

Palestinian Rights in the Document Shredder: The Nusseibeh-Ayalon Agreement

Ali Abunimah, *The Electronic Intifada*, 7 September 2002

The fact that the details of a proposed Israeli-Palestinian final peace agreement reached by PLO Jerusalem representative Sari Nusseibeh, and Ami Ayalon, former head of the Israeli "Shin Bet" secret police were published in Haaretz without a reporter's byline, suggests that the document is indeed the work of the two authors themselves ("The Nusseibeh-Ayalon Agreement: Final Draft Cover Letter," September 3, 2002).

The contents once again reveal the shocking alacrity with which some Palestinians are willing to abandon the most fundamental Palestinian rights, adopting hook, line and sinker Israeli arguments that realizing these rights is impractical while at the same time virtually all of Israel's goals are achieved.

Many of the ideas in the Nusseibeh-Ayalon document are the same vague Camp David notions of keeping Israeli settlements in place, while annexing them to Israel, a demilitarized Palestinian state "based on" the 1967 borders, and Jerusalem as an "open city."

Hidden behind the conciliatory language are rich rewards for Israel, all at the expense of the Palestinian people's basic, inalienable rights. According to the draft agreement:

"The Palestinian people and the Jewish people [would] each recognize the other's historic rights with respect to the same land. The Jewish people has for generations wanted to establish a Jewish state in all parts of the Land of Israel, while the Palestinian people has similarly wanted to establish a state in all parts of Palestine."

Thus, the fact that the Palestinians formed an overwhelming majority of the population of Palestine, and had lived in their native land for centuries and longer before Israel's establishment by a foreign colonial movement, and the fact that three fifths of the Palestinians were forced out of more than four hundred towns and villages destroyed and depopulated by Zionist forces in 1947-48, are simply ignored. Instead, this astonishingly deceptive language treats the Israelis and Palestinians as if they were both equally alien, and both came to Palestine from somewhere else with equally legitimate aspirations to settle in a land which neither possessed.

While appearing to put Palestinians and Jews on an equal footing, this language actually does the opposite. Accepting it forces Palestinians to forget everything about their history and what was done to them by the Zionist movement, which from its first stirrings spoke of 'transfer,' and their present reality as a dispossessed, exiled and subjugated people. Simultaneously it requires us to place Zionist-Jewish mythology and aspirations at the forefront of our consciousness and priorities. Only through such forgery of history does it achieve 'balance.'

For Nusseibeh, also the president of Al-Quds University, to sign onto a document which asserts that "Arab neighborhoods in Jerusalem will be under Palestinian sovereignty," while "Jewish neighborhoods" will be "under Israeli sovereignty" sounds reasonable enough. But this is simply a repetition of the formula adopted by President Clinton in December 2000. What it means, in short, is that Israel is simply allowed to keep all of the colonies it established illegally and by force, on expropriated Palestinian land in and around occupied East Jerusalem since 1967. Palestinians would be handed only partial control of the rest.

Naturally, while East Jerusalem is infinitely divisible with large chunks being handed over to Israel with the Palestinians paying the price, there is no question of the Palestinians regaining any of their lands and rights in West Jerusalem, from which more than 30,000 were expelled in 1947-48.

Most disturbing is what the agreement says about the right of Palestinian refugees to return to their homes:

"Right of Return: Recognizing the suffering and the plight of the Palestinian refugees, the international community, Israel and the Palestinian state will initiate and contribute to an international fund to compensate the refugees. Palestinian refugees will return only to the state of Palestine; Jews will return only to the State of Israel."

Once again, behind the appearance of balance, is the shredding of fundamental human rights. The right of return is enshrined in the Universal Declaration of Human Rights which states that "Everyone has the right to leave any country, including his own and return to his country." Decades of international jurisprudence support this principle. Following their expulsion and flight in 1947-48 this principle was specifically applied to the Palestinians in UN Resolution 194 which 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, and that compensation should be paid for the property of those choosing not to return..."

The right of return is so well rooted in international law since World War II that lately some Israeli legal experts have resorted to semantics to try to evade it. They claim that since Resolution 194 does not actually use the word "right" and says only that Palestinians "should" be permitted to return, it is only a friendly suggestion and not a legal requirement.

If such nonsensical sophistry were to gain wide acceptance, all sorts of basic rights might disappear in a puff of smoke. For example, one could easily argue from the fact that the First Amendment to the United States Constitution utterly fails to use the word "right" in connection with freedom of speech, the press and religion, while it does specifically use the word for other matters, that the Supreme Court and the American people have been mistaken for centuries and it is only a friendly suggestion that these freedoms should actually be protected.

Related Link: [The Palestinian Right of Return](#) by Ali Abunimah and Hussein Ibish; Washington, DC: ADC Research Institute, 2001)

Not only does UN Resolution 194 clearly express the intention of its authors and adopters (among which was the United States) to recognize the right of Palestinians to return not to a "Palestinian state" but to their homes wherever those homes were, but it ties this right to the achievement of peace, since the right is to be exercised by those refugees "wishing to live in peace with their neighbors."

