

Comité de Solidaridad con la Causa Árabe



COMITÉ DE SOLIDARIDAD CON LA CAUSA ÁRABE



The United Nations Resolution 194 & the Palestinian Refugees

Palestinian Refugees' Rights Series (3)

The Right
to Return
Home is
Inalienable



العودة الى الديار الاصلية
حق
غير قابل للتصرف

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The United Nations General Assembly Resolution No. 194 and the Palestinian Refugees

The United Nations General Assembly issued on 29 November 1947 its famous Resolution No.181 in which it ruled the partition of Palestine into two states and the establishment of an economic unity between them. In this context, the Resolution recommended to put an end to the British Mandate over Palestine, and the division of its territory into 3 new entities:

- The establishment of a Palestinian Arab state on 45% of the land of Palestine.
- The establishment of a Jewish state on 55% of the land of Palestine.
- The cities of Jerusalem and Bethlehem to fall in a special area, under international trusteeship.

- The percentage of the Jewish population in Palestine in 1947 was 31.7%
- The percentage of land owned by the Jewish population in Palestine in 1947 was 6.5%.
- While the percentage of land to be given to the Jewish state according to the partition resolution reached 55%.

- The Arab states and the Palestinian people refused the aforesaid partition resolution, while the conflict and confrontation intensified between the Western trained and backed Zionist gangs and the Palestinians. The Palestinian people fought with modest potentials to defend their right to acquire national independence from the Mandate, and to prevent the establishment of a Zionist, racist entity on part of their national territory. After that, and following the withdrawal of the British troops from Palestine, war broke out between the Arab states and "Israel" on 15 May 1948. The Zionist gangs who received military backing and support from western countries were prepared for war, unlike the Arab armies, who were unprepared and poorly equipped militarily and thus they were unable to repel and defeat the Zionist gangs.
- The United Nations attempted to resolve the conflict in Palestine, and to implement Resolution 181, when it assigned the Swedish humanitarian activist on the international level, Count Folke Bernadotte, as mediator

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between the parties in conflict on 20 May, 1948. Count Bernadotte became the first international mediator in the history of the UN organization. He started his mission on 21 May, 1948, and he presented his report to the Security Council on 27 June, 1948 to settle the dispute between Arabs and Jews in Palestine, and the achievement of peace. The following was stated in the 9th item of the proposals contained in his report:

Recognition is accorded to the right of residents of Palestine who, because of the conditions created by the conflict there, have left their normal places of residence, to return to their homes without restriction and to retrieve the possession of their properties.

In the same year, Count Bernadotte amended his report (which was published in Paris on 20, September 1948) and the revised version was submitted to the United Nations Security Council. In this report he states:

“The United Nations should affirm the right of the Arab refugees to return to their homes in the Jewish-controlled territory at the earliest possible date, and their repatriation, resettlement and economic and social rehabilitation, and the payment of adequate property compensation for those choosing not to return”.

The Jewish organizations and gangs refused the proposals of Count Bernadotte as they did not comply with their ambitions for expansion and domination, nor were they limited to the refugees' right of return and the retrieval of their properties. The proposals included suggestions regarding the organization of the international Jewish immigration, and some border adjustments between the Arab and Jewish states, as portrayed by the partition resolution issued by the United Nations. His proposal included the annex of the Negev region to the Arab state and the Galilee region to the Jewish state; the inclusion of all of Jerusalem within the Arab state, and granting self autonomy to the Jewish community in respect to municipal affairs, and continued Arab sovereignty over Jerusalem. The opposition to the suggestions led by Shamir's Stern group against Bernadotte's proposals was the most violent. Consistent with this opposition was the reply which Moshe Sharett, the “Israeli government's” interim foreign minister at that time, addressed to the international mediator regarding the Palestinian Refugee

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right of return, the main points of which are highlighted here under:

- In spite of the plight of the Arabs who, as a result of the present war, find themselves uprooted from their homes and cast adrift. ... Nevertheless, we find ourselves unable to agree on their readmission to the Israel-controlled areas, it is because of overriding considerations, bearing on our immediate security...
- Reference to the return of Arab refugees as being one of the questions under dispute is not true, as the root cause of the present conflict of which the mass flight of Arabs and their consequent suffering are mere corollaries, is the refusal of the Arab League to accept the State of Israel either as a matter of right or as an accomplished fact.
- The return of the former residents of Jaffa and Haifa, constitute a danger to the peace and stability of Israel, as both cities were centers of grave menace to Jewish security...
- On the economic side, the reintegration of the returning Arabs into normal life, and even their mere maintenance, would present an insoluble problem. The difficulties of accommodation, employment and ordinary livelihood would be insuperable.
- The readmission of the Arabs, who fled from their homes, will be discussed when the Arab States are ready to conclude a peace treaty with Israel, this question will come up for constructive solution as a part of a comprehensive settlement....

