



Revaluating Human Rights in Israel and the Occupied Palestinian Territories

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Few disputes raise tensions as quickly or violent as those regarding the rights of Palestinians in Israel and the Occupied Palestinian Territories (or OPT, as Gaza and the West Bank are known in most countries of the world). With the rights and treatment of millions of people at stake in several countries, the Israeli-Palestinian issue involves immediate issues and disputes, and more fundamental questions about the future of Middle Eastern governance and stability.

Figure 1. Israel-Palestine borders, showing areas of unilateral Israeli control



Since the creation of the United Nations, the conflict between Jewish and Muslim people in the Middle East has been the most consistent and difficult issue the world has faced. From the creation of the Israeli state in 1948 to the 2011 UN declaration of Palestine as a non-member observer state, wars have been waged, sides have been taken, and innocent people on both sides have suffered immensely. In recent years, military conflicts have subsided. Nevertheless, the two

sides have not come to full peace yet, and years of fighting have ravaged each the two states. It is now the duty of the Human Rights Council to protect innocent lives from being put in danger, attempt to eradicate the human rights violations occurring, and attempt to find ways to aid those who are suffering. Is the two-state solution the best one to prevent further conflict? Is one country or both responsible for massive human rights violations? These are only a couple of the questions that must be considered when attempting to resolve an issue as large and deep-seated as this one.

The issue of human rights in the Israeli-Palestinian context raises tensions between Palestinian demands for national self-determination, control over Palestinian-owned territory and popular support for resistance to Israeli rule over the Occupied Palestinian Territory, and Israeli demands for an end to violent resistance and mutual cooperation in counterterrorism. Thus resolving human rights issues cannot be separated from broader issues of Middle East peace settlement, potentially including: the right of Return of Palestinian refugees still in Jordan, Lebanon and Syria; international recognition of a two-state solution to the Israeli-Palestinian conflict; the Israeli border barrier (the wall); Palestinian acceptance of the Israeli state; dealing with irredentist Palestinian factions; and international guarantees for stable borders.

Figure 2. Israeli-built West Bank Barrier



II. History and background of the Issue

After World War I and during the persecution of the Jewish people by Hitler, Jews flocked to Jerusalem and the surrounding areas by the hundreds of thousands. By 1947, Palestine had large pockets of areas that were predominately Jewish or predominately Palestinian Muslims, creating a state of stark disunion. After the close of WWII, Britain ceded its rule to the

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United Nations (UN) that advocated for the creation of an Arab state and a Jewish state, but only the Jews initially welcomed the idea. On May 15, 1948, the state of Israel became internationally recognized. For the Jews, independence was a celebration but the Palestinians refer to the day as “al-Nakba” or the “Catastrophe.”

The Arab community surrounding Israel has historically allied with the Palestinians. Just after gaining their independence, Israel was invaded by Egypt, Syria, Lebanon and Jordan. Israel was able to defend itself and fight back with the aid of Western nations. In 1948, roughly 450,000 Palestinians became refugees due to this violent conflict. By 1949, the area inside Israel that was claimed by Palestinians shrank to roughly half of the size it had been only one year earlier. Today, The United Nations Relief and Works Agency has registered roughly 5 million refugees who either inhabited Palestine between June 1, 1946 and 15 May 1948 or is the descendent of such a person.

In 1964, the Palestinian Liberation Organization (PLO) was created with the objective of eradicating Israel and using their land for Palestinian settlement. In 1969, Yasser Arafat became the leader of this heavily supported organization. Numerous Arab states aided their efforts by invading Israel and the PLO had bases in states that included Lebanon, Libya and Jordan.

Between 5 and 11 June 1967, the Six Day War occurred, allowing Israel to take control of Golan Heights in Syria, the Egyptian Sinai Peninsula, the West Bank and the Old City of Jerusalem formerly in Jordan. Due to the war, 500,000 Palestinians were displaced. About half of them were experiencing the loss of their home for a second time (after the 1948 incident). The Occupied Palestinian Territory began to see the building of Israeli settlements after this war. Another result of the war is that Israeli supporters became even more fervent. Conflicts occurred often in the region between the Jewish state and Arab ones, with both sides being guilty of attacking civilians as well as combatants.

