

There's a number of lessons that we might learn from this situation. One...is just the whole issue of refugees and the idea that the people who fought their way back into Rwanda were the children of people who had been expelled 35 years earlier. They had been raised in refugee camps and really didn't see a future for themselves in that circumstance, and really had this vision that they had to go home... So I think that's a lesson for us in many refugee situations that do linger, where people are in refugee camp situations for a long time. The Palestinians, of course, come to mind.

—US diplomat Joyce Leader on the Rwanda genocide, speaking on Frontline, 30 Sept. 2003

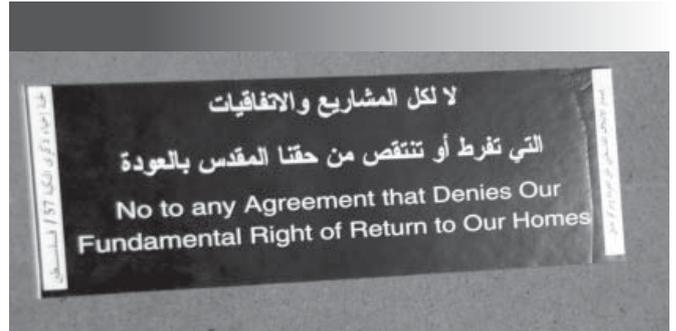


Photo by Badil

Resolving the plight of refugees and internally displaced persons (IDPs) in accordance with international law has become an integral part of peace agreements in other parts of the world, most recently Bosnia-Herzegovina and Darfur. A rights-based approach includes acknowledging the right to remedy and reparation, including the right of return, property restitution and compensation.

For 60 years, Palestinian refugees and IDPs have demanded their right to return to their homes, property restitution and compensation. However, peace negotiations between Israel and Arab states, and later the Palestine Liberation Organization (PLO), have not followed a rights-based approach.

A first round of official negotiations on the question of 1948 Palestinian refugees was facilitated by the United Nations (1949-1952) and based on UN Resolution 194. Israel's position in these talks was that "the desirability of achieving demographic homogeneity in order to avoid minority problems was the principle which should govern the process of repatriation." The UN Conciliation Commission for Palestine (UNCCP) believed that Israel was unwilling to relinquish land belonging to the refugees. In the mid-1950s, the UNCCP reached the conclusion that it was unable to fulfil its mandate due to the lack of international political will to facilitate solutions for Palestinian

► UN General Assembly Resolution 194

The framework for durable solutions for persons displaced in 1948, including internally-displaced persons inside Israel, is set forth in paragraph 11 of UN General Assembly Resolution 194(III), 11 Dec. 1948. This resolution affirms three rights: return, housing and property restitution, and compensation, as well as two distinct solutions: return, restitution and compensation or resettlement, restitution and compensation governed by the principle of individual refugee choice. Specifically, the General Assembly

Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible..."

► UN Security Council Resolution 237

The framework for durable solutions for persons displaced in 1867 is outlined in UN Security Council Resolution 237, of 14 June, 1967, which

Calls upon the Government of Israel to ensure the safety, welfare and security of the inhabitants of the areas where military operations have taken place and to facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities..."



refugees consistent with Resolution 194(III) and international law. Today it has no budget and no staff.

A second round of negotiations was conducted under the sponsorship of the United States and based on the 1993 Declaration of Principles (Madrid-Oslo process 1991-2001). The issue of the 1967 Palestinian refugees, ostensibly less sensitive for Israel as it demands repatriation to the occupied West Bank and Gaza Strip rather than Israel proper, was raised first in this context. Substantial negotiations on the issue of the 1948 Palestinian refugees took place only in the last round of negotiations at Taba in 2001. Exchanging 'non-papers' with the Israeli delegation, the PLO presented a framework for the 1948 refugees that was generally consistent with international law. Israel, on the other hand, laid out a primarily politically-driven framework that allowed for a limited return that could not threaten Israel's Jewish majority. Later, the EU's special envoy said Israel was proposing a refugee absorption quota of 25,000 refugees over three years to 40,000 over five years – less than one percent of the total refugee population. The issue of the 1967 refugees was never resolved during the interim period of the Madrid-Oslo process as required, and the issue of the 1948 refugees has remained unresolved.

IDPs in Israel and the OPT, considered an internal matter by those taking part in the discussions, were not explicitly addressed during the negotiations of the Madrid-Oslo process.

Politically-driven efforts have thus failed to bring about Israeli-Palestinian peace and durable solutions for the Palestinian refugees and IDPs. The gap between the positions of the negotiating parties has remained unbridgeable, as Israel rejects refugee return and restitution as a right so as to safeguard a Jewish majority and retain control over land confiscated from Palestinian refugees and IDPs. Regardless of persistent demands by Arab states and the PLO, no mechanism for enforcing international law and UN resolutions 194 and 237 has been incorporated into peace negotiations with Israel. This is due to the lack of powerful Western states' political will.

Today, talks are underway based on the "Performance-based Road Map to a Permanent Two-State Solution to the Israeli-Palestinian Conflict" drafted by the Quartet (comprised of the US, EU, the UN and Russia) in 2003. The Road Map calls for an "agreed, just, fair and realistic solution" to the refugee problem. It does not expressly mention UN Resolution 194, but does refer to an Arab League declaration that offers Israel full peace in exchange for a full withdrawal from Arab lands and a solution to the refugee problem based on UN Resolution 194. The US administration led by George Bush has deeply undermined international law and Resolution 194, writing in a 2004 letter to Israeli Prime Minister Ariel Sharon that "an agreed, just, fair, and realistic framework for a solution to the Palestinian refugee issue as part of any final status agreement will need to be found through the establishment of a Palestinian state, and the settling of Palestinian refugees there, rather than in Israel."

US Secretary of State Condoleezza Rice on ABC Nightline with Cynthia McFadden, 28 Sept. 2007

QUESTION: I want to just go back to the right of return for one moment, understanding that you're not going to tell me the right answer here, if you indeed know it. Compensation has to be part of this as well. One imagines that there's some sort of compensation to those who were removed from their land and their home. Has that portion of it been started to be thought out? Because one imagines this is billions of dollars.

SECRETARY RICE: Well, look, let me be very clear. The Palestinian state is, in fact, a homeland for the Palestinian people. What else is it but a homeland for the Palestinian people? And of course it therefore has an effect on the answer to the refugee issue. So I want to be very clearly understood that the refugee issue takes place in a different context now that you have a Palestinian state.

But of course, there have been international efforts, international discussions – the Canadians have led a lot of those coming out of Madrid – about how you would set up an international mechanism to deal with refugee issues, how you might think about issues of compensation. A lot of that work has gone on over a long period of time. And I talked yesterday – the Canadian Foreign Minister offered again to play Canada's historic role in thinking through these refugee issues, and I think at some point in time there will be, have to be, an international effort. And I believe that yesterday Prime Minister Olmert said that Israel would participate in an international effort to help deal with the refugee problem.