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ISRAEL'S RIGHTS as a Nation-State in International Diplomacy

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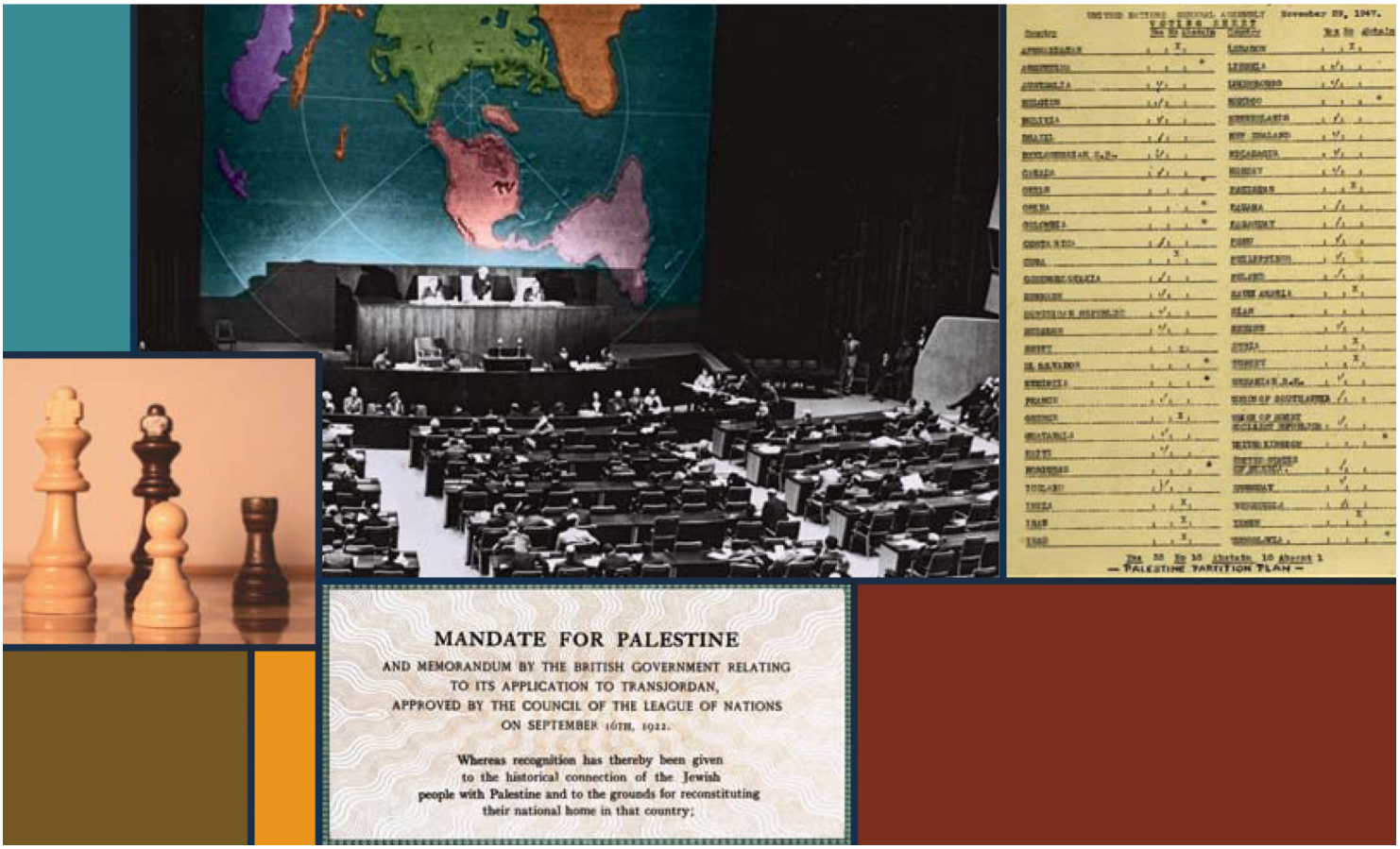

THE UNITED NATIONS AND MIDDLE EAST REFUGEES: THE DIFFERENTIAL TREATMENT OF ARABS AND JEWS

Stanley A. Urman

INTRODUCTION

For over half a century, seminal issues in the Arab-Israeli conflict have defied resolution. Negotiations over security, Jerusalem, refugees, borders, settlements, and so on engender passionate, entrenched demands and expectations.

There are few international arenas that provide a balanced platform for the discussion of these contentious issues and in particular, the issue of refugees. This especially applies to the United Nations and its affiliated entities, where the predominant focus has been on Palestinian refugees.

Emanating as a result of the 1948 conflict in the Middle East, Palestinians are considered by some as the world's longest-standing extant refugee population. They continue to require international assistance. On the political level, the United Nations has addressed – and continues to address annually – the issue of Palestinian refugees exclusively, even though Palestinians were not the only Middle East refugees.

Their continuing needs, however, do not supersede the fact that, during the twentieth century, two refugee populations emerged as a result of the conflict in the Middle East – Arabs as well as Jews. Neither the mass violations of the human rights of Jews in Arab countries, nor their displacement from their countries of birth, has ever been adequately addressed by the international community.

Asserting rights and redress for Jewish refugees is intended neither to argue against any claimed Palestinian refugee rights nor to negate any suffering. It is a legitimate call to recognize that Jewish refugees from Arab countries, as a matter of law and equity, possess the same rights as all other refugees.

While asserting equal rights for all Middle East refugees, there is no parallel history, geography, nor demography that could allow for any just comparison between the fate of Palestinian refugees and the plight of Jewish refugees from Arab countries. Moreover, there is a fundamental distinction between these two narratives:

- The newly established state of Israel, under attack from six Arab armies, with scant and scarce resources, opened its doors to hundreds of thousands of Jews displaced from Arab countries, granted them citizenship, and tried, as best it could, under very difficult circumstances, to absorb them into Israeli society.
- By contrast, the Arab world, with the sole exception of Jordan, turned their backs on displaced Palestinian Arabs, sequestering them in refugee camps to be used as a political weapon against the state of Israel for the last sixty-three years.

