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Plenary session I: The Israeli Apartheid Regime and its Impact on our Understanding of the Conflict and the Paths to its Resolution.

Title: Denial of Palestinian refugees' and exiles' the right to return: the most overtly racist policy.

By Professor Joseph Massad

One of the most ironic features of Zionism and the State of Israel is the central way that the concept of "return" informs their ideology and policies. Zionism's colonial project in fact hinged on the claim that contemporary European Jews were descendants of the ancient Hebrews of Palestine, and that their colonization plan of Palestine was nothing but their strategy of "returning" Jews to the land of their alleged ancestors after an absence of two millennia. Thus, the concept of "return" was and remains the ideological cornerstone of Zionism and the State of Israel.

In the Declaration of the Establishment of the State of Israel, issued in May 1948, the settler-colony's founders asserted that "After being forcibly exiled from their land, the [Jewish] people kept faith with it throughout their Dispersion and never ceased to pray and hope for their return to it and for the restoration in it of their political freedom...In recent decades they returned in their masses...THE STATE OF ISRAEL will be open for Jewish immigration and for the Ingathering of the Exiles." This commitment was guaranteed by Israel in issuing what it called the "Law of Return," which it legislated in July 1950, securing the right of every Jew worldwide "to come to this country as an *oleh* [immigrant]."

In the meantime, Zionist militias were able to execute the Zionist plans of expelling the Palestinian people from their homeland, beginning on 30 November 1947. By the time the State of Israel was declared on 14 May 1948, more than 400,000 Palestinians had been expelled. By

November 1948, another 400,000 Palestinians were expelled and joined their compatriots. This compelled the United Nations to issue Resolution 194 (III) on 11 December 1948, a resolution that was reaffirmed by the UN more than [135 times](#) since then. The Resolution stipulated that “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, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible.” The resolution also “*Instructs* the Conciliation Commission to facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation...”

The Israeli government has consistently rejected Resolution 194 and remains in violation of it. In an attempt to challenge the Palestinian right of return, Israel proceeded to issue its “law of return” for Jews one and a half years after the UN issued Resolution 194. The irony of course is not one wherein Israel does not recognize the right of refugees to return to their homeland, but rather that Israel recognizes only the right of Jews, whom it claims, based on its religious and colonial myth, were refugees from Palestine who had lived in exile for 2000 years, to “return,” while it denies that right to the Palestinians, whom it recognizes as having been displaced from Palestine.

The basis of this discrepancy is not an Israeli affirmation that Jews were exiled but the Palestinians were not, or that the Palestinians did not originate in Palestine just as it claims the Jews did, rather the crux of the matter for Israel is its full understanding that international law and the UN guarantee of the right of return of the expelled Palestinians negates the right of return that Israel granted to Jews worldwide and therefore their right to colonize the homeland of the Palestinians.

While Herzl did not speak of a “return” of the Jews in his 1896 pamphlet *The State of the Jews*, whereby Palestine was one of the listed geographic options where Jews could establish a state,

in his 1902 novel *Old-New Land*, he emphasized the concept of “return,” which he explicitly coupled with colonization. This understanding of return-as-colonization-as-expulsion-of-the-natives was always explicit and never covered up by the early Zionists, who were, after all, writing during the heyday of European colonialism. In Herzl’s novel, the idea was first articulated by a fictional East-European character: “Dr. Weiss, a simple rabbi from a provincial town in Moravia,” who states that “A new movement has arisen within the last few years, which is called Zionism. Its aim is to solve the Jewish problem through colonization on a large scale. All who can no longer bear their present lot will return to our old home, to Palestine.”

By 1923, Vladimir Jabotinsky, the leader of Revisionist Zionism laid out the Zionist coupling in his manifesto, *The Iron Wall*:

now when the whole of the civilised world has recognised that Jews have a right to return to Palestine, which means that the Jews are, in principle, also "citizens" and "inhabitants" of Palestine, only they were driven out, and their return must be a lengthy process, it is wrong to contend that meanwhile the local population has the right to refuse to allow them to come back... Palestine consists of two national groups, the local group and these who were driven out, and the second group is the larger.

