
Who Represents Palestinian Refugees? The Sidelineing of the Core of the Palestine Question

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Abstract

Palestinian refugees make up the largest refugee population in the world, yet humanitarian diplomacy with regards to these refugees has been lacking since the start of the creation of the refugee problem. Even early on, many Western countries preferred to resettle the Palestinians in neighboring countries. While this proved to be unsuccessful, there was still no representation of Palestinian refugees or negotiation on their behalf because the early goal was the liberation of the whole of Palestine, which would consequently mean the return of the refugees. While there were some efforts on the part of the UN Conciliation Commission for Palestine to convince Israel to readmit some refugees, this proved to be fruitless. Moreover, in current times, the refugee issue is overshadowed by Israel's actions in the Occupied Territories. Statehood in the Occupied Territories has also sidelined the refugees, many of whom are from within the borders of present-day Israel. Thus, it is the academics, activists, non-governmental organizations and, most recently, the Boycott, Divestment and Sanctions movement which are the main actors that preserve and advocate for the refugees' major demands: the right to return to their homes and to be compensated for their losses.

Key Words

Humanitarian diplomacy, Palestinian refugees, UN Conciliation Commission for Palestine, Arab-Israeli conflict, right of return.

On the 10th of December 1948, the Universal Declaration of Human Rights¹ was adopted by the UN General Assembly. Remarkably, the Declaration was not met with any dissent. It came in the wake of the end of the Second World War, and the international community was determined never to allow the atrocities that had occurred during the war to be repeated again. In Article 13 (2), the Declaration states that “Everyone has the right to leave any country, including his own, and to return to his country.” Thus it is ironic that a mere few months after the end of the 1948 Arab-Israeli conflict, Palestinian refugees who were displaced, forcibly or in the course of the hostilities, were prevented from returning to their former homes.

Despite the UN General Assembly's passing of Resolution 194 in December 1948, which states that “refugees wishing to return to their homes and live at peace with their neighbours

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should be permitted to do so at the earliest practicable date,”² Palestinians 65 years later are still prevented from returning home. Diplomacy, humanitarian or otherwise, has been a resounding failure in the case of the Palestine refugees. The two major causes are the lack of an international body representing the refugees, as well as a lack of a powerful state willing to take on the plight of the refugees. By the end of the 1948 war, there was no state called ‘Palestine’. While Resolution 194 also created the UN Conciliation Commission for Palestine (UNCCP) in order to “to facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation”³ in essence, to employ humanitarian diplomacy- its role was severely limited by 1952 due to the lack of cooperation from states. The occupation of the remainder of historic Palestine (the West Bank, Gaza and East Jerusalem) in 1967, as well as the Syrian Golan Heights and the Egyptian Sinai, saw greater support for guerilla activities against Israel,⁴ which overshadowed any negotiations or pressure that could be put on Israel with regards to refugees. Thus the years leading up to the 1987 Palestinian *intifada* or uprising saw very little humanitarian diplomacy with regards to the refugee issue. The Oslo Accords during the 1990s further relegated the topic of the refugees to ‘final status’ talks.

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This paper will describe the position of Palestinian refugees since 1948 vis-à-vis negotiations for the protection of their rights. As will be seen, there has been a noted absence of humanitarian diplomacy. The main issues are Israel’s refusal to accept any responsibility for the refugee issue and therefore its position not to allow the refugees to return (except a very limited number as part of a larger peace deal),⁵ as well as seemingly more pertinent issues related to the Palestine question that came up later, such as the occupation, Israeli settlements in the Occupied Territories and the separation wall. Furthermore, to this day, there has still not been any real pressure on Israel from states, and negotiations have only pushed the right of return farther away. Without a specific body to promote the protection of refugees, it is easy to see why refugee rights have not been treated as a priority. Moreover, the lack of a unified position on the part of the Arab states has further exacerbated this.

