



Darwinism has no place in international law

According to Senator Kirk's amendment presented to the Senate last week, only those Palestinians made refugees by the military actions of 1948 and 1967 would be classed as such. The term 'refugee' would thus not be applicable to individuals displaced outside of these narrow timeframes, nor would it apply to the descendants of those displaced in 1948 and 1967. This artificial reclassification is troubling for a number of reasons:

1. Although 1948 and 1967 represent the most significant periods of forcible displacement purely in terms of the number of refugees concerned, such an approach fails to appreciate the ongoing nature of forcible displacement, which predates 1948 and continues to this day. The Palestinian population is exposed to daily human rights violations by the Israeli occupying power and is facing constant forcible displacement. Additionally, Israel continuously denies and violates the right of Palestinian refugees to return and to live in dignity.
2. The proposed amendment promotes an environment akin to 'survival of the fittest' whereby a powerful oppressor can utilize force to acquire land from a less powerful entity, safe in the knowledge that the obligations owed to refugees generated through such actions under international law will gradually evaporate over time with the passing of these individuals. Darwinism has no place in international law, and Senator Kirk is effectively advocating a statute of limitations on the inalienable rights of the Palestinian people.
3. Furthermore, these proposed limitations contravene the well-established rule which governs the resolution of refugee cases; that is, an individual's status as a refugee can only be rescinded when that individual is afforded the voluntary choice between one of three durable solutions: return, integration, and resettlement. This is a right which has so far been denied to Palestinian refugees by the state of Israel.
4. It should also be noted that the passing on of refugee status to descendants is not unique to Palestinians. UNHCR, which is independent of UNRWA and has a much wider geographic remit, also allows for refugee status to be acquired by subsequent generations of those initially displaced. This is a condition common to refugees whose situations are characterized as prolonged refugee situations.
5. If Congress were to pass a Bill, which stated that in the event of an individual being illegally forced from their own home by an aggressor, legal title for the property in question would be passed to the aggressor after a set period of time had elapsed, such legislation would quite rightly result in public outcry. This however is the reality of the proposed amendment, with Israel shedding its legal obligations to those it has forcibly displaced and having its illegal acquisition of Palestinian land retrospectively legalized. This is a dangerous and unwelcome precedent to establish.

In conclusion, the true and equitable solution to the Palestinian refugee question is not to be found through the arbitrary re-labeling of refugee status, but through enforcement of the internationally-recognized right of return, allowing Palestinians to return to their homes and places of origin.