Facts about the Ethnic Cleansing

- The number of villages depopulated because of expulsion by Jewish forces reached 122 villages, and the population of 270 villages abandoned their homes because of direct Jewish military attacks; 38 villages were depopulated because of fear from Jewish attacks, and the depopulation of 49 villages resulted from fear of possible repercussions of the fall of the nearby cities; 12 villages were depopulated as a result of the psychological war, while the inhabitants of 6 villages left optionally. In addition there were 34 villages which were abandoned for unknown reasons. Thus in the year 1948, the number of Palestinian depopulated villages reached 531 village.
- The number of Palestinian refugees in 1948 was estimated to be between

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760,000 and 900,000 Palestinians. Most of them headed towards other parts in Palestine, like the West Bank and Gaza Strip, and some took refuge in Jordan, Lebanon, Syria, while a lower percentage took refuge in Iraq and Egypt, and the rest resorted to other countries such as Saudi Arabia, Libya and Western countries. The reasons for the exodus of the Palestinian is summarized as follows:

1. The military operations by the Haganah gangs on Arab towns and villages directly or on adjacent sites caused around 55% of the displacement.
2. The impact of the military operations executed by the Jewish dissident forces (such as Irgun and Lehi, and Etzel) was estimated to induce 15% of displacement; the combined military operations contributed to the expulsion of about 70% of the Palestinians.
3. The formal and informal orders of Arab institutions 5%.
4. The rumor campaigns and black propaganda (psychological warfare) 1%.
5. Direct orders to leave by Israeli forces 1%.
6. Fear of reprisals from the Jews, especially after the Arab attacks on the Jewish sites 1%.
7. The outcrop of the non official Arab forces from outside the villages 1%.
8. Fear of the official Arab armies' attacks 1%.
9. Isolated Arab villages within Jewish areas 1%.
10. Recourse due to various local considerations, and general fear from the unknown future 19%.

The information about the ethnic cleansing quoted from Palestine memory website: www.palestineremembered.com

Count Bernadotte and the Repercussions of his Report on the Right of Return of Refugees

Bernadotte was assassinated by the Zionist gangs in Jerusalem on 17 September 1948. The United Nation's Assembly discussed in its third session on 23 September 1948 the report of Bernadotte, which was submitted on 16 September 1948. The result of that session with regard to the conflict in Palestine was the issuance of two resolutions, the first resolution was No. 212 dated 19 November 1948, that ruled the establishment of the United Nations Relief for Palestine Refugees (UNRPR), and the second decision pertained to resolution 194 that was issued on 11 December 1948. While the first

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resolution was limited to establish a temporary organization to provide relief, humanitarian assistance to Palestine refugees, due to war and conflict in Palestine, the second resolution contained basic points that were considered by the General Assembly of the United Nations, as the base for resolving the conflict and the establishment of a permanent settlement. So, what were the main points that were addressed in resolution 194, and what were the most important points contained in it?

Resolution No 194 (3rd-session) issued by the General Assembly of the United Nations, and adopted on 11 December, 1948, was based on many points raised in Bernadotte's recommendations, which included a number of basic proposals that aimed to modify conditions in Palestine in order to assist in leading the situation there towards peace in the future. They were as follows:

- The UN to create a subsidiary Conciliation Commission on Palestine, in order to provide solutions to the Arab Israeli conflict.
- The status of Jerusalem City and its surroundings: to be placed under an International Trusteeship System by means of a Trusteeship Agreement which shall designate the United Nations as the permanent Administering Authority, the protection of the holy places, and to secure access under the actual supervision of the UN.
- The right of refugees to return to their homes and properties, and compensation for loss of or damage to property caused by the crises. The text of paragraph 11 that focused on the right of return of refugees was as follows:

“11. Resolves 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; Instructs the Conciliation Commission to facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation, and to maintain close relations with the Director of the United Nations Relief for Palestine Refugees and, through him, with the appropriate organs and agencies of the United Nations;”

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The General Assembly voted on this decision in its 186th meeting, with 35 countries approving, and 15 voting against the decision, and 8 abstentions (absentees).