In recent times, much work on Palestinian refugees pertains to improving their conditions in host countries. It is now the grassroots organizations, such as BADIL and Al-Awda, as well as academics and lawyers

who are advocating for the refugee right of return; and most importantly since 2005, the Boycott, Divestment and Sanctions (BDS) movement.

The Role of Humanitarian Diplomacy

Humanitarian diplomacy, as defined by the International Federation of Red Cross and Red Crescent Societies, is “persuading decision makers and opinion leaders to act, at all times, in the interests of vulnerable people, and with full respect for fundamental humanitarian principles.”⁶ Humanitarianism, therefore, is at the very root of humanitarian diplomacy. Specific to the context of military occupation, Jonathan Whitall defines humanitarian diplomacy as “the use of International Law and the humanitarian imperative as complimentary levers to facilitate the delivery of assistance or to promote the protection of civilians in a complex political emergency.”⁷ This diplomacy, however, is not confined to NGOs. Turkey, for example, has stated that one of the explanatory principles of its foreign policy is humanitarian diplomacy, which it defines as an “equilibrium” between power and conscience.⁸

For humanitarian diplomacy to work, there must be a decision-maker willing to negotiate. While powerful states can exert some pressure on decision-makers,

when this aspect is absent as well, the project of humanitarian diplomacy becomes difficult to sustain. The case of Palestinian refugees is a vivid example of this. There have been some successes in terms of the improvement of living conditions in refugee camps, but even that has been limited due to the varying restrictions in the different host countries.

The Refugee Crisis, Mediation Efforts of the UNCCP, and the Role of UNRWA

On 14 May 1948, the State of Israel was declared. The creation of Israel was born out of a war with its Arab neighbors, which intensified with the end of the British Mandate over Palestine. However, the hostilities began before then. While there were sporadic attacks in 1947, which succeeded in expelling some 75,000 Palestinians, Jewish troops emptied five Palestinian villages in one day in the middle of February 1948.⁹ From early March 1948, about 250,000 Palestinians were uprooted, and this was accompanied by several massacres.¹⁰ By the end of the war in 1949, there were approximately 750,000 refugees from Mandatory Palestine registered with the UN.¹¹ This number does not include the approximately 150,000 Palestinians who were displaced inside what became Israel.

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UN General Assembly Resolution 302 (IV) created the UN Relief and Works Agency (UNRWA) to “carry out direct relief and works programmes for Palestine refugees”.¹² It had no protective function. Since there has been no solution to the refugee problem, the mandate has been renewed repeatedly.¹³ UNRWA services “encompass primary and vocational education, primary health care, relief and social services, infrastructure and camp improvement, microfinance and emergency response, including in situations of armed conflict.”¹⁴ In places like Lebanon, UNRWA services are crucial as Palestinian refugees are barred from moving freely around the country or even working in certain professions.

UN General Assembly Resolution 194, on the other hand, created the UN Conciliation Commission for Palestine (UNCCP). The UNCCP was created specifically with the protection function that UNRWA lacks, and when it was created:

The UNCCP attempted to intervene with state parties to promote and protect the internationally-recognized rights of the refugees; promote measures to improve the situation of refugees; preserve and promote the restitution of refugee properties, and; promote durable solutions for refugees, including repatriation, resettlement, restitution, and compensation based on the unconditional principle of refugee choice.¹⁵

Palestine refugees are defined by UNRWA as “people whose normal place of residence was Palestine between June 1946 and May 1948, who lost both their homes and means of livelihood as a result of the 1948 Arab-Israeli conflict.”¹⁶ This special regime, with two UN Agencies created to deal specifically with the Palestinian refugees, was meant to be an aid to the Palestinians. However, the role of the UNCCP was severely limited by states that wanted to resettle the refugees as opposed to repatriate them.

