

HARD CHOICES ON REFUGEES

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In a recent poll of Israeli-Jews, 87% said that even in exchange for a signed peace treaty with the Palestinians, they would oppose the return of even one refugee to Israel. This is not a matter of a single poll. Among Israelis, opposition to any return of refugees is very intense, and very widespread. Perhaps it is time for some new thinking on the issue.

Consider how the refugee issue was dealt with in several key documents:

1. In the Clinton Parameters: Clinton identified five possible “homes for refugees.” One of these five was “admission to Israel” however, this would be done consistent with Israel’s sovereign decision.
2. In the Geneva Accords: Geneva followed the Clinton approach. Five options for refugees were identified, including living in Israel; however, it was specified that the number allowed would be Israel’s sovereign decision.
3. In the Arab Peace Initiative: The Arab initiative calls for “a just solution to the Palestinian refugee problem to be agreed upon in accordance with U.N. Generally Assembly Resolution 194.”

In all three of these we see several common features:

- All are in general terms. None of them identifies any specific numbers of refugees that would actually be permitted to return to former homes in Israel.
- None of the documents mentions, “a right of return.” And while the Arab Peace Initiative cites UN Resolution 194, that resolution does not say that there is a right of return but merely states 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.”
- All three make clear that nothing will happen without Israeli consent. In the Geneva Accord and the Clinton Parameters this is made quite explicit. And in the Arab Peace Initiative, this is signaled indirectly, through the use of the term “agreed” solution.

There are some 4 million Palestinians registered as 1948 refugees with the United Nations. One percent of these is 40,000. There is today, only a small likelihood that Israel will agree to the return of 40,000 refugees. If we are talking about no more than 1% of the refugees returning, then perhaps it is best to be straightforward: Compensation is possible, but negotiations are not going to open the door to an implementation of the right of return, few if any, will be allowed to go back.

Palestinians face very different, and conflicting, ways of responding to this reality:

1. End negotiations.

Advocates of this option fall into a variety of categories:

- Those who believe continuing to live under occupation is preferable to accepting financial compensation instead of a return to homes in what is now Israel.
- Those who believe that time works in favor of refugee claims, and that in time Israel will become more accommodating and negotiations could be resumed some time in the future.
- Those who believe that there is a military option for forcing Israel to accept refugees, or

for destroying Israel.

- Those who believe that ending negotiations for a two state solution will result in a one-state solution in which the refugees will be allowed to return to their homes.

The advantage of this approach is that it avoids compromise on the rights of the refugees. The disadvantage is that it prolongs an intolerable situation, and relies on unrealistic hopes, when, in fact, time is not on the side of the refugees. Rather, as the entire 1948 generation dies off, the claims of the descendants will be given less and less weight.

2. *Take the refugee issue off of the table, negotiate on Palestinian Statehood, but not end-of-claims.*

Olmert's political party, Kadima, came to power on a platform of unilateral withdrawal from much of the West Bank. Because of Israel's experience with rockets from both Gaza and Lebanon, it is no longer willing to unilaterally withdraw. However, it might be prepared to pull out of much of the West Bank in accord with a negotiated agreement with a moderate Palestinian government. If the refugee issue was off of the table this would not be an end-of-claims agreement but it would bring into existence a Palestinian state. However, precisely because it was not end-of-claims, the Israeli withdrawal would not be to the 1967 line (with land swaps) but, at most, to the separation wall. In addition, it is unlikely on this scenario that Israel would agree to any Palestinian sovereignty in East Jerusalem. This option is very similar to Phase 2 of the Road Map which speaks of a Palestinian state with provisional borders. It also bears a relationship to the idea of negotiating a hudna with Israel, but not peace.

The advantage of this approach is that it avoids any compromise on refugees, and if successful, will result in an end to much of the occupation of the West Bank. The disadvantages are that Israel will retain significant parts of the West Bank, will not allow Palestinian sovereignty in East Jerusalem, and there will be no compensation for the refugees and no improvement in their actual conditions. The big disadvantage is that this "provisional" situation could become permanent.

3. *Pursue comprehensive negotiations including the refugee issues.*

Here Palestinian negotiators would seek some outcome roughly similar to the Clinton and Geneva approaches. Even though the Israeli public opposes admission of even one refugee, the goal would be a mechanism that allows for at least some modest number of refugees to actually return. Proponents of this approach might argue that this will allow a focus on the most desperate aspect of the refugee problem, those living in camps in Lebanon. The actual number in such camps is probably around 200,000 – possibly an accord would allow an unfettered option of return of these refugees to Israel, in the expectation that no more than a quarter of these would actually choose to return. And here it should be emphasized that refugees will not be returning to their homes, as these either no longer exist or have for more than half a century been lived in by Israelis.

Advantages: In the context of end of conflict agreement, Israeli withdrawal from most of West Bank can be obtained, as well as Israeli concessions on Jerusalem. Those refugees in the worst situation obtain relief, including a partial return of a small number. Others receive compensation. Disadvantage: For almost all refugees, the prospect of actually returning is relinquished.

4. *In negotiations, trade implementation of the right of return for gains in other areas under negotiations.*

Since at most only a tiny number of refugees will ever return to Israel, and since even these will not return to their homes, it might make more sense to explicitly forego any implementation of the right of return, provided Israel makes major concessions in other areas. These other areas could include Jerusalem, refugee compensation, and territory. On this approach, in the negotiations the Israelis would be offered the possibility of telling their public that their primary objective has been achieved: not one refugee will return. However, for this achievement, the Israeli government will explain to its people, they had to pay a high price in other areas.

Advantages: This would allow Palestinian negotiators maximum accomplishments on compensation, Jerusalem, and territory. Disadvantages: No refugees at all would return.

5. *Creative thinking that looks for new approaches to the refugee issue.*

Possibly, there remain some new ideas for dealing with the refugee issue that have not been fully explored, or perhaps not even thought of. For instance, for most Israelis their opposition to a return of refugees is linked to the demographic issue inside Israel and to their anxiety about the size of the growing population of Israeli-Palestinians. What if a sharp distinction was made between the issue of citizenship and the issues of residence and land ownership. On this approach, no Palestinian refugees seeking to return to Israel would be seeking to become an Israeli citizen, but rather would be seeking to return as Palestinian citizens, who would nonetheless live within Israel, in areas of their traditional origin, and who could own property which would be bought on the open market with funds from the compensation agreement. This could even be taken a step further with Israel swapping with Palestine not just regions along the green line, but a substantial enclave in the Galilee, which would become sovereign Palestinian territory, on which Palestinian refugees might live.

Advantages: This might open the door to a new way in which a larger number of refugees might return. Moreover, it may offer a way in which symbolically it is affirmed that the Palestinian homeland encompasses more than the Palestinian State. Disadvantages: In the end, this would still affect only a small number of refugees, and it provides no negotiating leverage on other issues.

Clearly, none of these approaches is fully satisfactory. What is needed today is an open debate about realistic alternatives.