Jabotinsky like Herzl understood that the so called “return” of the Jews to Palestine was in fact nothing except colonization: “There can be no voluntary agreement between ourselves and the Palestine Arabs...it is utterly impossible to obtain the voluntary consent of the Palestine Arabs for converting ‘Palestine’ from an Arab country into a country with a Jewish majority...My readers have a general idea of the history of colonisation in other countries. I suggest that they consider all the precedents with which they are acquainted, and see whether there is one solitary instance of any colonisation being carried on with the consent of the native population. There is no such precedent. *The native populations, civilised or uncivilised, have always stubbornly resisted the colonists, irrespective of whether they were civilised or savage.*”

In contrast with the Palestinians whose right of return is affirmed in international law and UN resolutions, there are no international documents or laws that guarantee a Jewish “right of return” to Palestine or Israel. Neither the Balfour Declaration of 1917 nor the Partition Plan of 1947 spoke of any rights for Jews to return to Palestine, and there is nothing in UN resolutions or international law that grants any such rights to Jews. Only Israeli ideological claims and Israeli law grants them such a right.

Herein lies the reason why the two rights of return are not symmetrical in Israeli argumentation, any more than they are in international law. It is precisely because the European Jews’ “right” to return to their alleged “homeland” could only be realized through colonization of the homeland of the Palestinians, and that Jewish colonization of the land of the Palestinians could only be realized through the expulsion of the indigenuous Palestinians and ensuring the latter’s inability to ever return to their homes, that a Palestinian right of return would undo the entire Zionist project, which is premised on their very expulsion. Exercising the internationally-recognized Palestinian right of return negates the Israeli Jewish “right of return” to colonize Palestine and annuls the Israeli “law of return.” Israel understands very well that the return of the Palestinian refugees and their descendants means nothing short of decolonization and the undoing of the racist special status that Israel exclusively grants to Jews.

It should be noted here that international law’s understanding of the rights of refugees includes the rights of their descendants to return, something to which Israel and pro-Israel forces question as illegitimate. Yet, Israel’s concept of the return of Jews, as amendments to the Law of return that were added in 1970, allow not only those recognized as Jews to “return” to Israel, but also the non-Jewish “child and ... grandchild of a Jew, the spouse of a Jew, the spouse of a child of a Jew and the spouse of a grandchild of a Jew, except for a person who has been a Jew and has voluntarily changed his religion.” This amendment is in line with Zionism’s initial and permanent conception that the exclusive Jewish right of return means the Jewish right to colonize Palestine.

However, Israeli assertions are not shared by the UN or international law. In addition to the annual UN reassertion of the Palestinian refugees' right of return, the right of return was upheld in principle and practice after the Bosnian War. Upwards of half a million refugees and internally displaced persons returned with international assistance, following the 1995 [Dayton Agreement](#), to their homes to areas in Bosnia (a country of three and a half million people) dominated demographically and politically by members of another ethnic community. As the Bosnian case clearly demonstrates, the right of return of the refugees trumped the racially separatist policies of the local authorities who sought to continue to control the land of the displaced refugees and to populate it demographically with their own ethnic group at the expense of the refugees. International enforcement of the Bosnian refugees' right of return was based on the well-established right of return of refugees in international law and UN resolutions, while demographic racial separatism had no moral or legal standing whatsoever in enforcing the refugees' rights of return. This is the case today with the right of Somali refugees and their descendants to return. It is this established right that the Trump administration is seeking to undo by its ongoing attempts to destroy UNRWA and to redefine who is or is not a refugee. With Palestinians outnumbering Jews today across Israeli-occupied Palestine, Israel's enactment of the Nation-State Law in July 2018 is engineered to secure racial Jewish supremacy in the country, after Israel's failure to secure Jewish demographic supremacy.

The Israeli conception of rights is not universal but always particular, indeed always *Jews-specific*. It is this particularism that Israel seeks to render compatible with international law's universalism. If the universalism of the Palestinian right of return that is based on international law and UN resolutions is undone in favor of the Israeli particularism of a Jewish "right of return" that can be imposed by US and Israeli diktat as the new basis of international law, then the threat of a Palestinian return would be neutralized and the right to continued Jewish colonization of Palestine guaranteed. The Trump administration's recent decision affirming that Jewish colonial settlements in Jerusalem, the West Bank, and the Golan heights are not in contravention of international law is the logical outcome of Israel's and Trump's earlier efforts to deny Palestinians the right of return by redefining who is or is not a refugee.

The Zionist colonization of Palestine was based on a particularist Jewish right of return-as-colonization-as-expulsion of the Palestinians, in short it was based on racial supremacy that justified this alleged right. The Palestinian struggle today must not waiver on the implementation of the right of the Palestinians to return, as this right is the legal key to undoing the Zionist conquest of Palestine in its entirety. Israel and its US ally understand this very well, which is why they are fighting with all their might to undo it.