The structure of the UNCCP was such that three member states - France, Turkey and the USA - were responsible to the General Assembly. According to Michael Fischbach, who was able to examine all of the UNCCP documents, the American seat on the UNCCP in particular served to guarantee that the body never strayed too far from overall US policies toward the Arab-Israeli conflict in general.¹⁷ The Americans insisted on resettling the majority of refugees.¹⁸ As for the Israeli position, in 1951, Israel stated in an

internal memo it was only willing to pay for compensation if it were used to resettle refugees in Arab countries, and only if it released Israel from any further payment to refugees.¹⁹ Upon pressure from the UNCCP, Israel agreed to readmit 100,000 refugees, but it quickly rescinded the offer, especially as the Arab states rejected the meager proposal.²⁰ Yet the 17,000 Palestinian Jews who were displaced by the fighting in 1948 were allowed to return to their homes.²¹ Thus Israel's main issue was not with the right of refugees to return, but with the ethnicity of the refugees.

The UNCCP's role was finally confined by 1952 to gathering information on refugee property.²² By late 1966 the UNCCP had closed down its Technical office and merely existed on paper.²³ After the UNCCP ceased its protective function it resulted in a legal lacuna whereby the recognized refugees do not have basic protection.²⁴ The problem persists to this day.

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Arab Nationalism, the PLO and Armed Struggle

Since the UN body created to protect Palestinian rights and facilitate their fulfillment had failed very soon after it was created, what of humanitarian negotiations between states? Palestinian political organization was initially very limited because of the dispersal of Palestinian refugees across the Arab world. Moreover, the domestic laws of some of the countries they found themselves in prevented them from effective mobilization. The leadership of the Arab states have not been consistent in their support for the Palestinians, and it can be argued that they sometimes even worked against the interests and desires of the Palestinians. Even before the 1948 Arab-Israel War, in November of 1947, there was an unwritten agreement between King Abdullah of Jordan and the Jewish Agency to divide Palestine between themselves.²⁵ In Syria in 1949, after a military coup by Colonel Husni Zaim, an offer was made to the Israelis that in exchange for permanent access with Israel to the Jordan River and Lake Tiberius, Syria would resettle 300,000 of the 700,000 refugees. Israel refused to discuss the offer.²⁶ After the war, King Abdullah of Jordan and King Farouk of Egypt both proposed political settlements with Israel, but David Ben-Gurion, the first prime minister of Israel, rejected them because he did not want to make any concessions, no matter how minute, on refugees or on borders.²⁷

Yet the Palestine issue was very much discussed within the Arab League. In 1952, the Council recommended the resettling of Palestinian refugees in the Arab states, while emphasizing that this would not affect their right of return. Moreover, a “Palestine department” was established in the secretariat to deal with Palestinian affairs. However, negotiations were difficult because of the official boycott of “all regional organizations and conferences in which Israel participated”.²⁸ Furthermore, most of the resolutions regarding Palestinians were not implemented. The Casablanca Protocol, for example, outlines the treatment of Palestinians residing in Arab states pending their return,²⁹ but the application has been inconsistent.³⁰ In 1956, UK Prime Minister Anthony Eden attempted to assist with a peace settlement between the Arab countries and Israel. It was reported that Egyptian Prime Minister Nasser welcomed the efforts. Israel, however, viewed these efforts as unacceptable because they included the re-admittance of refugees and ceding some territories.³¹

In the period after the first Arab-Israeli war, Arab nationalist sentiment was high. Most Palestinians saw that the recovery of their homeland was part of a wider Arab movement, and thus they identified with pan-Arab parties, which they believed to be committed to their cause.³² In Beirut in the early 1950s, Palestinian and Arab students founded the Movement of

Arab Nationalists (MAN, *harakat al-qawmiyyin al-‘arab*), whose ideology was Arab nationalism and its early method for defeating the Zionists was revenge.³³ With the rise of the charismatic Nasser of Egypt in 1955, it was seen that the liberation of Palestine would occur after the achievement of Arab unity.³⁴ The refugee issue was subsumed within these larger goals. However, another movement was formed in 1959: Fatah. It was founded mostly by the refugees of 1948 and thus the refugee issue was at its core. The return of the refugees was also seen as part of the liberation of Palestine through armed struggle.³⁵ In 1964, the Palestine Liberation Organization (PLO) was founded with the goal of the liberation of Palestine.³⁶ Between 1964 and 1967, the PLO established itself through diplomacy by representing Palestine at Arab Summit Conferences.

