Palestinian revolution from among the Palestinians in exile and diaspora, and specifically from the bosom of camps. This represented a clear expression of the Palestinians' refusal of the reality of asylum, and their adherence to their right of return.

Thus it can be said that the Palestinian people in all their positions, regardless of forms of suffering and conditions brought about by the occupation, dispersion and refugee hood, have remained consistently attached to their rights, and showed unrivaled toughness, in the struggle for these rights, stressing during this long and hard struggle, the unity of the Palestinian people in all places of existence.

The right to self - determination and the problem of the close correlation with the right of return

The international community understanding of the Palestinian people's cause and their legitimate rights has reached more advanced stages with the adoption of more international resolutions affirming these rights and the legitimacy of the struggle for these rights. In 1974, the United Nations adopted its famous Resolution 3236 on 22 November, which specified the recognition of inalienable rights of the Palestinian people, including: (a) The right to self - determination without external interference; (b) The right to national independence and sovereignty; (c) The right of Palestinians to return to their land and property from which they have been displaced and uprooted. Under this resolution, these rights are considered inalienable. The resolution appealed in the sixth paragraph to all States and international organizations, to extend support to the Palestinian people to restore their rights, in accordance with the United Nations Charter. The resolution also requested the Secretary-General of the United Nations to establish contacts with the Palestinian Liberation Organization on all matters concerning the question of Palestine. Under this resolution, the General Assembly established in 1975 a Committee on the Exercise of the Inalienable Rights of the Palestinian People composed of twenty Member States of the United Nations. The Committee was given the task of recommending a program designed to enable the realization of its objectives, especially (1) and (2) Paragraphs of the General Assembly Resolution 3236 at its 29th session in 1974. The importance of this resolution lies in that it treated the Palestinians for the first time as a people, not as a group of refugees. At the same time, it made progress in dealing with the refugees' issue, by addressing its political dimensions and not as a humanitarian matter, "equalizing" both the 1948 and 1967 refugees in terms of calling to ensure the right of all to return to their homes and properties in the towns and villages from which they were expelled.

The right to self - determination is, first and foremost, a political right in terms of form and substance. It has arisen during the fight of peoples

against colonialism, in its various forms. It represents a political formula for peoples under colonial domination, supports their struggle for independence and freedom, and for assuming control over their wealth, and the protection of their history and culture, without foreign interference or tutelage. In this sense, the right to self - determination is a collective right of peoples. It goes beyond individual rights, which could be fought by individuals, within civil society institutions and local bodies, and to improve the conditions of democracy and participation in the society development, in completely independent countries.

In the case of the Palestinian people, who live under multiple conditions and circumstances, the right to self - determination, should be read in a particular way, stemming from the nature of circumstances and suffering experienced by the different groupings of the Palestinian people. This problem protruded specially after the Oslo Accords, and the prospect of a certain Palestinian entity in the West Bank and Gaza Strip, seen by the strongest Oslo party (Israel backed by its allies) as the solution for the entire Palestinian issue, through the cancellation of the rights of the Palestinian people, in a kind of distorted curtailed entity, deprived of any kind of sovereignty. In return, it charges high price, which includes a comprehensive Palestinian recognition, through texts and charters, emphasizing the end of the conflict. It seems in this context that through the participation of the Palestinian citizens, and refugees in the territories occupied in 1967 in political and civic life, within the limits provided by the Oslo Accords, as if the issue of the right to self - determination has been settled on the one hand, and bringing down the curtain on the right of refugees to return to their homes from which they were displaced in 1948 on the other hand.

According to this proposition, it is assumed that the issue of the refugees in the West Bank and Gaza Strip has been settled within the framework of the emerging Palestinian entity, arising from the establishment of the Palestinian Authority. Knowing that the refugees consist an overwhelming majority in the Gaza Strip, and about a third of the population of the West Bank, reflects the extent of the injustice that will be entailed against the Palestinian people as a result of the proposed

settlement, and therefore, it should be realized that this kind of settlements does not meet the minimum political needs of these refugees, with regard to rights of return and self - determination. Also, these settlements represent a flagrant contravention of international legitimacy and United Nations resolutions, in particular the resolutions 2535 of 1969, 3089 of 1973 and 3236 of 1974, which do not only affirm the right of the Palestinian people to self - determination, but also link this right in a clear manner beyond doubt or controversy to the right of refugees to return to their homes from which they were expelled, and the restitution of their looted properties. Furthermore, these resolutions have made the right of return a mandatory requirement for the application of the right to self - determination.