While there is no symmetry between these two narratives, there is one important factor that applies to both; namely, the moral imperative to ensure that the rights of all bona fide refugees are fully acknowledged, respected, and addressed within any putative resolution of the conflict in the Middle East.

JEWS AS AN INDIGENOUS PEOPLE OF THE MIDDLE EAST

Jews and Jewish communities have lived in parts of the Middle East, North Africa, and the Gulf region for more than 2,500 years.[1]

HISTORICAL JEWISH PRESENCE IN THE REGION

COUNTRY/REGION	DATE OF JEWISH COMMUNITY[2]
Iraq	6th century BCE
Lebanon	1st century BCE
Libya	3rd century BCE
Syria	1st century CE
Yemen	3rd century BCE
Morocco	1st century CE
Algeria	1st-2nd century CE
Tunisia	3rd century CE

Jewish refugees, bound for Israel, wait for an airplane with their belongings as they escape persecution in Yemen, 1949. (Israel National Photo Collection/David Eldan)

This historical record is important as today, its detractors claim that Israel is an illegitimate state made up of Jews who are foreign to the region – insinuating that this is the root cause of the Arab-Israeli conflict. For example, Iranian President Mahmoud Ahmadinejad has stated that Jews in Israel "have no roots in Palestine," and "If the Europeans are honest they should give some of their provinces in Europe – like in Germany, Austria or other countries – to the Zionists and the Zionists can establish their state in Europe."[3] In another speech, Ahmadinejad cited the events in Europe as the reason Jews left there, stating that "then the Jews must return to where they came from… If there really had been a Holocaust, Israel ought to be located in Europe, not in Palestine."[4]

The allegation that Israel is made up solely of latter-day immigrants is a distortion of history. The long and proud legacy of Jews and Jewish communities in North Africa, the Middle East, and the Gulf region proves this claim false. In fact, Jews are an indigenous people of the Middle East, and were resident in the region over one thousand years before the advent of Islam. Their descendants make up a significant portion of Israel's population and their presence there demonstrates the historical connection of Jews to Israel, for thousands of years, as the homeland of the Jewish people.

With the beginning of Islam in the seventh century CE, Jews were ruled under the legal status of *dhimmi*, a "protected" people, a status assigned to Christians and Jews. *Dhimmis* were extended some degree of legal protection, while relegated to being second-class citizens.[5]

Upon the declaration of the state of Israel in 1948, the status of Jews in Arab countries worsened dramatically as many Arab countries declared war, or backed the war against Israel. Jews were either uprooted from their countries of longtime residence or became subjugated, political hostages of the Arab-Israeli conflict. Jews were often victims of murder, arbitrary arrest and detention, torture, and expulsions. Official decrees and legislation enacted by Arab regimes denied human and civil rights to Jews and other minorities, expropriated their property, and stripped them of their citizenship and other means of livelihood. For example:

In Iraq:

- Law No. 1 of 1950, entitled "Supplement to Ordinance Canceling Iraqi Nationality," in fact deprived Jews of their Iraqi nationality. Section 1 stipulated that "the Council of Ministers may cancel the Iraqi nationality of the Iraqi Jew who willingly desires to leave Iraq for good" (official Iraqi English translation).[6]

- Law No. 5 of 1951, entitled "A law for the Supervision and Administration of the Property of Jews who have Forfeited Iraqi Nationality," also deprived them of their property. Section 2(a) "freezes" Jewish property.[7]

In Egypt:

- A mass departure of Jews was sparked when Egypt, in 1956, amended the original Egyptian Nationality Law of 1926. Article 1 of the Law of November 22, 1956, stipulated that "Zionists" were barred from being Egyptian nationals.[8] Article 18 of the 1956 law asserted that "Egyptian nationality may be declared forfeited by order of the Ministry of Interior in the case of persons classified as Zionists." Moreover, the term "Zionist" was never defined, leaving Egyptian authorities free to interpret the law as broadly as they wished.

In Libya:

- On August 8, 1962, the Council of Ministers announced a Royal Decree amending Article 10 of the law of citizenship, which provided, inter alia, that a Libyan national forfeited his nationality if he had had any contact with Zionism. The retroactive effect of this provision, which covered the preceding period commencing with Libyan independence on December 24, 1951, enabled the authorities to deprive Jews of Libyan nationality at will.

As a result of these and similar measures adopted by Arab regimes throughout the region, many Jews concluded that their situation had become untenable and decided to leave. The difficulty in doing so varied greatly from country to country. During the twentieth century, in some countries, Jews were forbidden to leave (e.g., Syria); in others, Jews were displaced en masse (e.g., Iraq); in some places, Jews lived in relative peace under the protection of Muslim rulers (e.g., Tunisia, Morocco); while in other states, they were expelled (e.g., Egypt). However, the final result was the same – the mass displacement of some 856,000[9] Jews from some ten Arab countries – in a region overwhelmingly hostile to Jews.

Hundreds of thousands of Jewish refugees from Arab states arrive in Israel. Initially they live in refugee camps, but are shortly integrated into Israeli society. (International Center of Photography/ Magnum Photos/ Robert Capa)

WERE JEWS DISPLACED FROM ARAB COUNTRIES REALLY REFUGEES?