Yet the June 1967 war between Israel and its Arab neighbors was seen to be the final blow against Arab nationalism.³⁷ The occupation of the rest of Palestine (the West Bank, Gaza and East Jerusalem) meant that action had to be taken at least to retrieve those areas, independent of Arab unity. In 1968, the Palestine National Charter was revised. Article 9 stated:

Armed struggle is the only way to liberate Palestine. This is the overall strategy, not merely a tactical phase. The Palestinian Arab people assert their absolute determination and firm resolution to continue their armed struggle and to

work for an armed popular revolution for the liberation of their country and their return to it. They also assert their right to normal life in Palestine and to exercise their right to self-determination and sovereignty over it.³⁸

Thus from 1968, the Palestinian resistance groups were engaged in guerilla warfare.³⁹ However, the PLO suffered a severe blow with Israel's attack on them in Lebanon in 1982. Although there was fierce criticism of Israel from the international community due to their use of cluster bombs and the horrific Sabra and Shatila massacre,⁴⁰ the PLO was considerably weakened and had to leave their base in Lebanon to Tunisia.

From the Declaration of a Palestinian State to Oslo

In 1984, PLO leader Yasser Arafat stated his willingness to negotiate a peaceful settlement to the conflict with the Israelis, but nothing came of it.⁴¹ Yet something major happened in December of 1987: The Palestinian *intifada*, or popular uprising. This shifted the focus from the struggle for Palestine from those who were exiled to the struggle of those within against the occupation, and the assertion of sovereignty over what remained of Palestine. The 19th session of the Palestine National Council in November of 1988, held in Algiers, was called the "The Intifada Session", and Arafat declared a Palestinian state, and agreed on a peaceful resolution of

the conflict based on UN Resolutions 181 (the partition resolution), 242 (withdrawal of Israeli forces from the 1967 Occupied Territories and return of displaced people from those Territories), and 338 (ceasefire and negotiations between the parties). The PLO entered into negotiations with the United States at the end of 1988. The Madrid conference was held in 1991 between Israel and the Palestinians, Jordan, Syria and Lebanon. The Refugee Working Group (RWG) was established as one of the working groups of the peace process. While the RWG did not address any sensitive political issues, such as the right of return or compensation, it focused on refugee conditions and mobilized to address them. It was able to raise funds in order to improve the situation in the refugee camps.

The Oslo Accords were the most significant negotiations of this period. The Oslo Accords were a series of agreements starting from 1993 to 1999. They reflected the imbalance of power, as they offered the Palestinians much less than they are legally entitled to.⁴² The main focus of these agreements was interim arrangements for the West Bank and Gaza until the conclusion of a final agreement. The Declaration of Principles (DOP), which was produced at the negotiations in Oslo in 1993, provided the framework for negotiations. Yet it is completely silent on the most vital of issues, namely: the right of return

of the 1948 refugees, borders, and the status of Jerusalem. As historian Avi Shlaim notes, “if these issues had been addressed, there would have been no accord”.⁴³ More importantly, the DOP does not even commit Israel to stopping its illegal activities such as the building of settlements in Occupied Territory.⁴⁴ Between 1967-1977, more than ninety settlements were established in the Occupied Territories (including the Golan Heights and Gaza).⁴⁵ As of late 2012, 125 settlements that are officially recognized by the Israeli government were established in the West Bank. This number does not include the over 100 ‘outposts’ (these are settlements built without official authorization but which nonetheless receive support from government ministries) in the West Bank. The settler population is currently estimated to be over half a million people.⁴⁶ What Oslo did establish was a committee for the return of those displaced during the 1967 War, as they would be returning to the Occupied Territories. One achievement of the committee, as well as Oslo II in 1995, was the return of 80,000 Palestinians to the Territories.⁴⁷ The refugees of 1948, however, seem to be left out of any sort of political or humanitarian diplomacy.