While we cannot assume objectively, as a result of the complexity of the regional and international factors, that the issue of return on a practical level, would be a priority for the ongoing struggle in Palestine presently, we estimate that the issue of defeating the occupation, and the establishment of an independent sovereign Palestinian state in the West Bank and Gaza, is a step towards the comprehensive achievement of the right to self - determination, as this right will remain incomplete unless the refugees issue finds a solution in accordance with UN resolution 194 of 1948. In this regard, the establishment of a sovereign Palestinian state, away from the Israeli and American dictates and conditions should form the basis for the struggle for the right of return, as a prerequisite for the full realization of the right to self - determination. With relation to this, we stress the need to eliminate any confusion that may arise in terms of the mistaken belief that the problem of refugees, whether they are inside the prospective Palestinian entity or they are living in exile, as diasporas and migrants, could end as soon as the establishment of this entity, regardless of the conditions and mechanisms of its emergence.

It is important to emphasize that this part of the Palestinian people, is completely concerned and engaged in the struggle to defeat the occupation and to establish an independent Palestinian state, as a comprehensive national goal, fought for by the whole people and their powers. However, this does not constitute a salvation and solution to the

problem of refugees in the diaspora and exile where the right to self - determination is intrinsically linked with the right of refugees to return to their homes from which they were uprooted. In this sense, the struggle to realize the right of return should be as well comprehensive national goal, fought for by all the Palestinian people, in order to provide the circumstances and conditions that ensure the accomplishment of the right to self - determination of the Palestinian populations in their homeland Palestine.

Regarding the Palestinians of the territories occupied in 1948, the adherence of this part of the Palestinian people to their national patriotic identity, and the struggle against all attempts of Israelization, and dissolving as communities attached to the Jewish State, constitutes a solid foundation to confirm the differentiation from the Zionist entity, an entity, based on apartheid. This part of Palestinians also is consecrated as a key constituent element of the unity of the Palestinian people. In this respect, the right of these Palestinians to self - determination will only be decided in the context of the realization of national rights of the entire Palestinian people on the land of historic Palestine.

Outcomes and Conclusions

First: The right of the Palestinian people to self - determination gains its strength and basic support from being the rightful owner of the land of Palestine. The Palestinians are deeply rooted in this land and its history, generation after generation for thousands of years. It also acquires its strength and supports from international law and legitimacy, and United Nations resolutions, in particular Resolution 2672 of 1971 which recognized the legitimacy of the struggle of the Palestinian people for their right to self - determination, and resolution 3236 of 1974, which recognized the rights of the Palestinian people, particularly their right of return to their homeland, and the right to self - determination on their national soil, and their right to sovereignty and independence on the land of Palestine.

Second: The unity of the Palestinian people is an essential prerequisite to enable the Palestinians to exercise their right to self -

determination. This right is a collective right granted by international laws to the people and not to individuals. In spite of displacement and uprooting, the elements of the unity remain despite the diversity and the different characteristics that have been forcibly imposed on the Palestinian people.

It goes without saying that the unity must be reflected in an overall national framework, encompassing all Palestinian people segments and groupings. The Palestine Liberation Organization at the height of the struggle for liberation and return represented an acceptable representative formula, with its program, as a tool to embody the unity of the Palestinian people, and the embodiment of their identity, and their independent national figure, which led to winning Arab and international legitimacy and recognition that were the result of Palestinian people embracement of PLO. Here it should mentioned the exceptional importance of the restoration of institutional, political and organizational chaos, caused by the Oslo Accords, and corruption policies that persistently destroyed all structures and institutions of the Organization. Hence, The PLO should not be considered as belonging to this or that faction, but as a national achievement for the Palestinian people.