The internationally accepted definition for the term "refugee" derives from the Statute of the United Nations High Commissioner for Refugees that was established by United Nations General Assembly Resolution 319 (IV) on December 3, 1949. The Convention Relating to the Status of Refugees was adopted on July 28, 1951, by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, which was convened under General Assembly Resolution 429 (V) of December 14, 1950, and entered into force on April 22, 1954. Article 1 states the following:

> For the purposes of the present Convention, the term "refugee" shall apply to any person who:
>
> (2) As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, unwilling to avail himself of the protection of that

country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, unwilling to return to it…[10]

Clearly, this definition applied to many Jews who fled Arab countries who had, as described earlier, a "well-founded fear of being persecuted." Moreover, on two separate occasions, the United Nations High Commissioner for Refugees (UNHCR) specifically declared that Jews fleeing from Arab countries were indeed refugees "who fall under the mandate" of the UNHCR. The first recognition pertained to Jews fleeing Egypt:

> "Another emergency problem is now arising: that of refugees from Egypt. There is no doubt in my mind that those refugees from Egypt who are not able, or not willing to avail themselves of the protection of the Government of their nationality fall under the mandate of my office."
>
> — Mr. Auguste Lindt, UN High Commissioner for Refugees, Report of the UNREF Executive Committee, Fourth Session – Geneva 29 January to 4 February, 1957.

The second recognition came eleven years later:

> "I refer to our recent discussion concerning Jews from Middle Eastern and North African countries in consequence of recent events. I am now able to inform you that such persons may be considered prima facie within the mandate of this Office."
>
> — Dr. E. Jahn, Office of the UN High Commissioner, United Nations High Commissioner for Refugees, Document No. 7/2/3/Libya, July 6, 1967.

The significance of this second ruling was twofold:

- Unlike the first statement by the High Commissioner that merely referred to "refugees," this letter referred specifically to "Jews"; and
- Unlike the first determination that limited UNHCR involvement to refugees from Egypt, this statement constituted a ruling that Jews who had left *any* of the Middle Eastern and North African countries concerned, namely: Algeria, Egypt, Lebanon, Libya, Morocco, Syria, and Tunisia, fell within the mandate of the Office of the UNHCR.

So in fact, both populations were recognized as bona fide refugees by the relevant UN Agencies – Palestinian Arabs by UNRWA[11] and Jewish refugees by the UN High Commissioner for Refugees.[12]

THE RESPONSE OF THE INTERNATIONAL COMMUNITY TO MIDDLE EAST REFUGEES

The United Nations, through statute and precedent, has developed international standards and mechanisms for the protection, resettlement, and rehabilitation of refugees around the world. These rights are well enshrined in international law.

There is no statute of limitations on the rights of refugees. Therefore, both refugee populations still retain rights, albeit each according to different internationally accepted definitions and statutes.

As far as the United Nations was concerned, the symmetry ended there. There was an anomaly in the way the United Nations responded to the two, different Middle East refugee populations.

The record provides a damning indictment of the United Nations and the international community. Extensive research into voting patterns and UN meeting transcripts reveals that there was no equity in the United Nations' response to the respective plights of Palestinian and Jewish refugees. The following criteria were used to arrive at this conclusion:

- *United Nations Resolutions*

Resolutions of the United Nations, either binding or nonbinding, reflect the thinking of the majority of nations on the seminal issues of the day; and become the consensus – indeed the "policy" – of the international community on these issues.

- *United Nations Agencies*

The involvement of its affiliated agencies reflects the UN decision to take action on these concerns.

- *United Nations Resources*

The provision of financial assistance gives UN agencies the capacity to act upon and implement the will of the international community.

RESOLUTIONS OF THE UNITED NATIONS SECURITY COUNCIL

The **United Nations Security Council (UNSC)**, one of the principal and most powerful organs of the United Nations, is charged with the maintenance of international peace and security – from politics to peacekeeping; from wars to the environment.

Since its inception, the Security Council has been seminally involved in Middle East affairs. From 1946 to 2009 inclusively, the total number of Security Council resolutions on the Middle East in general, and on Palestinian and Jewish refugees in particular, is as follows:[13]

UN body	Resolutions on Middle East	Resolutions on Palestinian refugees	Resolutions on Jewish refugees
Security Council	288	9	0

The primary preoccupation of the Security Council by far, among all the other Middle East problem areas, was Lebanon with 102 resolutions. Well back is the issue of Palestinian refugees with nine resolutions, not a predominant number but still dealt with by the Security Council. During this same period, there was not one resolution that even mentions Jewish refugees from Arab countries.

RESOLUTIONS OF THE UNITED NATIONS GENERAL ASSEMBLY

The **UN General Assembly (UNGA),** established in 1945 under the Charter of the United Nations, also occupies a central position as the chief deliberative, policymaking, and representative organ of the United Nations. Comprising all 192 members of the United Nations, it is intended to provide a unique forum for multilateral discussion of any and all international issues.

UN body	Resolutions on Middle East	Resolutions on Palestinian refugees	Resolutions on Jewish refugees
General Assembly	800	163	0

From 1949 to 2009, General Assembly resolutions focused much greater attention on the issue of Palestinian refugees – some 20 percent – than on any other Middle East issue.[14]

There were never any General Assembly resolutions that specifically addressed the issue of Jewish refugees, nor any resolutions on other topics that even mention Jewish refugees from Arab countries.

Moreover, other primary UN entities are also guilty of this same omission.