Unfortunately, this highlights the very real issue that there is no powerful state that is willing to exert pressure on Israel. On the contrary, the most powerful state, the United States, is actively aiding

the violation of humanitarian principles and international law by vetoing Security Council resolutions that are critical of Israel.⁴⁸ Although the United States had promised during negotiations to be an “honest broker”, it has proved to be anything but. In the 1970s, in a letter from then US President Gerald Ford to Israeli Prime Minister Yitzhak Rabin, the US agreed that it would not propose anything that Israel would find unsatisfactory.⁴⁹ The US has only been willing to overrule Israeli preferences when it came to US foreign policy interests, especially during the Cold War.⁵⁰ This has continued until today, with no pressure on Israel to comply with international law.

These groups do not engage in humanitarian diplomacy. Thus to fill this void of diplomacy on behalf of the refugees, as well as to counter Israel’s repeated violation of Palestinian rights and international law, Palestinian civil society gave birth to the 2005 Boycott, Divestment and Sanctions (BDS) movement.

In November of 2012, the UN General Assembly voted overwhelmingly to upgrade Palestine to Non-Member

Observer State status at the UN. Full membership was denied because of the threat of a United States veto. However, this upgrade did very little to change the situation on the ground. Moreover, there are related legal issues associated with the upgrade. The PLO represents the Palestinian people as a whole, in the Diaspora as well as within, and thus is not confined to territory. Without addressing the wider issues, particularly the issue of refugees, Guy Goodwin-Gill, international lawyer and expert on refugee law, states that “The interests of the Palestinian people are at risk of prejudice and fragmentation, unless steps are taken to ensure and maintain their representation through the Palestinian Liberation Organization, until such time as there is in place a State competent and fully able to assume these responsibilities towards the people at large.”⁵¹ Thus the fate of the refugees remains in limbo.

Palestinian Refugees Today

There are over 5 million registered Palestine refugees with UNRWA today.⁵² Approximately 1.5 million live inside the UNRWA registered camps that are scattered throughout Lebanon, Jordan, Syria, the West Bank and Gaza. However, this number does not include the almost 1.6 million 1948 non-registered⁵³ refugees or those who are internally displaced within Israel or the

Occupied Territories. It is estimated that there are some 7.3 million Palestinian refugees and internally displaced persons out of a global population of 9.7 million persons.⁵⁴ Jordan is the only Arab country to give Palestinian refugees citizenship on a largescale, and thus there are about 1.9 million Palestinian refugees with full Jordanian citizenship. There are, however, about 120,000 refugees from Gaza who fled to Jordan but remain stateless. The remainder of the total registered refugees are stateless (over 3 million).⁵⁵ Since the refugee issue and the right of return has not been the focus of major negotiations since the 1950s, several human rights organization and NGOs have kept the issue alive.

One such organization is the BADIL Resource Center for Palestinian Residency and Refugees Rights. BADIL has a campaigns unit and a resource unit, and they issue many publications on the refugee issue, from statistics to legal issues. Al-Awda is another grassroots organization dedicated to wider education on the plight of Palestinian refugees and their associated rights. However, these groups do not engage in humanitarian diplomacy. Thus to fill this void of diplomacy on behalf of the refugees, as well as to counter Israel’s repeated violation of Palestinian rights and international law, Palestinian civil society gave birth to the 2005 Boycott, Divestment and Sanctions (BDS) movement. The call for BDS states that one of the reasons for it is that,

... all forms of international intervention and peace-making have until now failed to convince or force Israel to comply with humanitarian law, to respect fundamental human rights and to end its occupation and oppression of the people of Palestine.⁵⁶

The BDS movement calls for Israel to comply with international law with regards to the following three aspects:

- Ending its occupation and colonization of all Arab lands and dismantling the Wall
- Recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality;
- Respecting, protecting and promoting the rights of Palestinian refugees to return to their homes and properties as stipulated in UN resolution 194.⁵⁷

While the Palestinian refugee issue is arguably the core of the Palestine question, as the majority of Palestinians are refugees who are prevented from returning home, there has been very little diplomacy to promote the refugees' rights.

