

AIDOUN'S PAPERS

The Right of Return
Discourse
Basic Features and Principles



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The Right of Return Discourse: Basic Features and Principles*

Historical Background

On November 29, 1947, the United Nations General Assembly adopted the Resolution 181, with 33 votes in favor, 13 against, and 10 abstentions. The Resolution called for the partition of Palestine into two states, one Jewish and the other Arab, and for an economic union between the proposed states.

This unjust Resolution of partition was widely opposed by Palestinians and Arabs on the grounds that the proposal is a violation of law, justice and democracy, which created an explosive situation in Palestine with a wave of demonstrations and bloody unrest that led to the death of some 1,700 people among Arabs and Jews. At the same time, Britain announced the Mandate would end on 15 May 1948, months before the mandate termination deadline set by the United Nations in Resolution 181. Against the backdrop of such turmoil, the UN Security Council held a meeting on March 19, 1948 to investigate the Palestine problem, but the Council did not make a firm decision to stop the unrest and disorders represented essentially by the several and fast steps of Zionists and their terrorist organizations taken in order to change the situation

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on the ground and impose new facts on the Palestinians, the Arabs and the world that would be difficult to change. The most important of these measures were the attacks on Arab population and killings and massacres against them, which led, in addition to the rapid

British withdrawal, to the aggravation of the situation of the Palestinians and their displacement, and to the United Nations failure to take any effective action to keep the situation under control.

Thus, while the UN Resolution 181 was representing the first and only international official birth certificate of the State of Israel, it was simultaneously on the other side, legalizing the uprooting of the Palestinian people from their land, and expelling them to live multiple exiles and dispersion, contrary to the International Bill of Human Rights, and the principles of international justice and law.

The process of Palestinians displacement was completed following the unequal fighting between the Zionist gangs, and the groups defending Palestinian towns and villages, in addition to the caricatural theatrical intervention of Arab armies in Palestine, the massacres and killings committed by the mentioned gangs in villages and towns, most notably the massacre of Deir Yassin and Kafr Kassem, and many massacres that have been unveiled in later stages, the latest among which was the massacre in Tantura discovered by one of Israeli researchers reviewing the new history.

Palestinians Exile and Refugeehood

The failure of Arab regimes and their armies to achieve any military gain, and their failure to become an incubator and strategic, geographic and human bedrock to Arab resistance in Palestine, has led to convert three-quarters of Palestinian people into refugees in the Arab world and other near and far places of exile.

The real catastrophe of the Palestinian people could not have been boiled down to the inability to confront the Zionist project and the establishment of the State of Israel only, but to dispersing the Palestinian people unity and their national identity, and transforming their majority to dispersed refugees and those who stayed in their homeland to marginalized minority living under the harshest oppressive measures and apartheid.

The Palestinians have proven under the roughest conditions, including the conditions of being refugees their deep attachment to their homeland, as many of the Palestinians who had been forcibly evicted from their homes, have chosen a destination within the homeland and not outside it, not least because of the problem of displaced Palestinians inside Israel, or those communities that formed the overwhelming majority of Palestinians, who were forced to take refuge, but within the borders of Mandatory Palestine in the West Bank and Gaza Strip.

Following the end of the British Mandate and the declaration of the state of Israel on the fifteenth of May, 1948, and the intensification of the conflict between the invaders and the legitimate owners of the land, and in front of gravity of committed atrocities such as massacres and forced by arms displacement, and after the assassination of the UN Mediator for Palestine, the Swedish Count Bernadotte by the Zionist gangs, due to his report on the atrocities committed against the Arabs of Palestine, and his recommendations calling for the immediate return of refugees to their homes and properties, the General Assembly has realized the seriousness of the situation and adopted its famous Resolution 194, in which the return of refugees to their homes and properties constitutes the core issue.

Resolution 194: Its content and how do we understand it

The importance of the UN General Assembly Resolution 194 consists in representing the first official international recognition from the highest international body of the right of refugees to return to their homes and properties. The adoption of this resolution several months after the declaration of the state of Israel does not diminish its importance. It also has come as a rehabilitation of the right of Palestinians to their homeland. It should be noted that none of this resolution clauses has demand that refugees recognize the state of Israel that had been announced by the Zionist gangs.

In addition to that, the UN General Assembly itself has not recognized the State of Israel at the time of this resolution passing. Although this resolution has addressed fundamental issues and questions, including the issue of Jerusalem, but not limited to, its core importance lies in the clear and unequivocal endorsement of the unconditional return of refugees to their homes and properties on the one hand, and to establish a body or an international instrument to entrust with the task regarding the application of the Resolution 194 terms and contents as soon as possible, and this body was the United Nations Conciliation Commission for Palestine UNCCP.

