

**The Fatah Goal at the UN Security Council:
Recognition of the Claim of a “Right of Return”**

The Current Security Council Debate

The single major issue that has preoccupied the UN Security Council at the current UN session has been the issue pressed by the Palestinian leadership for adoption of a resolution concerning the Israeli/Palestinian dispute. A resolution of the nature called for by the Palestinian side was introduced by Jordan and came up for a vote on December 30, 2014. It failed of adoption on two grounds: (1) It did not get the required 9 affirmative votes. (2) It did not meet the requirement of no negative vote by a Permanent Member of the Council.

This failure has not caused the Palestinian leadership to drop the idea of a resolution. There are continuing reports of efforts to line up the 9 affirmative votes, given the change in the Council’s composition in 2015. Yet even if these 9 affirmative votes will have been lined up, the resolution will not be adopted because the United States has made it clear that it will cast a negative vote, thus preventing adoption. That raises the question of why Mahmoud Abbas and his associates are continuing to spend their time trying to line up votes for a resolution that is sure to fail. They are taking a chance of losing significant economic support from the United States. Why have they decided to give up on negotiations with Israel under U. S. auspices and have decided to engage the UN as the intermediary?

It is clear that the United States supports a two-state solution and would see to it that the new Palestinian state would receive significant support to get quickly on a sound footing. What is increasingly evident is that the Fatah leadership does not believe in the two-state solution. It shares the Hamas position, which calls for the end of the existence of the State of Israel. While Hamas wants to attain that result by military force, the Fatah leadership wants to end the existence of a majority Jewish state through the mass migration to Israel of the 1948 Arab refugees and the descendants of these refugees, which now include their great-grandchildren. They are altogether more than 5 million people (less than 1% are original refugees). This mass migration would take place under what is claimed to be “the right of return.”

What Fatah has decided is to meet the Hamas political competition and be able to demonstrate that it, too, wants to end the existence of Israel and that it is lining up support at the United Nations, with only the United States in opposition. Fatah expects that the United States, finding itself alone, will ultimately give up and thus allow the liquidation of the State of Israel in a political rather than military fashion.

The Basis for the Claim for a “Right of Return”

While the insistence on the claim of a “right of return” is stated clearly in pronouncements made by Palestinian officials in communicating with their followers, the claim is camouflaged in dealing with the international community. That is done to keep persons not familiar with the relevant terminology ignorant as to the true meaning of the demands asserted. Thus, in all

Fatah pronouncements on peace negotiations with Israel we can find the demand that the peace settlement must be based on the Arab Peace Initiative and on UN General Assembly Resolution 194 (III).

In the Security Council resolution that failed of approval on December 30, 2014, that demand appears in operative paragraph 2, under which the Security Council would have decided “that the negotiated solution will be based on the following parameters: ... A just and agreed solution to the Palestine refugee question on the basis of the Arab Peace Initiative, international law and relevant United Nations resolutions, including resolutions 194 (III).”

What needs to be noted is that the Arab Peace Initiative, as adopted by the Summit-level Council of the Arab League in March 2002 calls upon Israel ... to arrive at a just and agreed solution to the Palestine refugee problem in accordance with United Nations General Assembly resolution 194 (III) and goes on to guarantee **“the rejection of all forms of Palestinian resettlement, which is incompatible with the situation in the Arab host countries**” (Emphasis supplied.)

While the Arab Peace Initiative contains a clear statement that resettlement is not an option, Resolution 194 is not that clear. It is a resolution adopted by the UN General Assembly in December 1948, while the war between Israel and its Arab neighbors was still ongoing. The resolution established a Conciliation Commission and provided directives as to how it was to function. It went on to provide that Holy Places were to be protected and free access to them assured. It declared that Jerusalem and its surroundings, including Bethlehem “should be accorded separate and special treatment from the rest of Palestine and should be placed under effective United Nations control.” It was in paragraph 11 that the words appear that are now claimed to grant a “right of return”:

“*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.... *Instructs* the Conciliation Commission to facilitate the repatriation, **resettlement** and social rehabilitation of the refugees... (Emphasis supplied.)

It is worth noting that all Arab states that were members of the UN at that time voted *against* Resolution 194. In all likelihood the reason for their negative vote was that they disagreed with the provisions dealing with the future of Jerusalem under a UN mandate. They clearly did not regard paragraph 11 as deserving special attention.

We are thus here discussing a resolution adopted 66 years ago, dealing with the circumstances of that time and that this was a UN General Assembly resolution. We are thus dealing with a recommendation rather than a mandate, a fact that is appropriately reflected in the use of the word “should” rather than “shall.” We need also take note of the fact that the resolution recognizes that refugees might not be repatriated and suggests that in that case they be resettled. That takes us to the question of why the refugees of 1948/49 have not been resettled and why the great-great-grandchild of a refugee of 66 years ago that is born today qualifies as a “refugee.”

Palestinian Refugees – a Unique Exception from the International Rule

In December 1950 the United Nations established the Office of the High Commissioner for Refugees (UNHCR). That office was to play an important role in the resettlement of the European refugee population of the time, people who had fled their homeland during World War II and its aftermath, which saw the redrawing of national borders in Europe. As the years

went by, UNHCR's assistance role expanded worldwide. There was only one group of refugees that it did not serve: the Palestinians.

A UN entity to serve refugees, both Arab and Jewish, who fled their homes during the 1948/1949 Arab war against Israel, was established in December 1949. It is the UN Relief and Works Agency (UNRWA). Israel assumed responsibility for the Jewish refugees in 1952. Since then the Agency has served only Arab refugees, to which, over time, it added service to their descendants. No effort was ever undertaken to merge UNRWA into UNHCR, so that a single agency would serve all refugees worldwide.

As it is, the two agencies, UNRWA and UNHCR, differ profoundly from each other in discharging their mission of refugee assistance. First, it is the policy of UNHCR to resettle refugees that cannot be repatriated. UNRWA, by contrast, makes no effort at resettlement. Its staff insists that repatriation is the only way to end the refugee status of Palestinians. Second, UNHCR serves the people who fled from their homeland and their minor children. It does not provide for refugee status to pass from generation to generation. UNRWA, once again by contrast, provides for refugee status to be inherited along the male line. Thus, while it is estimated that there were about 750,000 Arab refugees in 1949, when Israel's war of independence came to an end, less than 50,000 of them still survive. However, more than 5,000,000 *descendants* of persons who fled 65 years ago from the territory that is now Israel claim refugee status today and with it claim "the right of return."

Conclusion

Given the fact that more than 5,000,000 beneficiaries on UNRWA assistance have not been resettled and are not now planned to be resettled, and given the interpretation that has been given to UNGA Res. 194 (III) and given the text of the Arab Peace Initiative, we need to recognize that Fatah seeks UN endorsement of a text that would indeed grant all UNRWA designated "refugees" the "right of return." Chances are that a good many UN member states that abstain or even vote "yes" on Fatah-drafted resolutions are not aware of the fact that they are voting for a text, which, if adopted and implemented, would lead to the liquidation of the State of Israel. It is the United States position on the Security Council that holds the line, but it is important that other states be made fully aware of the "right of return" claim and make it clear that they, too, believe that the solution is resettlement, as proposed by President Clinton in the "Clinton Parameters" of 2000.

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