The BDS movement has seen a number of successes since its inception. In 2010, over 100 academics from South Africa, coming from over 13 universities, pledged for ending collaboration with

the Israeli occupation. A trade union in the Netherlands, Abvakabo, ended its relationship with the security provider G4S over its activities in the West Bank. A major US pension-fund, TIAA-CREF, divested from Veolia, a company with controversial activities in the West Bank. Recently, in 2013, the American Studies Association endorsed the boycott of Israeli institutions. It is widely seen that the international boycott helped to end Apartheid in South Africa, and thus the importance of the BDS movement in the case of furthering Palestinian rights cannot be underestimated.⁵⁸

Aside from the BDS movement, Palestinian refugees have attempted to claim their right of return by marching to the borders of their respective host countries and Israel. While this was attempted several times in the past, March 15th (Nakba Day) of 2011 saw the most successful marches in terms of numbers. Over 50,000 Palestinians in Lebanon marched to the border with Israel, yet the Israeli army opened fire, killing ten and injuring over 100 people. In Syria, refugees marched across the barbed wire that separated them from the Occupied Golan Heights. There were attempts from refugees in Egypt, the West Bank, as well as the internally displaced inside Israel to march back.⁵⁹

Conclusion

While the Palestinian refugee issue is arguably the core of the Palestine

question, as the majority of Palestinians are refugees who are prevented from returning home, there has been very little diplomacy to promote the refugees' rights. Humanitarian diplomacy in particular has been visibly absent, especially since the demise of the UN Conciliation Commission for Palestine. For humanitarian diplomacy to work, there must be some willingness on the part of states or relevant non-state actors to negotiate. However, since the beginning, Israel has flatly rejected any re-admittance of the refugees. Even concessions made by Arab states were dismissed. The state most able to put pressure on Israel, the United States, has stood firmly with Israel. And thus in this realm, diplomacy has failed the Palestinians.

The refugees demand the right to return to the homes from which they were expelled, and to be compensated for their losses. These rights are enshrined in UN General Assembly Resolution 194 and the Universal Declaration of Human Rights, and have been further strengthened by more recent UN resolutions on the right of return of refugees to their homes.

Currently, it is the UN Relief and Works Agency that tends to the refugees'

everyday needs. But even UNRWA cannot advocate for the refugees' rights as that falls outside of its mandate. Many Arab states who have officially undertaken to support the Palestinian refugees, have also failed to fulfill their promises, either in the international arena or within their borders, and this is evidenced by the number of stateless Palestinians in the host countries, many of whom are denied work.

The demands of the refugees are simple and consistent. The refugees demand the right to return to the homes from which they were expelled, and to be compensated for their losses. These rights are enshrined in UN General Assembly Resolution 194 and the Universal Declaration of Human Rights, and have been further strengthened by more recent UN resolutions on the right of return of refugees to their homes.⁶⁰ Indeed, with the large-scale return of Bosnian refugees to their homes following the devastating war and ethnic cleansing, one needs to ask: why not the Palestinians?

Civil society and the BDS movement seem to be the Palestinian refugees' best hope. As the movement is growing and seeing a number of successes, it is hoped that this pressure can bring about the realization of Palestinian rights just as a similar movement helped to bring down Apartheid in South Africa. Perhaps it is after the pressure comes from the grassroots that diplomacy can find its way to assist Palestinian refugees.

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