Voting with the decision: ARGENTINA, AUSTRALIA, BELGIUM, BRAZIL, CANADA, CHINA, COLOMBIA, DENMARK, DOMINICAN REPUBLIC, ECUADOR, EL SALVADOR, ETHIOPIA, FRANCE, GREECE, HAITI, HONDURAS, ICELAND, LIBERIA, LUXEMBOURG, NETHERLANDS, NEW ZEALAND, NICARAGUA, NORWAY, PANAMA, PARAGUAY, PERU, PHILIPPINES, SIAM, SWEDEN, TURKEY, UNION OF SOUTH AFRICA, UNITED KINGDOM, UNITED STATES, URUGUAY, VENEZUELA

Against the Decision: FGHANISTAN, BYELORUSSIAN SSR, CUBA, CZECHOSLOVAKIA, EGYPT, IRAQ, LEBANON, PAKISTAN, POLAND, SAUDI ARABIA, SYRIA, UKRAINIAN SSR, USSR, YEMEN, YUGOSLAVIA

Absentees: BOLIVIA, BURMA, CHILE, COSTA RICA, GUATEMALA, INDIA, IRAN, and MEXICO

Arab position towards Resolution 194

It was well known at that time, as shown above in the list of countries that opposed the decision, it was known that the Arab members of the United Nations rejected the resolution as they considered it a gateway for the recognition of Israel. However, Arab countries returned later and responded to the contents of the fifth paragraph of the Security Council's resolution dated 16 November 1948, which was addressed to the concerned Governments and authorities, and that was seeking to expand the negotiations stated in the said resolution, which aimed to search for an agreement conducted by negotiations either directly or through the Conciliation Commission, in order to make a final settlement of all outstanding issues between the parties. Accordingly, the UN Conciliation Commission on Palestine organized a series of meetings, where it succeeded to reach armistice agreements between Arab countries and Israel, known then as Rhodes agreements. But on the other hand, the UN Conciliation Commission failed thereafter to find a solution for the refugees' dilemma nor was it able to

establish reconciliation and settlement of the conflict between the Arab countries and "Israel," which led to the disablement of the Conciliation Commission's activities since the early fifties.

Reading in the Meanings of 194 Resolution

An objective reading of Resolution 194 reveals that the task of the Commission was not confined to the establishment of peace between the Arab states and Israel, but it stressed that the core functions of the UN Conciliation Commission was also, working on insuring the return of refugees to their homes and properties from which they were expelled, and their compensation for the damage that befell them. In addition to that, to make arrangements with regard to finding a permanent international regime for Jerusalem area. What was noticeable was that, the decision did not refer to Israel by name, which was the entity declared by the Zionists on 15 May 1948 on the part of 1948 Palestine land, which is the Nakba day for the Palestinians. In contrast, it was dealing with Palestine as a single entity, where for example, reference to "Palestine" was repeatedly mentioned at the preface of the General Assembly resolution and in its context, i.e. "which discussed the situation in **Palestine** again". The Resolution also spoke about "commendable activity of the mediator in promoting a peaceful settlement in the forthcoming state in **Palestine**". And "the repeated thanks to the mediator and his staff for their continuing efforts and dedication to their duties in **Palestine**".

The emphasis on the contents of Resolution 194, which means specifically **Palestine**, represented a strong expression of the inability of the international community, for the implementation of the partition resolution and the recognition of Arab and Jewish entities. Therefore the resolution continued to deal with the conflict in Palestine, before its fragmentation and the annexation of part of Palestine thereafter by the Zionists. This revealed the fact that, the United Nations did not recognize Israel as a member state until May 1949, when the United Nations stipulated that Israel must declare its commitment to the UN Charter and to accept the resolutions No. 181 and No. 194, as a prerequisite for admission to membership in the United Nations. These requirements indicated that "Israel" was the only country whose admission as a member state was conditional upon the implementation of the General Assembly resolutions. However, Israel submitted on 29 November, 1948, a request to the Secretary-General of the United Nations for membership in the UN, and on 17 December of the same year the request was rejected by the

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Security Council, on the basis that the new state did not meet the necessary conditions provided for by the Charter of the United Nations. Subsequently, Israel submitted a second request on 24 February, 1949, and then it got the Security Council's recommendation on 4 March of the same year to accept it. The request was approved by the United Nations General Assembly on 11 May of 1949, and Israel was admitted to United Nations General Assembly thereafter.