The failure of the UN Conciliation Commission to implement the entrusted tasks because of the complexities of the Palestinian cause and of Israel's refusal to the return of refugees on the one hand, and the tendency of the Conciliation Commission to find solutions to the issue of refugees not consistent with the content of the Resolution 194, which had set forth their right of return, solutions based on the resettlement of refugees where they were on the other hand, all this does not diminish the importance of this resolution as

an important international weapon, the Palestinians should use it the best in the context of their struggle to restore their national rights.

The right of return discourse between elites and popular awareness

The Palestinian people have demonstrated since the occurrence of 1948 Nakba and the severing of national unity their firm adherence to their right of return to their homeland, where this right has overshadowed the discourse of Palestinian and Arab political elites in the various stages of the struggle of the Palestinian people, as most of the Palestinian political, social and trade union movements were established in the early stages of becoming refugees, based on the refusal of all forms aiming to liquidate the Palestinian cause, first and foremost the attempts to resettle refugees away from Palestine.

These elites discourse calling for the right of return was met with an extensive response from the masses of refugees in all their whereabouts, home and abroad. This highly popular response to the right of return discourse was manifested by the broad involvement of Palestinian youth in the Palestinian and Arab political movements, which have embraced the idea of return, and built their programs and actions on the basis of the right of return. Also, it was reflected in the popular awareness observed in various forms of popular opposition to attempts to break up the unity of refugees, and the mindfulness to keep national connections and links among the people of the same city and the same village, where they have settled down in their majorities in the same places, keenly remaining close to the borders of Palestine, in the hope of returning home soon. The forced accommodation in camps far from the borders of Palestine was not subject to the will of the refugees, but

was imposed by the governments of the host countries. The opposition also was reflected in the refugees' refusal in the early stages of Nakba to replace their tents with concrete houses that could indicate the possibility of sustainable accommodation in the refugee camps, and regarding that as conspiratorial attempts to impose resettlement projects and to eliminate the dream of the Return. In addition to all of this, and as an undeniable indication of refugees' adherence to their homeland Palestine, we recall that the Palestinians in Lebanon at least, strongly rejected all attempts of settlement through naturalization which was accessible in the fifties and early sixties.

The idea of return has evolved and become deep-rooted in the Palestinian popular culture, in school education through the stories that have been narrated and continue to be told by the Palestinians who had lived and still remember life in Palestine before and after the Nakba, those stories passed down through generations, which kept Palestine alive in the mind of every adult and child, where the oath of return recited every morning in all Palestinian schools in and outside the camps, but an evidence of the ingraining and cultivation of the idea of return in the popular consciousness of the Palestinians from generation to generation.

Despite the significance of the aforesaid in establishing the idea of return and the firm devotion to the rights, but all of these activities have not gone beyond the scope of passive opposition, and they have not evolved into a positive drastic action, which contributes to the accumulation of a part of regional and international powers, that can impose the return on Israel. The major gap in the struggle of the Palestinian people at that time was making an almost complete bet on the Arab countries and the international community in order to exercise the right of return.

Right of return inclusion under the slogan of liberating Palestine

Betting on Arab regimes and the international community has started to decline since the mid-sixties, where first indications of new breakthrough for the Palestinian national movement have begun, based on a number of new ideas promoted by some Palestinian elites, built on the need for the Palestinian to take matters into their own hands, and the adoption of the armed struggle as the only way to liberate Palestine, and to consider the idea of the return as one of the components of achieving the liberation project.

The defeat in June 1967 war and the failure of the official Arab regime arguments and programs gave a great impetus to new ideas that came out of the narrow framework of elite theorizing, to become immediately overwhelmingly popular, not just among the Palestinians, but also in the Arab world. Thus, the contemporary Palestinian revolution has appeared as a response to the defeat and its repercussions on the one hand, and an advanced revolutionary alternative with regard to its proposed new project for the struggle, on the ruins of the Arab regimes vision and programs toppled down by the defeat in June.

The contemporary Palestinian revolution has faced over the past decades of struggle a series of complications at all internal, regional and international levels, which have not permitted for the Palestinian national project to achieve its objectives in liberating Palestine, despite the enormous sacrifices offered by the Palestinian people at home and abroad, and in spite of the importance of the accomplishments realized through these sacrifices, the most important among which is the reconsideration to the Palestinian national identity, and gaining official and popular

international recognition of the legitimacy of the Palestinian people struggle for their right of return and self-determination on the soil of their homeland.

