

Testimony

Addressing the Palestinian Refugee Problem

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Tuesday, May 8, 2007

Mr. Chairman,

I commend you on holding a hearing on the important subject of refugees the resolution of which is essential for a lasting Arab-Israeli peace settlement. Six decades after the onset of the conflict hundreds of thousands of Palestinian refugees remain stateless and living in humiliating conditions in refugee camps. Today, there are approximately 4.5 Million refugees registered with the United Nation Relief and Works Agency (UNWRA) and hundreds of thousands more who had become refugees after the 1967 war and who are classified as “displaced” persons. Some, like the 400,000 refugees in Lebanon are not only stateless but have little access to jobs and social services in their host country. The vast majority of Gaza’s population is made up of refugees who left in 1948 from what is now central Israel-with many remaining in crowded camps.

This human tragedy alone should propel the international community to act. I know that there has been much focus in Congress in recent years on the issue of books and speeches as motivating factors for young Palestinians. This is certainly a legitimate area of discussion, but it should be clear that the miserable conditions of refugee camps coupled with a pervasive sense of injustice provide far more powerful motivations.

Changing the living conditions of refugees will be central, but it is a mistake to think that the issue of Palestinian refugees is only an issue of material compensation and settlement. There are important political, legal, psychological, and moral aspects to this issue that have been even bigger barriers to its resolution. Unless a peace settlement finds a way to address these aspects, it is unlikely to be lasting.

Allow me to briefly articulate five central issues for the resolution of the Palestinian refugee problem:

1. The “Right of Return”: The Palestinian refugee claim to the right of return to their original homes in what is now Israel is one of the most difficult challenges to a peace

agreement. But it is not beyond resolution. The primary Israeli concern in accepting a Palestinian “right of return” is that many Palestinians would choose to return and thus make Jews a minority in Israel. Thus it is highly unlikely that Israelis would recognize a Palestinian “right of return” before the shape of a final settlement on refugees is already agreed.

It is also certain that Palestinians will continue to demand an acknowledgement of such a right as a pre-condition for any agreement. This is not merely a bargaining tactic intended to maximize compensation from Israel, but a deeply held conviction that is tied to how Palestinians have defined their struggle in the past six decades. The “right of return” has been the single most important issue that has mobilized refugees into a political movement in the past 59 years and has become part of Palestinian identity. It has provided the moral explanation for all the hardship that two generations of refugees have painfully endured. It is a highly emotional issue whose acknowledgment could go a long way toward healing past wounds. Acknowledgment raises questions about responsibility.

To tell refugees that no one is responsible for their homelessness is to place the blame for their pain squarely on their own shoulders.

But the issue is also partly legal; in the end Israel’s interest in closing the files of potential refugee claims once and for all entails acknowledging particular rights, claims to which are settled through practical arrangements. Even if one ignores the specific phrase “right of return,” Israel would still have to contend with UN resolutions and other bodies of international law that allow Palestinians to file claims, individually and collectively.

The most discussed UN resolution in this regard is UN General Assembly resolution 194. While this resolution does not specifically employ the term “right of return,” it stipulates that “the refugees wishing to return to their homes and live at peace with their neighbors 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.”

In other words, the choice of return rests with refugees. While the applicability, enforceability, and relevance of UN resolutions and other international laws can always be contested, the fact remains that these contestations provide indefinite openings for refugees to present claims both individually and collectively, in regards to which there is likely to remain much international sympathy.

In this regard, Israel's interest is also in seeing that all legal claims such as those emanating from UN Resolution 194 are settled once and for all, with Palestinians foregoing future claims. This suggests that both the acknowledgement of Palestinian rights and the specific settlement of claims to these rights must be nearly simultaneous, in the context of a final settlement of the conflict.

This also suggests that much of the work on this issue must be performed by outside mediators as it is unlikely that either side will be the first to make the needed concessions.

2. Practical Settlement. One must differentiate between “rights” and the specific settlement of claims to these rights. The practical steps to settle refugee claims to their rights are well defined by the nature of a political settlement. The basis of a two-state solution to the Palestinian-Israeli conflict is a nationalist framing of the conflict that sees a need for Jews and Palestinians to have states of their own. This entails Israel as a state with a Jewish majority, and thus Israel will not accept the return of most Palestinian refugees to Israel itself in a way that jeopardizes this majority. In reality, some Palestinian polls suggest that even if given a chance to return to their homes in Israel, Palestinians would choose other good alternatives if available. The key issue here is not so much the compensation for property, but the actual permanent resettlement of refugees.

What is central is providing refugees with options including compensation. A settlement cannot be imposed on them. Those options could include citizenship in the Palestinian state in the West Bank and Gaza; settlement in host countries as negotiated, perhaps multilaterally, with these countries; settlement in potential countries in the West, including Europe, the United States and Canada; and a lottery for a limited number, agreed upon between Israel and the Palestinians, for possible settlement in Israel itself. Israel has already signaled at various stages a possible willingness to accept a limited number of Palestinian refugees so long as it does not alter Israel's Jewish majority.

3. “Historical Justice”. No one has a monopoly on justice, but each group's sense of justice provides motivation that is hard to ignore. While a political settlement cannot be primarily based on either side's notion of what is just, these notions cannot be entirely ignored in the pursuit of a lasting settlement. But a process of examining issues of historical justice that could bring healing after decades of painful conflict can only fully occur after an agreement is signed. A peace agreement must establish a “truth and reconciliation commission” similar to the one established in South Africa to review historical claims. It is much easier to tell the full historical story and to have maximal honesty when the results will not affect the actual terms of a settlement or lead to punishment of those found to have committed crimes.

4. Linkage with Jewish Refugees. The issue of Jewish refugees from Arab states is an important one and could be raised and discussed in the context of a comprehensive settlement of the Arab-Israeli conflict. While both the Palestinian refugee issue and the Jewish refugee issue have some common elements, it is important to also note differences that suggest minimizing the link at the bilateral Israeli-Palestinian level; it is a mistake to think that they are identical, even separate from any historical accounts about their origins.

First, the primary Palestinian refugee claims are with Israel, while Jewish refugee claims are not with the Palestinians but with Arab states.

Second, it is not even an Israeli interest to create a direct link and suggest unified solutions: Many Arab states are prepared to accept return of Jews to these countries, but Israel is not prepared to accept most Palestinian refugees. Thus the place for such linkage is not in the bilateral Palestinian-Israeli negotiations but primarily in multilateral negotiations pertaining to the costs of compensation and the responsibilities of the various parties in contributing their share to these costs.

5. The Role of the United States and the International Community. While the Palestinian refugee issue is at the core an Israeli-Palestinian issue, it also involves host countries, international agencies, and other countries that may provide final settlement options for refugees. The costs of compensation will inevitably be high, thus in practice requiring major international contributions. Concessions on difficult issues are likely to be nearly simultaneous which requires a third-party role. All this entails a need for an international role, especially American, in coordinating multilateral efforts that will be required not only in implementing agreements reached, but in providing options that make an agreement possible.

Source: <https://www.brookings.edu/testimonies/addressing-the-palestinian-refugee-problem/>