In 1987, the PLO launched an intifada or “mass uprising” against the Israeli occupation in Gaza and the West Bank. Civil disobedience, general strikes, boycotts on Israeli products, graffiti and demonstrations in which participants threw stones at heavily armed occupation troops. This gained international attention as the entire Palestinian population living under their occupation sympathized with the efforts.

In 1988, the Palestinian National Council (a government-in-exile) convened in Algeria in November and voted to accept a “two-state” solution based on the 1947 UN partition resolution (181), renounce terrorism and seek a negotiated settlement based on Resolution 242, which called for Israel to withdraw from territory captured in the 1967 war, and Resolution 338. This solution never came to fruition, however.

Israel began constructing a 700 km long barrier around and inside the West Bank in 2002. In 2004, the International Court of Justice determined that the wall in the Occupied Palestinian Territory and its associated regime are not within the limits of international law and that they should remove it. While the United States began dialogue with the PLO; Israel continued to view the PLO as a terrorist organization with which it would not negotiate. Instead, Israeli Prime Minister Yitzhak Shamir proposed elections in the occupied territories before negotiations on a self-rule agreement.

III. Current Situation

The international community has been working to help Israel and Palestine negotiate a solution to the decades-old conflict. Peace talks are often stalled or canceled because of a reawakening of violence but the negotiations resumed in August 2013, after at least three years of avoiding the discussion table.

A major source of conflict lies in Israel's decision to continue expanding settlements to benefit the Israeli population. There are currently 500,000 Israelis on settlements but Israel is in the process of building additional apartment-style buildings that can hold up to 900 more. The last year in which negotiations took place was 2008 but the discussions crumbled when Israel insisted on continuing to expand settlements. A settlement freeze was a mandatory condition of bringing both sides together. Hanan Ashrawi, a senior Palestinian official, believes that their plans to expand settlements are a “deliberate sabotage of the talks” and “a destruction of the outcome.”

There are a large number of United Nations related and Non-Governmental Organizations in the region attempting to aid the situation. Out of 8 million total Palestinians, there are roughly 5 million Palestinian refugees that are registered with the UN Relief and Works Agency for Palestine Refugees (UNRWA). UNRWA and other UN specialized agencies continue to provide emergency assistance to the Palestinian people. UNICEF helps provide clean and reliable water sources. The United Nations Population Fund offers equipment for maternity wards and other hospital related needs. The World Food Programme provides food for the region.

Even with these groups attempting to aid the region, it is clear that the need for intervention and resolutions by the Human Rights Council is desperate. A UN staff member who worked under the UN Relief and Works Agency for Palestinian Refugees was shot and killed on August 26, 2013. In response, the UN called upon both sides to restrain their fighting and urged them to “exercise maximum restraint and to act in accordance with obligations under international law.”

Also on August 26th, violence in the West Bank left 3 Palestinians dead and 15 injured. Israel forces went to the Qalandiya refugee camp, reportedly to arrest a suspected “terrorist.” But their visit was met with Molotov cocktails and assault by rocks. The Israelis opened fire on the refugees.

A major issue for Palestinian human rights is the rights of Palestinian prisoners in Israeli prisons. Many are held for terrorism related charges. Widely regarded as national freedom fighters by Palestinian and their supporters, release of prisoners is a vital issue for the Palestinian Authority (government of the West Bank) and Hamas (governing Gaza).

IV. Role of the Human Rights Council

As the principle human rights body in the UN system, the HRC normally leads international action on issues like national self-determination and violations of human rights, the issues at the heart of Palestinian disputes. The Human Rights Council began an International Fact-Finding Mission on Israeli Settlements in the Occupied Palestinian Territory in March 2012 which first

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convened in August of 2012, and again in March of 2013. However, simply finding the facts is only the tip of the iceberg for this troubled region.