The decline in the armed Palestinian national movement, the relapse of its slogans after the Israeli invasion of Lebanon in 1982 and the stumbling of this movement during the eighties was not the end for the Palestinian people. Then the courageous stone-throwers uprising inside Palestine took place to announce the rejection of the Palestinian people for the defeat, to confirm that our people still have faith in the justice of their cause, and possess abilities and capacities that enable them to continue the struggle for their legitimate rights.

This valiant uprising came to embody the close unitedness and dialectical inextricable link between the slogans of return and liberation. The Palestinian people in the West Bank and Gaza Strip are locked in a double struggle; they are eager to get rid of the occupation nightmare on one side, and the refugees are longing to go back to their homes and their home towns and villages in Palestine, on the other side.

But the official Palestinian leadership, rather than to devote all the consideration and concern to support its people uprising and to promote it, at a time when the intifada began to represent a real nightmare and daily attrition for the occupation, which led to confuse the latter and move it from acting to reacting, this leadership has restored to invest the uprising outcomes in an exploitable, hasty and irrational way, in order to have an access that could allow it to enter the negotiations with Israel at any price. This futile and short-sighted policy has led to place the Palestinian people and their cause in extremely dangerous predicament, represented by the Oslo Agreement 1993 and its gloomy repercussions, carrying a real threat to the Palestinian cause that

would eventually lead to its liquidation, and to bring the curtain down on the national rights of our people, particularly the right of return to their homes and homeland.

Basic features and principles of the right of return discourse

Needless to say that the return movement and Palestinian right of return discourse do not constitute, in our opinion, an alternative to the Palestinian national liberation project whose banner was raised by the contemporary Palestinian revolution, but they form in the first place an objection to the sweeping American-Israeli project which aims to liquidate the Palestinian cause, with the issue of the return of refugees to their homes constituting one of the pivotal pillars. Similarly, they constitute a case of mobilization and attempt to create popular dynamic forces to restrain the official Palestinian leadership rush towards meeting the American and Israeli demands and requirements related to the basic constants of the Palestinian cause, mainly the issue of the return of refugees to their homes.

This Palestinian leadership response is clearly manifested, as emerged from the Camp David negotiations, by the attempts to partition and squander the issue of the return of refugees to their homes. The importance of these fears and concerns regarding the issue of refugees is not diminished by the attempts of some media and information agencies to highlight the steadfastness of the Palestinian negotiator in the negotiations about some of the core issues, especially the issue of Jerusalem.

It is important to emphasize that the current discourse about the return as we see it, does not constitute in any way a depreciation or rejection of any form of other struggles, including the armed struggle (those who can afford a way to it) that can be exercised by our people, depending on the period and the circumstances faced by each community of the Palestinian people at home and abroad.

This discourse aims to mobilize and attract the Palestinian elites of uncorrupted, honest with strong moral principles intellectuals and activists from all fields, and to reconsider their beneficial enlightening role, as a necessary step to get out of the state of regress and frustration caused by the deteriorating situation of the Palestinian National action.

The right of return discourse is based on a number of components and concepts summarized as follows:

First: the right of return discourse is not based on the Resolution 194, but it takes its foundations from a number of international conventions, most notably the International Bill of Human Rights, and in particular the Universal Declaration of Human Rights (Article 2/13) which is considered the cornerstone of the International Human Rights Law. In this context, we need to understand quite correctly the resolutions of international legitimacy, including the resolution 194 of the General Assembly of the United Nations, which addresses in paragraph 11 the right of refugees to return and compensation, and here it is necessary to remove any ambiguities on the legal debate about the two sections of paragraph 11 of resolution 194, related to the right of return and compensation to stress that the right of return is an absolute right of individual and collective rights of refugees, and it is the basis for the interpretation of the mentioned resolution. While the compensation for material damages and losses plus psychological and social suffering, constitutes another legal right for any refugee, choosing to return or not, strongly established in international law.

The talk about compensation as an alternative to right of return represents a deliberate distortion of the content of Resolution 194, aiming to promote and pass suspicious efforts to close the file on the refugee issue, and turn the right of return page forever.

Talking about financial compensation for those who do not wish to return at the moment is a political blackmail, exploiting the long suffering of refugees in the worst manner, especially the refugees in Lebanon who are deprived of their basic human rights.

While we affirm the refugees' free choices without any pressure or restrictions, we see the need to provide all the conditions for the implementation of the right of return, as stipulated by the international legitimacy resolutions, particularly the General Assembly Resolution 194.

