***Do Palestinian Refugees Have a Right to Return?***

*Introduction*

The issue of the Palestinian and Israeli conflict has rooted origins within the territory, religion and politics. From 1000 BC to the 21st century, the land surrounded by Lebanon, Syria and Jordan has been the centre of many wars. After World War I and II, the promotion of Zionism and nationalist movements, the land will be facing seventy-one years of conflicts. The essay will then analyse the history of Palestine/Israel territory under British rule, until the establishment of the State of Israel and the Palestinian exodus.

The heart of the essay will be the Palestine Question on the right to return. The implementation of Resolution 194 (III)[[1]](#footnote-1), 242 and 181 represent the right to return for Palestinian refugees and explanation will be provided on the reason why has attracted criticism. The Israeli point of view will be addressed; the Palestinian point of view will be later on analysed and supported providing legal reasoning. I will then conclude that Palestinians have a legal right to return.

*The Displacement of Palestinians in 1948: the exodus*

It is estimated that around 700.000 Palestinians were forced to exile in 1948 to neighbouring countries, as Lebanon, Syria, Jordan, and pushed into the Gaza strip and the West Bank region[[2]](#footnote-2); 150.000 of the Arab Palestinian population remained and became Israeli citizen. Palestinian refugees claim the recognition of their right to return on a legislative level and a moral recognition of their displacement the State of Israel caused[[3]](#footnote-3).

Both parties do not agree on historical facts and on the legislation. The UN Mediator on Palestine, Bernadotte, stated that an agreement between the two is yet to be found[[4]](#footnote-4).

*The Right to Return: Israeli point of view*

Israel does not recognise the right to return to Palestinian refugees and their descendants under international law[[5]](#footnote-5). Res 2535 reinforces Res 2252, 2351 and 2452[[6]](#footnote-6) of 1968 on the right to return as the solution for the Palestine Question. Also, Art 12 of ICCPR strengthens the right to enter in the one’s own country. Israel does not comply with international law on this matter.

*The Right to Return: Palestinian Point of view*

The right to return is a universal recognised right based on Art 13 of UDHR[[7]](#footnote-7). The Right to Return of Palestinians is based on the UN G.A. Res 194 and it is recognised by international law. However, the Israeli Government does not recognise the right to return for several reasons. This scission has led to an unsettled matter that stands in between a potential peace agreement.

The following paragraph will analyse the moral and legal stands of both parties.

* Palestinian refugees pushed out in 1948 and 1967 cannot return to their original homeland and stripped out of their citizenship.
* Palestinians that remained in Israel after 1948 are Israeli citizens, enjoy the right to vote and equality[[8]](#footnote-8). In reality, they are regarded as *second class* citizens, their salary is lower compared to the Jewish citizen doing the same job and face destruction of their houses[[9]](#footnote-9).
* Palestinians that currently live in Gaza and West Bank face violations of human rights, as reported by the General Assembly[[10]](#footnote-10), as the denial of right to return, lower wages, houses demolition, repression of freedom of expression, restriction of import-export between Gaza and West Bank.

On the other side, Israeli people enjoy the right to acquire citizenship as soon as they arrive in the land, based on the Law of Return 1950. They have the right to acquire land, built on the land, work and vote.

*Question of Apartheid*

Rima Khalaf, the UN Executive Secretary of ESCWA[[11]](#footnote-11) in a press conference in 2017 in Beirut, Lebanon, has defined the State of Israel as racist, imposing a regime similar to the Apartheid in South Africa for the people of Palestine. Israel, knowing to go against principles of international law, does not recognised the right to return, the right of self-determination, equality and dignity to the Palestinians, maintaining almost a racial regime. The Secretary has also suggested to revive the UN Centre against Apartheid (1994 as last year of operation).[[12]](#footnote-12)

*Conclusion*

The struggle endured by Palestinians is acknowledged by the international community, who critiques Israel for not complying with UN resolutions, as the recognition of right to return and the principle of self-determination. In fact, the legal validity of Palestinians’ claims to return to their land is overwhelming. Their struggle is compared to the racial regime of Apartheid that took place in South Africa.

Many suggestions have been advanced, as the two-state solution, the Peace Plan of President Reagan and the proclamation of the State of Palestine but any of those solutions have reached a concrete settlement between the parties. The hope for a future peace agreement should perhaps be looked in negotiations but nevertheless also in the recognition from and of Israeli responsibility in the 1948 Palestinian expulsion from their land. Finally, the right to return has to be recognised by Israel as Palestinians should be allowed to return to their homeland. The territory would be able to welcome Muslims, Jewish and other religious minorities as it did in the past prior and under the Ottoman Empire.

1. UN G.A. Res 194 (III) 1948 [↑](#footnote-ref-1)
2. Jeremie Maurice Bracka, “Past the point of no return? The Palestinian Right of Return in International Human Rights Law” (2005) [↑](#footnote-ref-2)
3. Joseph Alpher et al, 'Concept Paper: The Palestinian Refugee Problem and the Right of Return' (1999) [↑](#footnote-ref-3)
4. Report to the General Assembly 1948, Count Folke Bernadotte [↑](#footnote-ref-4)
5. <https://ohrh.law.ox.ac.uk/palestinian-refugees-and-the-right-of-return-in-international-law/> [↑](#footnote-ref-5)
6. UN G.A. Res 2252 (ES-V), 2341 B (XXII) and 2452 C (XXIII) <https://unispal.un.org/DPA/DPR/unispal.nsf/0/41F2C6DCE4DAA765852560DF004E0AC8> [↑](#footnote-ref-6)
7. UDHR art 13 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23916&LangID=E> [↑](#footnote-ref-7)
8. 1948 Israel proclamation of Independence. [↑](#footnote-ref-8)
9. Henry Cattan “The Palestinian Question” 209/407 (New York, 1988) [↑](#footnote-ref-9)
10. Commission’s report 1984 UN Doc. A/39/591 [↑](#footnote-ref-10)
11. Economic and Social Commission of Western Asia [↑](#footnote-ref-11)
12. ESCWA launches Report on Israeli Practices towards the Palestinian People and the Question of Apartheid (2017) <https://www.unescwa.org/news/escwa-launches-report-israeli-practices-towards-palestinian-people-and-question-apartheid> [↑](#footnote-ref-12)