Since its founding in 1968, the **UN Human Rights Commission** (now **Council**) has adopted 132 resolutions on the plight of Palestinians, alleging violations of their human rights, and calling for compensation for Palestinian losses. No resolutions ever dealt with those same human rights of Jewish refugees.[15]

Since 1974, the **UN Economic and Social Council** (ECOSOC) has adopted 122 resolutions on the plight of Palestinian refugees including on "Living Conditions in Occupied Territory" (twenty-two resolutions), "Violations of Human Rights" (twenty-one resolutions), and "Assistance to Palestinian People" (fifteen resolutions).[16]

The lack of any UN attention to Jewish refugees was not due to a lack of trying. On numerous occasions, governmental and nongovernmental officials alerted the United Nations, its leadership, and affiliated agencies to the problem of Jewish refugees and sought its intervention, to no avail. The United Nations proceeded to deal solely with Palestinian refugees. This UN pattern of exclusivity, focusing only on Palestinian refugees, has continued up to today.[17]

There are at least ten identifiable UN entities that have been specifically created, or charged, with addressing issues affecting Palestinian refugees. These include: the United Nations Conciliation Commission for Palestine (UNCCP); the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA); the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967; the Committee on the Inalienable Rights of the Palestinian People; the United Nations Division for Palestinian Rights; the United Nations Development Programme of Assistance to the Palestinian People (UNDP); the United Nations Economic and Social Commission for Western Asia (ESCWA); the United Nations Office for the Coordination of Humanitarian Affairs (OCHA); the Office of the Special Coordinator of the Middle East Peace Process; and the Arab International Forum on Rehabilitation and Development in the Occupied Palestinian Territory, sponsored by the ESCWA, the Arab League, and the Palestinian National Authority Ministry of Planning.

No UN entities were especially created or specifically instructed to address issues affecting Jewish refugees from Arab countries.

ALLOCATION OF UN RESOURCES TO MIDDLE EAST REFUGEES

There is a huge disparity in the UN resources provided to the two Middle East refugee populations – Arabs and Jews.

Since 1947, billions of dollars have been spent by the international community – by the UN, its affiliated entities, and member states – to provide relief and assistance to Palestinian refugees. In 2007 prices, UNRWA has spent $13.7 billion since its inception in 1950.[18] During that same period, the UNHCR did not provide any comparable financial assistance to Jewish refugees. The international resources provided Jewish refugees from Arab countries were negligible.[19]

Moreover, Palestinian refugees receive disproportionate UN financial assistance as compared to all other refugees. The current, respective UNHCR and UNRWA expenditures for services to refugee populations reveal the differential treatment accorded Palestinian refugees. With a 2008 budget of $1,849,835,626, the UNHCR spends approximately $56 on each of the 32,900,000 persons under its mandate.[20] By comparison, with a 2008 budget of $548,603,000, UNRWA spends more than double

what the UNHCR does – approximately $117 on each of the 4,671,811 (December 2008) registered Palestinian refugees.[21]

MANIPULATION OF THE UN

Whenever the subject of Jews in Arab countries was raised in the United Nations, a variety of tactics were used by member states to ensure that the United Nations never formally, nor properly, dealt with the issue of Jewish refugees. There are many such examples. Here are but a few:

USING THREATS IN AN ATTEMPT TO INFLUENCE UN DECISION-MAKING

For example, in the 1947 debate on whether the United Nations should adopt the partition plan, Heykal Pasha (Egypt) stated:

> The United Nations…should not lose sight of the fact that the proposed solution might endanger a million Jews living in the Moslem countries… If the United Nations decides to partition Palestine, it might be responsible for the massacre of a large number of Jews.[22]

Further, he contended:

> If the United Nations decides to amputate a part of Palestine in order to establish a Jewish state, no force on earth could prevent blood from flowing there… If Arab blood runs in Palestine, Jewish blood will necessarily be shed elsewhere in the Arab world…[23]

A few days later Iraq's Foreign Minister Fadil Jamali warned that "any injustice imposed upon the Arabs of Palestine will disturb the harmony among Jews and non-Jews in Iraq; it will breed inter-religious prejudice and hatred."[24] The threat was clear and real.

Misleading the United Nations: Treatment of Jewish Populations

When allegations were raised against the ill-treatment of Jews in their countries, Arab delegates asserted that there was no discrimination against Jews; that they were well treated. For example:

- In 1970, the Saudi representative to the Human Rights Commission stated that "The Arab Jews were quite happy in their own countries and did not wish to go to Israel."[25]
- Mr. Kelani (Syrian Arab Republic) contended in 1974 that "In the Syrian Arab Republic the Jews are treated as Syrian citizens."[26]

- At the UN General Assembly, on October 1, 1991, Syrian Foreign Minister Farouk al-Shara denied that the Arabs had ever discriminated against Jews, stating:

  > The Arabs have never adopted measures of racial discrimination against any minority, religious or ethnic, living among them. For hundreds of years Jews have lived amidst Moslem Arabs without suffering discrimination. On the contrary, they have been greatly respected.[27]

Misleading the United Nations: Jews Left Freely and Were Not Refugees

In 1970, the UN representative from Morocco claimed that Jews had left Arab countries for economic reasons, not as a result of racial discrimination:

> It had been said that many Jews had left Arab states because discriminatory pressure had been exerted on them. Although many Jews had indeed left those countries, the explanation given for their departure was wrong. Such emigration formed part of a general world pattern, as did the movement of population from the developing countries to the developed countries for the purpose of seeking better working conditions and greater economic well-being.[28]

Misleading the United Nations: On Statistics

Sometimes figures provided by Arab delegates on the numbers of Jews leaving their countries were disputed by others. One such interchange occurred on June 5, 1957, at a meeting of the Executive Committee of the United Nations Refugee Fund. Mr. Safouat (Egypt) tried to differentiate between Egyptians who had a specific nationality and those who were "stateless":

> Those Egyptian nationals included 35,000 Jews, none of whom had been expelled. They in fact enjoyed the same rights and privileges as other citizens. Among those [possessing a foreign nationality], there were 11,046 British and 7,013 French subjects. Some of them, to wit 800 British and 684 French subjects, had been asked to leave Egyptian territory because the Egyptian Government had considered their activities to be harmful to the interest of the State… With regard to the category of stateless persons, they numbered 7,000 and only 280 of them had been requested to leave the country in the public interest or for reasons of state security.[29]

The representative of France, Mr. Monod, similarly disputed the Egyptian representative's report that only 280 stateless persons had been asked to leave Egyptian territory: He "too was obliged to enter reservations about the accuracy of the figures cited by the Observer for the Government of Egypt. France alone had received nearly 2,300 stateless persons from that country."[30]

Using Procedural Maneuvers to Divert Attention Away from Jewish Refugees

There are recorded instances when procedural maneuvers were used in an attempt to divert attention away from Jewish refugees from Arab countries.