V. Landmark UN Resolutions

- The first resolution came on 20 November 1947. Called the UN Partition plan, this supported a division of Palestine. One part would be Palestine, another Israel, and then Jerusalem itself would be held under international control to prevent conflict over the holy land.
- Resolution 242 was unanimously adopted on 22 November 1967 and sought to end the hostilities between Israel, Egypt, Jordan, Syria and Lebanon as well as withdraw Israeli forces from occupied territories and aid the resettlement of refugees.
- In 1973 the Security Council voted in favor of Resolution 338 in an effort to cause a ceasefire during the Yom Kippur War. A ceasefire did not occur until the push by Resolution 339.
- In 1974, the General Assembly granted the Palestine Liberation Organization observer status but is still not considered a full member state. This approval has allowed the PLO to participate in the majority of meetings but not vote.
- With Resolution 3376, the UN General Assembly created the Committee on the Exercise of the Inalienable Rights of the Palestinian People (CEIRPP) in 1975. CEIRPP encourages the enabling of Palestinians to return to their homes and exercise national sovereignty. The committee, composed of over 40 UN states and observer states, has strongly supported the objective, affirmed in Security Council resolution 1397 (2002), of two States, Israel and Palestine, living side by side within secure and recognized borders.
- The Declaration of Principles on Interim Self-Government Arrangements was signed on 13 1993, by the Israeli government and Palestinian Liberation Organization in a joint negotiation effort. The accord did not offer statehood to Palestine but allowed for the creation of an interim self-government of the Palestinian National Authority. The Declaration gave them authority over select territory and called for a withdrawal of Israel from the Gaza Strip and West Bank.
- On 29 November 2012, the General Assembly voted with 138 in favor of according Palestine as a non-member observer state in the United Nations.

VI. Country Positions

Secretary-General of the United Nations, Ban Ki-Moon, has said “The Palestinian people have the right to an independent and viable State of Palestine living side by side with the State of Israel in peace and security. Similarly, there should be no doubt about the legitimate right of Israel to exist in peace within secure and internationally recognized borders... We must find a way for Jerusalem to emerge as a capital of two states”.

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On 23 September 2010, President Barrack Obama reaffirmed his commitment to helping the two reach a two-state solution during his General Assembly speech. Secretary of State, John Kerry, has aided in the peace process between Israel and Palestine by meeting with leaders from both sides and encouraging talks of negotiation.

The following countries on the Human Rights Council do not recognize Israel as a state: Cuba, Djibouti, Indonesia, Kuwait, Libya, Malaysia, Pakistan, Qatar, Saudi Arabia, and Somalia. The following countries on the HRC do not recognize the state of Palestine: Austria, Belgium, Cameroon, Israel, Italy, Mexico, Spain, Switzerland, United Kingdom, and United States.

The Arab League, along with support from the NAM and sympathetic countries like Cuba and China, dominates the process in HRC but the Arab League is committed to regional peace diplomacy and hesitant to support positions that might undermine regional diplomacy.

European Union tries to find middle ground between Israel and Palestine, placing equal pressure on both. More so than any other actor, the EU and its 28 member states are willing to finance action to encourage Middle East peace. Through their economic support for the West Bank government of the Palestinian Authority, and their vital markets for Israeli exports, the European Union has great regional leverage.

Non Aligned Movement is made up mostly of states that received their independence through the decolonization process of the 1950s-70s. Its members usually are sympathetic to people seeking national self-determination, above all to the Palestinians. Its members have independent polices. Some like India also have good relations with Israel they do not wish to sacrifice, but Arab markets and oil dependency also affect their perspectives.

The United States is reliably supportive of Israel, but cannot take positions that will cripple its ability to push both sides toward a negotiated solution of the Israeli-Palestinian conflict. The United States also must be cautious about poising support for other human rights situations where it needs support, such as Iran, North Korea and Syria. Thus it will offer initiatives and tailor the proposals of others to reduce tensions. America's goals are to avoid singularization of Israel, insure support for the legitimacy of Israeli claims, and keep both sides committed to negotiations.

VII. Proposals for HRC Action

The HRC can recommend specific proposals to alleviate violations of human rights in Israel and Palestine but cannot demand action from sovereign states. It may also make broader recommendations for other segments of the United Nations, including the Security Council.

During the 19th session of the HRC, resolution 19/17 entitled "Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan" was adopted. Within this resolution was a decision to launch an independent fact-finding mission for the purpose of investigating the effect of Israeli settlements on the civil, political, social, cultural and economic rights of Palestinians living in Occupied Palestinian Territory.

The HRC also has special procedures which are independent human rights experts who deliver reports from the perspective of specific countries. They are important elements in the process of conducting studies, developing standards of human rights, raising awareness of issues, encouraging advocacy and informing States about specific issues. If a special procedure is an individual then they are typically called a Special Rapporteur or Independent Expert. Special procedures may also be groups of five people from five different regions.

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