Response To Common Inaccuracy: Palestinians Have Right of Return

Inaccuracy: Palestinian refugees have a “right of return” under international law – the right to reclaim and return to their former homes inside Israel.

Response

International law and international statute do not call for a Palestinian “right of return” to Israel, but rather for a resolution of the long-standing Palestinian refugee problem which was caused by the Arab attack on Israel in 1948. On humanitarian grounds, Israel has committed to participating in an international effort to resettle and compensate Palestinian refugees.

United Nations Resolutions 242 and 338 refer not to a “right of return,” but of the need to resolve the Palestinian refugee issue. The international resolutions which Palestinians often base their claim of a “right” on, such as the December 1948 United Nations General Assembly Resolution 194 and Article 12 of the December 1966 International Covenant on Civil and Political Rights, are non-binding. Moreover, these non-binding resolutions are inconsistent with current conditions and realities. For example, Resolution 194 calls for a return of refugees to “live at peace with their neighbors,” hardly realistic given the refugees’ long-standing refusal to recognize Israel’s right to exist. Article 12 is similarly inapplicable. It refers to individuals, not a group of people, who left the country as a result of war and infers a relationship, even citizenship, between the individual and the country.
A “right of return” is also not viable on practical grounds. An influx of millions of Palestinians into Israel would pose a threat to its national security and upset the country's demographic makeup. Moreover, the “right of return” of Palestinian refugees was a rallying cry in the decades that the PLO and Arab nations did not recognize Israel's right to exist and actively sought to bring about Israel's downfall and replace it with a Palestinian state to which Palestinians would return. (Indeed, Arab states with Palestinian refugee populations used this “right” as an excuse not to provide Palestinians with citizenship, or educational and professional opportunities.) In 1993, the PLO officially recognized Israel's right to exist and engaged in a negotiating process that was expected to ultimately establish an independent Palestinian state alongside the State of Israel. Palestinian refugees should rightly be resettled in a mutually negotiated Palestinian state, not in the State of Israel. Indeed, U.S. President George W. Bush declared in April 2004: “It seems clear that an agreed, just, fair and realistic framework for a solution to the Palestinian refugee issue, as part of any final status agreement, will need to be found through the establishment of a Palestinian state and the settling of Palestinian refugees there, rather than Israel.”

Israel maintains that it is not responsible for the Palestinian refugee problem since it is the result of a war forced on Israel by invading Arab armies. However, Israel has stated that on humanitarian grounds it would participate in an international effort to resolve the situation. Such an effort would likely involve Palestinian refugees settling in a newly established state of Palestine, an international compensation fund, and individual cases of family reunification. Any international effort would also need to consider the situation of the 800,000 Jews who were either expelled from their native Arab nations or forced to flee as a result of state-sponsored anti-Jewish violence following the founding of the State of Israel.