- On March 5, 1948, Item 37 on the agenda of a meeting of ECOSOC was to address, inter alia, "Reports of the NGO Committee," including Document E/710 containing two memos from the World Jewish Congress (WJC) warning that "all Jews residing in the Near and Middle East face extreme and imminent danger." The meeting was presided over by Dr. Charles H. Malik (Lebanon) who, through a procedural maneuver, passed over Agenda Item 37 that included the WJC reports. Six days later, on March 11, 1948, when the Council was ready to resume its deliberations, Mr. Katz-Suchy (Poland) rose on a "point of order concerning the consideration of Item 37 of the Agenda" and objected to the fact that it had not been addressed. Concurring was Mr. Kaminsky (Byelorussian Soviet Socialist Republic) who declared that "he could not condone a practice whereby items on the agenda were allowed to disappear from the agenda." Nonetheless, after discussion, the matter was referred back to the NGO Committee and the danger facing Jews in Arab countries never made it back to the ECOSOC table.[31]

- In the aftermath of the 1967 Arab-Israeli war, the Security Council adopted Resolution 237, which called for the "scrupulous respect of the humanitarian principles governing the treatment of prisoners of war and the protection of civilian persons in time of war." The United Nations then sent an emissary to examine the plight of Palestinians as well as Jewish civilians in Arab countries. One year later, to prevent this dual focus on both Palestinians and Jews, the Security Council adopted Resolution 259, which recalled "its resolution 237 (1967) of 14 June 1967" while limiting the United Nations' focus only to "the safety, welfare and security of the inhabitants of the Arab territories under military occupation by Israel" – eliminating the previous generic reference to "civilian persons in times of war," which included Jews in Arab countries.

At the UN Human Rights Commission, on January 27, 1969, then-Israeli Ambassador Zeltner raised the issue of the public lynching of nine Jews that had occurred in Baghdad. The Egyptian representative, Ambassador Khallaf, contended that the discussion was procedurally out of order:

> In light of the Commission's decision to confine its attention to the question of the violations of human rights in the territories occupied by Israel, the whole of the statement made by the representative of Israel at the previous meeting was out of order.[32]

Moroccan Ambassador Kettani supported the Egyptian position, saying that the Israeli statement "was quite alien to the agenda" and inappropriate "as if the State of Israel was competent to speak on behalf of all Jews throughout the world."[33]

The matter was subsequently not dealt with by the Human Rights Commission.

Challenging UN Authority to Deal with the Issue

In 1967, the United Nations' envoy Mr. Gussing reported to the General Assembly that he had been rebuffed by government officials in his efforts to determine the condition of Jews in Egypt since the June war. He further reported that the Egyptian government had "expressed the firm opinion that the Security Council resolution [237] did not apply to the Jewish minority."[34]

In 1969, at the Human Rights Commission, the Soviet Union described the Baghdad lynching of nine Iraqi Jews as "a purely internal matter."[35]

* * *

Individually, none of the above incidents would have a significant impact on the United Nations' decision-making. However, together, these manipulative tactics can be seen as the reflection of a much larger collaborative assault on Israel at the United Nations.

Israel has long complained about what it perceives as the anti-Israel bias of the United Nations. Abba Eban, Israel's first ambassador to the world body, once quipped: "If Algeria introduced a resolution declaring that the earth was flat and that Israel had flattened it, it would pass by a vote of 164 to 13 with 26 abstentions."[36]

The United Nations was and continues to be politically and numerically dominated by a consortium of political alliances. Together, they provide a voting bloc that assures overwhelming majorities of all Middle East resolutions and prevents the recognition of the rights of Jewish refugees from Arab countries.[37] The only common denominator among these vastly different and politically diverse factions is their anti-Israel stance on virtually every issue. The following (somewhat overlapping) multilateral organizations demonstrate this pattern: the Organization of the Islamic Conference (OIC – including the Arab League) has fifty-seven members;[38] the communist bloc, led by the former Soviet Union, included seven Warsaw Pact members[39] and fifteen other countries;[40] and the Organization of African Unity (OAU) has fifty-three members,[41] while additional support for anti-Israel resolutions could be counted on from the 118-member Non-Aligned Movement (NAM).[42]

LEGAL AND POLITICAL BASIS FOR THE RIGHTS OF JEWISH REFUGEES

As detailed earlier, all resolutions and other declaratory examples of UN recognition are restricted to Palestinian refugees.

Notwithstanding this lack of formal recognition, under international law, the rights of Jewish refugees from Arab countries are compelling, and their recognition finds expression in numerous legal and political declarations.

Coincidently, one of the most seminal resolutions recognizing Jewish refugees emanated from the United Nations in a resolution that never even mentions "Jewish refugees."

UN Resolution 242 (1967)

On November 22, 1967, the UN Security Council unanimously adopted Resolution 242, laying down the principles for a peaceful settlement in the Middle East. Resolution 242, still considered by many as a primary blueprint for resolving the Arab-Israel conflict, stipulates, inter alia, that a comprehensive peace settlement should necessarily include "a just settlement of the refugee problem" (Art.2 (b)).

Prior to the Security Council's consideration of Resolution 242, on Thursday, November 16, 1967, the United Kingdom submitted its draft of Resolution 242 (S/8247) to the Council. The UK version of 242 was not exclusive, and called for a just settlement of "the refugee problem." Just four days after the United Kingdom's submission, the Soviet Union's UN delegation submitted their own draft of 242 to the Council. This version (S/8253) restricted the "just settlement" only to "Palestinian refugees" (para. 3 (c)).