Despite this, the Zionist movement has managed to turn this resolution on its head and convince many people, some of them apparently in what remains of the Palestinian leadership, that there can be the right of return or peace, but not both. Accepting this logic means accepting the Zionist premise that Israel's demand that it should be able to maintain a Jewish majority even at the price of basic justice, fundamental human rights and democracy, should be everyone's primary goal, including that of the Palestinians.

While virtually all Israelis deny the right of Palestinians to return to their homes, Israel now demands that the Palestinians recognize that Israel has a 'right to exist as a Jewish state.' This has absolutely no basis whatsoever in any law or principle of justice. Even if Palestinians recognize Israel as a Jewish state, no one can grant it a right to maintain a specific demographic composition -- a Jewish majority -- for eternity. To do so would mean that if the natural processes of population growth, immigration and emigration were to change the demographic composition in

a way that interfered with Israel's "right" to have a Jewish majority then Israel would be allowed to alter its own demographic composition.

By what means could this be achieved? Already 'transfer'--ethnic cleansing--is again gaining popularity, but other measures that have already been discussed in Israel include denying citizenship to the children of non-Jews born in Israel, or limiting the number of children non-Jews are allowed to have. If these measures ever become acceptable, then so, logically, could forced sterilization of non-Jews. After all, if Israel has a "right" to maintain a Jewish majority, then this right must be enforceable or it is simply meaningless.

It is hard to imagine such a demand being treated with anything but horror in any other context. What would happen, for instance, if France asserted that it had the 'right to exist as the state of Northern European people of Frankish origin'? And what would happen if France announced that to enforce this right it could 'repatriate' French citizens of North African origin, deny their children citizenship, not allow them to re-enter the country if they leave, and so on? In fact that is just what Jean-Marie Le Pen stands for, and we know what the French electorate, the world, and even Israel thought of that. Israel's demand is arguably even more extreme because it demands a "right" to limit the very existence not of a community whose original constituents came to Israel as immigrants, but of the indigenous people of the country.

Under the guise of symmetry and equality, the Ayalon-Nusseibeh agreement eliminates the right of a Palestinian born in Palestine to go back home, while enshrining the "right" of a person who has never set foot in Palestine/Israel to come and settle there just because Israel says that person is a Jew. There is actually no Israeli concession at all when the document states that Jews will "return only to the State of Israel," since the vast majority of new immigrants under Israel's Law of Return do not actually go to settlements in the Occupied Territories, and those that want to will still be able to do so since most of the settlements will simply be annexed to Israel.

At the stroke of the pen, Israel is absolved of its historic and primary responsibility for the expulsion and flight of Palestine's indigenous people, and is reduced to just another donor to an international fund to "compensate" the refugees. To add Palestine to the list of donors is another astonishing blunder that suggests that the Palestinians and Israelis are equally responsible for the creation of the Palestinian refugee problem.

In the face of such attempts to liquidate their rights by their own leaders, Palestinians must re-assert in all forums that peace requires the right of return to be implemented in reality for those refugees who choose it. Palestine's refugees are not human refuse, or obstacles to peace, but people with lives and histories, people whose lives have been put in the deep freeze while generations of Israelis have flourished and prospered on the ruins of Palestinian society. If peace is to be made, it must be made between equals. That means the right of Israelis to live in peace and security according to their own traditions and customs cannot come at the price of the rights of Palestinian refugees.

Those who believe in peace with justice must reassert the spirit of Resolution 194, which in addition to guaranteeing the refugees' right to return to their places of origin, means nothing more and nothing less than two peoples living together as neighbors in peace, freedom and equality. How Israel has managed to convince Sari Nusseibeh, among others, that bringing about this realizable, just and desirable vision is tantamount to the Israelis committing 'national suicide,' to use the common term, is a baffling mystery.

Most depressingly, the Nusseibeh-Ayalon document is not the first of its kind. The Beilin-Abu Mazen plan and the Abu Ala-Peres plan to declare a Palestinian state on the few percent of the Occupied Territories once briefly controlled by the Palestinian Authority, preceded it. Those who engage in these flirtations disguise their dangerous tampering with Palestinian rights, which they do with no mandate from those they claim to represent, on the basis that they are merely individual initiatives. The reality is that they are authentic trial balloons, approved at the highest

level mostly on the Palestinian side, designed to test how far the Palestinians can go in making concessions to Israel. The failure of Palestinian leaders to strongly reject these dubious methods, and to stop unauthorized individuals from gambling with a people's rights, is only evidence of their complicity.

These kinds of games with people's lives and fundamental rights throughout the period of the Oslo process, led directly to the outbreak of the Intifada. Continuing along this path will only destroy any remaining faith that Palestinians may yet have in their leaders, and bury whatever chances are left for genuine reconciliation and peaceful coexistence between Palestinians and Israelis in the future.