While the subject of return and self - determination, being one of the most important pillars of the transitional program, places an uncertainty in the path of current national struggle, by linking this subject with the issue of the establishment of a Palestinian entity in the West Bank and Gaza, it is required to renew and to develop the Organization's programs, in line with the current developments in the struggle of our people, and to seek advanced democratic representative formulas, that will give new impetus to the resistance of our people in various formations and in all areas of their existence, in order to achieve the return and the self - determination.

Third: no right to self - determination without accomplished and completed right of return, in accordance with General Assembly Resolution 194 of 1948, which expressly provided for the return of refugees to their homes and villages, from which they were forcibly

uprooted by violence, bloody Zionist terrorism and ethnic (racial) cleansing, practiced against the Palestinian people on a large scale. Under international law, the right to self - determination is granted to the peoples to be practiced in own country, not in the "jungles" of exile and refugee camps. In this context, it is necessary to warn of the consequences of circumventing any of the Palestinian people's rights, especially the right of return under any arguments or excuses. The problem of refugees in the West Bank and the Gaza Strip will not find a solution in any entity or state that may result from any settlement in whatever form. In addition, any possible return of number of diaspora refugees to the same entity cannot be considered a solution to their problem.

Therefore, from a purely theoretical view, it can be noted that the "returning" refugees and the Palestinians remaining in their own land, and the West Bank and Gaza Strip Palestinians will be able at one time to realize their right to self - determination jointly on Palestinian land, and in the Palestinian homeland. Some of the objections to the struggle for the right of return in accordance with Resolution 194 naively simplify the subject of return, as if this return can be achieved within the framework of the state of the Zionist entity, which is a racist entity. This entity with its right-wing and "left" foresees the right of return as equal to the existence of the State of Israel and its survival,thus, the battle of the Palestinian people,with their refugees in particular, to stick to right of return and self - determination on the land of Palestine, constitutes one of the main pillars for the conflict intensification, allowing the Palestinian people to exploit the resolutions of international legitimacy, to expose the racist nature of the Zionist entity,and isolate it. In this respect, it is clear that the battle for the right of return and self - determination for the refugees is an unequivocal strategic issue.

Fourth: The set of international resolutions after the World War II was not the only support for the independence of Palestine,but even the British Mandate which was imposed on Palestine by a resolution of the League of Nations, had noted that the mandate constitutes a temporary transitional phase, that should be followed by a complete independence

of Palestine, and the Palestinians with their different orientations and origins have the right to self-determination, and the establishment of their independent and sovereign state. However, the conspiracy of British colonialism, and Western imperialism, and narrow-mindedness of Soviet leadership at the time, has led to a catastrophic situation for Palestinians and Jews together, represented by the establishment of the State of Israel, a center for colonial settlement, carrying all features of intolerance and racism. Despite "the enlightenment" that swept the world after the World War II, and the awakening of the majority of the peoples from their slumber, and getting their freedom and independence, Israel has remained strong, resisting the motion of history with the support of the imperialist world, led by the United States of America, and in perfect harmony and exceptional support from the racist regime in South Africa, which had collapsed before the end of the twentieth century.

The establishment of the State of Israel has come into being contrary to the direction and the facts underlying the principle of the right of peoples to self-determination, because the establishment of this entity was set up on racial and illegitimate foundations, manifested by denying the right of the Palestinian people to their homeland and expelling them there from on one side, bringing Jews from various parts of the earth, settling them on the land of Palestine, and shoving them in a conflict with the Palestinian people and the Arab peoples on the other side.

Proceeding from that, the battle for the return of the Palestinians constitutes an essential platform for humanitarian and universal struggle, that free world and freedom - and peace-loving people should take part in it along with the Palestinian struggle against the Zionism, which represents a racial antihuman condition. The struggle for the return of Palestinians to their land and their homes, from which they were expelled, is one of hinge entry-points for the progressive Jews to get rid of the burden of Zionism, and what it represents as a catastrophic venture affecting the Jews before anyone else, both politically and morally.