On Wednesday, November 22, 1967, the Security Council gathered for its 1,382nd meeting in New York. At that time, the United Kingdom's draft of Resolution 242 was voted on and unanimously approved.[43] Immediately thereafter, the Soviet delegation advised the Security Council that "it will not insist, at the present stage of our consideration of the situation in the Near East, on a vote on the draft Resolution submitted by the Soviet Union" – which would have limited 242 to Palestinian refugees only. Even so, Ambassador Kuznetsov of the Soviet Union later stated: "The Soviet Government would have preferred the Security Council to adopt the Soviet draft Resolution."[44]

Thus the attempt by the Soviet delegation to restrict the "just settlement of the refugee problem" merely to "Palestinian refugees" was not successful. The Security Council's adoption of the United Kingdom's inclusive version can be seen as the intention of its supporters to ensure that Resolution 242 include a *just solution* for all Middle East refugees – Arabs as well as Jews.

Moreover, Justice Arthur Goldberg, the United States' Chief Delegate to the United Nations, who was instrumental in drafting the unanimously adopted Resolution 242, has pointed out that:

> A notable omission in 242 is any reference to Palestinians, a Palestinian state on the West Bank or the PLO. The resolution addresses the objective of "achieving a just settlement of the refugee problem." This language presumably refers both to Arab and Jewish refugees, for about an equal number of each abandoned their homes as a result of the several wars…[45]

* * *

Buttressing the legal argument supporting rights for Jewish refugees is the fact that, in all relevant international bilateral or multilateral agreements, the reference to "refugees" is generic, allowing for the recognition and inclusion of all Middle East refugees – Jews, Christians, and other minorities. By way of example:

The Madrid Peace Conference

The 1991 Madrid Peace Conference launched historic, direct negotiations between Israel and many of its Arab neighbors. The mandate of the Refugee Working Group made no distinction between Palestinian refugees and Jewish refugees: "The refugee group will consider practical ways of improving the lot of people throughout the region who have been displaced from their homes."[46]

***

Israel and some of its Arab neighbors – Egypt, Jordan, and the Palestinians – have signed bilateral agreements affirming that a comprehensive solution to the Middle East conflict will require a "just settlement" of the "refugee problem." The case can be made that this language, consistent with UN Resolution 242, pertains to both Middle East refugee populations – Arabs and Jews:

Israel-Egypt Agreements

The Camp David Framework for Peace in the Middle East of 1978 (the "Camp David Accords") includes, in paragraph A(1)(f), a commitment by Egypt and Israel to "work with each other and with other interested parties to establish agreed procedures for a prompt, just and permanent resolution of the implementation of the refugee problem."

Israel-Jordan Peace Treaty

Article 8 of the Israel-Jordan Peace Treaty (1994), entitled "Refugees and Displaced Persons," recognizes (para. 1) "the massive human problems caused to both Parties by the conflict in the Middle East."

Israeli-Palestinian Agreements

Israeli-Palestinian agreements often use the generic term "refugees," without qualifying which refugee community is at issue, including the Declaration of Principles of 13 September 1993 (Article V (3)) and the Interim Agreement of September 1995 (Article XXXI (5)), both of which refer to "refugees" as a subject for permanent status negotiations, without qualifications.

The 2003 Roadmap to Middle East Peace

Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict. The roadmap to Middle East peace currently being advanced by the Quartet (the United Nations, the European Union, and United States, and Russia) also refers, in Phase III, to an "agreed, just, fair and realistic solution to the refugee issue," language applicable both to Palestinian and Jewish refugees.

U.S. Resolution HR 185

On April 1, 2008, the U.S. House of Representatives unanimously adopted *H.Res.185* which, for the first time, recognizes the rights of Jewish refugees from Arab countries.

In a rare display of bipartisanship, congressmen from both political parties joined in cosponsoring this landmark resolution on the rights of Jewish refugees from Arab countries. While underscoring the fact that Jews living in Arab countries suffered human rights violations, the resolution recognizes that Jews were subsequently uprooted from their homes in Arab countries, and were made refugees. Congressional Resolution *H.Res.185* affirms that all victims of the Arab-Israeli conflict must be treated with equality, including Jewish, Christian, and other refugees from countries in the Middle East and urges the president to instruct U.S. officials participating in Middle East discussions:

> 2 (A) …to ensure that any resolutions relating to the issue of Middle East refugees, and which include a reference to the required resolution of the Palestinian refugee issue, must also include a similarly explicit reference to the resolution of the issue of Jewish refugees from Arab countries; and
>
> 2 (B) make clear that the United States Government supports the position that, as an integral part of any comprehensive Arab-Israeli peace, the issue of refugees from the Middle East, North Africa, and the Persian Gulf must be resolved in a manner that includes recognition of the legitimate rights of and losses incurred by all refugees displaced from Arab countries, including Jews, Christians, and other groups.[47]

Seeking a just solution for the "losses incurred by all refugees" may not as problematic as many people assume. Indeed, some contend that Israel will never allow itself to be held singularly responsible for the losses incurred by Palestinian refugees. Similarly, few believe that Arab leaders would agree to compensate Jewish refugees for their losses as a result of their displacement from Arab countries. In the face of this seemingly intractable deadlock, in a fitting irony, the United

Nations has established an international precedent for a Compensation Commission which might ultimately prove a useful model in the provision of equitable compensation for both Jewish and Arab refugees.

AN INTERNATIONAL FUND

During two important Palestinian-Israeli negotiations, discussion took place on the need to create an International Fund as part of any comprehensive Middle East peace.