The Establishment of UNRWA and the 194 Resolution

The United Nations established on 8 December 1949, the United Nations Relief and Works Agency for Palestine Refugees in the Near East, under section 22 of the Charter of the United Nations under resolution 302 (1v) to be responsible for relief of the refugees who fled from Palestine, and to help them overcome the Nakba displacement that befell them. However, as mentioned in the preface of the resolution, the aforementioned organization has been committed to adhere to the contents of paragraph 11 of resolution 194. Also the establishment resolution confirms in its fifth paragraph, that, without prejudice to the contents of paragraph 11 of General Assembly Resolution No. 194, the provision of assistance to Palestine refugees is necessary to prevent hunger and suffering among them in order to provide conditions for peace and stability. It is important to note that in each renewal of UNRWA's mandate since launching its activities in April 1950, the General Assembly, denotes that the reason for the continuing need of providing relief to refugees is due to lack of implementation of the contents of paragraph 11 of resolution 194, which is related to the right of return and compensation for the Palestinian refugees.

It is important to highlight that the United Nations, since the establishment of UNRWA reiterates that the need for providing relief assistance to Palestine refugees stems from the non implementation of Para 11 of Resolution 194 which is related to the right of return and the compensation of the Palestine Refugees. The United Nations in 1950, when discussing the situation in Palestine, stressed on the need for implementing the contents of Resolution 194, especially the sections that related to the return of the refugees. The following was included in the Resolution 394 which was adopted in the meeting No. 325, dated 14 December 1950:

The General Assembly, Recalling its resolution 194 (III) of 11 December



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1948, *Having examined* with appreciation the general progress report dated 2 September 1950, and the supplementary report dated 23 October 1950, of the United Nations Conciliation Commission for Palestine Noting with concern:

- (a) That agreement has not been reached between the parties on the final settlement of the questions outstanding between them,
- (b) That the repatriation, resettlement, economic and social rehabilitation of the refugees and the payment of compensation have not been effected,

Recognizing that, in the interests of the peace and stability of the Near East, the refugee question should be dealt with as a matter of urgency,

1. *Urges* the governments and authorities concerned to seek agreement by negotiations conducted either with the Conciliation Commission or directly, with a view to the final settlement of all questions outstanding between them;
2. *Directs* the United Nations Conciliation Commission for Palestine to establish an office which, under the direction of the Commission, shall:
 - (a) Make such arrangements as it may consider necessary for the assessment and payment of compensation in pursuance of paragraph 11 of General Assembly resolution 194 (III);
 - (b) Work out such arrangements as may be practicable for the implementation of the other objectives of paragraph 11 of the said resolution;
 - (c) Continue consultations with the parties concerned regarding measures for the protection of the rights, property and interests of the refugees;
3. *Calls upon* the governments concerned to undertake measures to ensure that refugees, whether repatriated or resettled, will be treated without any discrimination either in law or in fact.

The vote on the resolution was as follows: with the Resolution: 48; against the resolution: 5; abstentions: 4.

Summary

The Resolution 194 is not the only UN resolution that guarantees the right of refugees to return to their homes and places from which they were expelled. The right of return is guaranteed in the contents of the Human Rights Charter that was issued on 10 December, 1948, which states in the

second paragraph of the Article no 13 the following: "Everyone has the right to leave any country, including his own and to return to his country". This in addition to article 17, which states in the second paragraph : "No one shall be arbitrarily deprived of his property. "In addition, Article 49 of the Fourth Geneva Convention for the Protection of Civilian in Times of War, which was issued on 12 August, 1949 (the Convention is considered as preemptory judgment, even if it is not signed by State), mentioned that: "the Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motives." Add to the above, there are a lot of regional human rights charters and conventions, including European, American and African recognizing the right of return of refugees to their homes and their homelands, from which they were forced to leave for various reasons at different intervals.

In this context, we should not forget that reference to the emphasis on the importance and the need of implementing Resolution 194, which was repeated more than a hundred times by the General Assembly, made it a sort of customary law, as per the opinion of some legal experts. The importance of imposing on Israel the implementation of the decision stems from the need for the UN body, to confirm its credibility on the international level; the credibility that was lost due to its failure in implementing decisions targeting Israel. "Israel" continues to reject the implementation of a series of UN resolutions, not only relating to the 1948 Palestinian refugees, but also too many decisions related to the nature of the racist Zionist entity. Among these decisions, are those that are associated with the withdrawal from the Golan Heights, or relating to the displaced persons after the Six-Days War in 1967, like the Security Council resolution No. 237 dated 14.06.1967; the resolution that "calls on the Government of Israel to ensure the safety and welfare and security of the residents of the areas in which military operations took place - that is, the West Bank and Gaza Strip-, and to facilitate the return of those who fled these areas following the outbreak of the fighting.



The Centre for Refugee Rights/ Aidoun (CRR) is an independent non-governmental organization registered in Lebanon (AD No. 1623/2008) to serve as a resource centre for basic human rights of Palestinian refugees, focusing on the right of return.

The CRR incorporated Aidoun Group established in November 1999 to advocate for the Palestinian refugees' right to return.

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