In other words, this resolution includes three entire and inseparable rights, which are: the right of return, compensation and restitution. Each right has its special rules and precedents in international law. In this sense, the compensation cannot be considered as a substitute for the right of return, but it is an inherent right, which eliminates the equation of "return or compensation".

The resolution affirms as well the principle of free choice for the refugees. There is no point in this principle, if the right of return is not put into practice.

Second: the right of return discourse is based on another fundamental principle, which is the unity of the refugees issue, wherever they are, in exile or within the borders of mandatory Palestine, including the West Bank and the Gaza Strip, those refugees who make up about 70 percent of the total Palestinian people. In this context, the claim that the problem of refugees from the West Bank and the Gaza Strip will be resolved as soon as the future Palestinian state is declared, contradicts their natural right to return to their homes and property in Palestine, as stipulated in the United Nations Resolution 194, which was confirmed again and again in subsequent resolutions of the UN General Assembly, especially in the 118th plenary meeting on 16 December 1985,

where it states clearly that the United Nations consider “that measures to resettle Palestinian refugees in the West Bank and the Gaza Strip, away from their homes and property from which they were displaced constitute a violation of their inalienable right of return.”

It is important, while talking about the unity of the refugee issue, as an embodiment of the principle of the unity of the land and the people, to note that the issue of return is a sacred right for all refugees, wherever they are, whatever the legal conditions in terms of associated identity and nationality, knowing that the dispersion of refugees to various corners of the earth was the outcome of the Nakba that befell our people in 1948, and the subsequent calamitous spillover that has affected every Palestinian home. This situation was not an option desired by the refugees, but it was forcibly imposed on them, by violence and coercion over the years of refugeehood since the Nakba until nowadays.

Third: The right of peoples to self-determination on their own land is an inalienable right, for all peoples, guaranteed by international laws and regulations, so in this sense, the right of the Palestinian people to self-determination is a fixed inalienable right, but the right will remain imperfect and incomplete unless the people of Palestine are allowed to exercise their right of return to their native land, therefore, the right of return becomes a precondition for the right to self-determination. Moreover, the Resolution 3236 (1974) of the United Nations General Assembly reaffirmed the right of the Palestinian people to self-determination and associated it firmly with the right of return. Based on this hard principle, the right of refugees to return to their homes and homeland is a prerequisite to enable them to exercise their right to self-determination, just like other free people and nations.

Fourth: As much as the right of return discourse gains political

and legal dimension par excellence, it nevertheless carries cultural and educational dimensions critical to maintain the obsessive thought of homeland and returning thereto and believing that it can be achieved whatever the circumstances and obstacles. In this context, the culture of the right to return should reoccupy an eminent place in each camp, alley and house, in the street, school, university and the workplace, and in children's toys, rhymes and songs. The culture of the right to return has a strategic dimension that is the opposite of the state of despair and frustration. It oversteps all unjust treaties and agreements that can be concluded, under the tyranny of the present American-Israeli alliance. The right of return is the manifestation for the continuation of the conflict and its existence. It is one of the most significant causes of historic clashes with Zionism and its racial objective represented by Israel.

Fifth: the right of return discourse seeks to involve the Palestinian civil society including all its social, political and other bodies and institutions in the struggle for the rehabilitation of the right of return. In this sense, this discourse is a unifying discourse transcends all political and other contradictions and conflicts, in the refugees' communities. What we call for in our discourse carries a national and moral dimension, cannot coexist in any way with any manifestation of corruption and putridness faced by the refugees communities and their institutions from various sources, and in many forms, which are threatening these communities and their structures, preventing the launch of humanitarian and social creative initiatives, and slowing down the dynamics of positive dealing with the right of return discourse.

Sixth: On the Arab level, the right of return discourse aims at reviving various forms of solidarity with the Palestinian people and the Palestinian cause by embracing the right of return discourse and

supporting it through political and social suitable mechanisms, because this discourse represents one of the courses for the continuation of the Arab nation struggle against the racist Zionism.

Seventh: On the international level, the reactivation of bodies and institutions supporting the Palestinian people and their right of return to their homeland, is one of the key pillars of the right of return discourse with comprehensive moral and human dimension, following the receding role of the international solidarity movement with the Palestinian cause, to become limited to supporting the Palestine Liberation Organization and encouraging the latter to move forward on the path of negotiations with Israel, in spite of actual risk resulting from this negotiative path, threatening to neglect the rights of Palestinian people, particularly their right of return to their homeland. The withdrawal of these bodies in such a way has paralyzed their effectiveness to a large extent and put them on hold, preventing their serious role in reviving the international awareness on the just rights of the Palestinian people, and essentially, the right of return to their homeland in Palestine.