In July 2000, immediately after the Camp David summit, it was President Bill Clinton who first introduced the notion of an International Fund during an interview on Israeli television:

> There will have to be some sort of international fund set up for the refugees. There is, I think, some interest, interestingly enough, on both sides, in also having a fund which compensates the Israelis who were made refugees by the war, which occurred after the birth of the State of Israel. Israel is full of people, Jewish people, who lived in predominantly Arab countries who came to Israel because they were made refugees in their own land.
>
> That's another piece of good news I think I can reveal out of the summit. The Palestinians said they thought those people should be eligible for compensation, as well. So we'll have to set up a fund and we will contribute…[48]

The idea of an International Fund was again raised during the Palestinian-Israeli negotiations in Taba, Egypt, in January 2001. The following is an excerpt from the report on those Taba negotiations by EU Middle East Envoy Miguel Moratinos:

> 3.3 Compensation
>
> Both sides agreed to the establishment of an International Commission and an International Fund as a mechanism for dealing with compensation in all its aspects. Both sides agreed that "small-sum" compensation shall be paid to the refugees in the "fast-track" procedure, [and] claims of compensation for property losses below [a] certain amount shall be subject to "fast-track" procedures.[49]

It was intended that such a fund, to provide compensation for both populations of refugees, would be endowed by the international community. Multilateral involvement would also provide support and legitimacy for any comprehensive Middle East agreement. During the abovementioned interview on Israeli television, Clinton reported that he had approached the G-8 members and others on contributing to an International Fund:

> So we'll have to set up a fund and we will contribute. I went to the G-8 in Okinawa in part to give them a report, and I asked the Europeans and the Japanese to contribute, as well.

That was in July 2000. The report on the Taba negotiations prepared six months later by Moratinos indicated that by then Israel had already agreed to contribute to the International Fund:

> 3.3 …There was also progress on Israeli compensation for material losses, land and assets expropriated including agreement on a payment from an Israeli lump sum or proper amount to be agreed upon that would feed into the International Fund.

Some believe it illogical that such an International Fund should be created, with a mandate to provide compensation to all parties involved in the same conflict. In fact, only a decade ago, the United Nations established just such a precedent for a Compensation Commission that can serve as a model for providing restitution equitably to both Jewish and Palestinian refugees.

The United Nations Compensation Commission (UNCC) Fund was established by Resolution S/RES/687, adopted by the Security Council at its 2987th meeting on May 20, 1991. It assigns liability to Iraq for losses, damages, and injuries directly caused by its unlawful invasion of Kuwait and created a fund to pay compensation to the aggrieved parties.[50] Since its inception, the UNCC has been able to resolve roughly 2.6 million claims[51] totaling an estimated $320 billion.[52] Among those who received compensation for losses suffered as a result of the Iraqi Scud attacks were Kuwaitis, Saudi Arabians, and Israelis.

So after neglecting the rights of Jewish refugees for over half a century, the United Nations – even inadvertently – may have identified an appropriate mechanism to provide recognition of rights, and compensation, to all Middle East refugees.

For the United Nations or other international entities to continue to ignore, or reject, the rights of Jewish refugees from Arab countries is to validate past and continuing injustice.

The first injustice was the mass violations of the human rights of Jews in Arab countries.

The second injustice was the absence of any credible UN response to the plight of over 850,000 Jews displaced from Arab countries.

Today it would constitute a third injustice to allow any continuing UN recognition of the rights of one population – Palestinian Arabs – without recognizing equal rights for other victims of the very same conflict, namely, Jewish refugees from Arab countries.

NOTES

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2 Cecil Roth, ed., *Encyclopedia Judaica*, 1971.

3 On December 8, 2005, Ahmadinejad gave a speech at a summit for Muslim nations in Saudi Arabia , as reported in http://www.politics.ie/foreign-affairs/4463-iranian-president-why-cant-europe-take-israel.html. Also reported in "Iran's President Says Move Israel," BBC News, December 8, 2005.

4 Interview with Iranian President Mahmoud Ahmadinejad, *Der Spiegel*, May 28, 2006, http://www.spiegel.de/international/spiegel/0,1518,418660,00.html.

5 Bat Ye'or, *Islam and Dhimmitude: Where Civilizations Collide* (Madison, NJ: Fairleigh Dickinson University Press, 2001), 21.

6 Law No. 1 of 1950, entitled "Supplement to Ordinance Canceling Iraqi Nationality," *Official Iraqi Gazette*, March 9, 1950.

7 Law No. 5 of 1951, entitled "A Law for the Supervision and Administration of the Property of Jews who have Forfeited Iraqi Nationality," *Official Iraqi Gazette*, March 10, 1951 (English version), 17.

8 Law No. 391 of 1956, Section 1(a), *Revue Egyptienne de Droit International*, vol. 12, 1956, p. 80.

9 Maurice Roumani, *The Jews from Arab Countries: A Neglected Issue* (New York: WOJAC, 1983), 2; *WOJAC'S Voice* 1:1 (January 1978).

10 United Nations High Commissioner for Refugees (UNHCR), "Convention Relating to the Status of Refugees of 28 July, 1951," Article 1(A), 2.

11 Stanley A. Urman, chapter on UNWRA in *The United Nations and Middle East Refugees: The Differing Treatment of Palestinians and Jews*, PhD dissertation, Rutgers University, 2010, 189-198.

12 Stanley A. Urman, chapter on UNHCR in ibid., 200-224.

13 Analysis derived from *United Nations Information System on the Question of Palestine* (UNISPAL), Security Council Resolutions, http://unispal.un.org/unispal.nsf/vCouncilRes? Open View.

14 *United Nations Information System on the Question of Palestine* (UNISPAL), General Assembly Resolutions, http://unispal.un.org/unispal.nsf/vGARes?OpenView.

15 *United Nations Information System on the Question of Palestine* (UNISPAL), UNHRC Resolutions, http://unispal.un.org/unispal.nsf/vCHRRes?OpenView.

16 *United Nations Information System on the Question of Palestine* (UNISPAL), ECOSOC Resolutions, http://unispal.un.org/unispal.nsf/vECOSOCRes?OpenView.

17 Urman, *United Nations and Middle East Refugees*, 131-135. Currently, in a continuing pattern, there are four UN resolutions adopted annually by huge majorities that reinforce rights and redress only for Palestinian refugees. They are entitled: "Assistance to Palestinian Refugees," "Persons displaced as a result of the June 1967 and subsequent hostilities," "Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East," and "Palestine refugees' properties and their revenues."

18 Based on compilation of individual years from UNRWA reports with each year increased to 2007 prices using the U.S. Consumer Price Index. See Sidney Zabludoff, "The Palestinian Refugee Issue: Rhetoric vs. Reality," *Jewish Political Studies Review* 20:1-2 (Spring 2008): 7.

19 Urman, *United Nations and Middle East Refugees*, 217-222.

20 UNHCR "Financial Figures," http://www.unhcr.org/pages/49c3646c1a.html.

21 http://www.unrwa.org/etemplate.php?id=253.

22 United Nations General Assembly, Second Session, Official Records, Ad Hoc Committee on the Palestinian Question, Summary Record of the Thirtieth Meeting, Lake Success, New York, November 24, 1947 (A/AC.14/SR.30).

23 Ibid.

24 UN General Assembly, Second Session, Official Records, Verbatim Record of the Plenary Meeting, November 28, 1947, p. 1391.

25 UNHRC, Human Rights Commission, Document E/CN.4/SR.1080, 1970.

26 United Nations 2283rd, General Plenary Meeting Assembly, Twenty-Ninth Sessions on 13 Wednesday, November 1974, New York, A/PV, p. 2283.

27 Ya'akov Meron, "The Expulsion of the Jews from the Arab Countries: The Palestinians' Attitude toward It and Their Claims," in Malka Hillel Shulewitz, ed., *The Forgotten Millions: The Jewish Exodus from Arab Lands* (New York: Cassell, 1999), 83.

28 UNHRC, Human Rights Commission, Document E/CN.4/SR.1081, 1970.

29 United Nations Refugee Fund (UNREF) Executive Committee, UNREF "Summary Record" of June 5, 1957 meeting, p. 4.

30 Ibid., p. 5.

31 UN Economic and Social Council, One Hundred and Seventy-Fourth Meeting, Held at Lake Success, New York, March 11, 1948, p. 485.

32 Human Rights Commission, Document E/CN.4/SR.1010, February 27, 1969.

33 Human Rights Commission, Document E/CN.4/SR.1011, February 27, 1969.

34 General Assembly, 5th Emergency Special Session, Agenda item 5, "The Question of the Treatment of Minorities," A/6797, Article 218, September 15, 1967.

35 Human Rights Commission, Document E/CN.4/SR.1011, February 27, 1969.

36 Alan M. Dershowitz, *Chutzpah* (Boston: Touchstone, 1992), 224.

37 Analysis of UN Security Council and General Assembly Resolutions, charts. Appendices A & B, in Urman, Stanley A. *The United Nations and Middle East Refugees: the Differing Treatment of Palestinians and Jews.* (Ph.D. Thesis) New Brunswick, NJ: Rutgers University, 2010.

38 Afghanistan, Algeria, Chad, Egypt, Guinea, Indonesia, Iran, Jordan, Kuwait, Lebanon, Libya, Malaysia, Mali, Mauritania, Morocco, Niger, Pakistan, Palestine, Saudi Arabia, Senegal, Somalia, Sudan, Tunisia, Turkey, Yemen, Bahrain, Oman, Qatar, Syrian Arab Republic, United Arab Emirates, Sierra Leone, Bangladesh, Gabon, Gambia, Guinea-Bissau, Uganda, Burkina Faso, Cameroon, Comoros, Iraq, Maldives, Djibouti, Benin, Brunei Darussalam, Nigeria, Azerbaijan, Albania, Kyrgyzstan, Tajikistan, Turkmenistan, Mozambique, Kazakhstan, Uzbekistan, Suriname, Togo, Guyana, Côte d'Ivoire.

39 Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Romania.

40 Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan.

41 Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Democratic Republic of the Congo, Republic of the Congo, Côte d'Ivoire, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sahrawi Arab Democratic Republic, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Swaziland, São Tomé and Príncipe, Sudan, Tanzania, The Gambia, Togo, Tunisia, Uganda, Zambia, Zimbabwe.

42 Afghanistan, Algeria, Angola, Antigua and Barbuda, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Botswana, Burma (Myanmar), Brunei, Burkina Faso, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Chile, Colombia, Comoros, Congo, Côte d'Ivoire, Cuba, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kenya, Kuwait, Laos, Lebanon, Lesotho, Liberia, Libya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mongolia, Morocco, Mozambique, Namibia, Nepal, Nicaragua, Niger, Nigeria, North Korea, Oman, Pakistan, Palestine, Panama, Papua New Guinea, Peru, Philippines, Qatar, Rwanda, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, São Tomé and Príncipe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syria, Tanzania, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkmenistan, Uganda, United Arab Emirates, Uzbekistan, Vanuatu, Venezuela, Vietnam, Yemen, Zambia, Zimbabwe.

43 UN Security Council, S/PV.1382, para. 67.

44 Security Council Official Records, November 22, 1967, S/PV.1382, para. 117.

45 Arthur J. Goldberg, "Resolution 242: After 20 Years," *Security Interests*, National Committee on American Foreign Policy, April 2002.

46 Remarks by Secretary of State James A. Baker, III, before the Organizational Meeting for Multilateral Negotiations on the Middle East, House of Unions, Moscow, January 28, 1992, Dept. of State.

47 H. Res. 185, House of Representatives, http://www.govtrack.us/congress/billtext.xpd?bill=hr110-1851, 2008.

48 Interview on Israel Television, July 28, 2000 (excerpt from White House transcript).

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51 A Wiser Peace: An Action Strategy for a Post-Conflict Iraq, Supplement I: Background Information on Iraq's Financial Obligations CSIS, 2003, http://www.csis.org/isp/wiserpeace_I.pdf.

52 UNCC website: http://www.unog.ch/uncc/theclaims.htm.

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