

Decolonization, Self-Determination, and the Rise of Global Human Rights Politics

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6 Cutting Out the Ulcer and Washing Away the Incubus of the Past Genocide Prevention through Population Transfer

A. Dirk Moses

Introduction

The substantial literatures on decolonization, the partitions of Germany, British India, and Palestine in the 1940s, and the so-called human rights revolution, have not intersected in the manner that their simultaneity suggests they should.¹ For instance, Roger Normand and Sarah Zaidi's contribution to the UN Intellectual History Project, *Human Rights at the United Nations*, does not mention the partitions and the millions of refugees they occasioned despite devoting many pages to the formulation of the various UN human rights instruments of the later 1940s.² Like so many others written by lawyers and social scientists, the volume also tends to ahistoricism, presuming that the term "human rights" possessed a stable meaning or served uniform purposes from the interwar years to the present day. Thus the Czechoslovak statesman Eduard Beneš and Zionist leader Chaim Weizmann are cited as supporters of human rights already in the 1920s with the implication that they advocated the contemporary international human rights regime, an anachronism repeated by the legal historian A. W. Brian Simpson when he perceived a tension

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¹ Recent works that considers one aspect are Panikos Panayi and Pippa Virdee, eds., *Refugees and the End of Empire: Imperial Collapse and Forced Migration in the Twentieth Century* (Basingstoke, UK: Palgrave MacMillan, 2011); Jessica Reinisch and Elizabeth White, eds., *The Disentanglement of Populations: Migration, Expulsion and Displacement in Postwar Europe, 1944–49* (Basingstoke, UK: Palgrave Macmillan, 2011); Peter Gatrell and Nick Baron, eds., *Warlands: Population Resettlement and State Reconstruction in the Soviet East European Borderlands, 1945–50* (Basingstoke, UK: Palgrave Macmillan, 2009); Pertti Ahonen, et al., *People on the Move: Forced Population Movements in Europe in the Second World War and Its Aftermath* (Oxford: Berg, 2008).

² Roger Normand and Sarah Zaidi, *Human Rights at the United Nations: The Political History of Universal Justice* (Bloomington: Indiana University Press, 2008).

between advocating mass population “transfer” on the one hand and human rights on the other. Regarding Beneš, for instance, he observed that “his involvement, after the war, in the brutal expulsion of ethnic Germans and Hungarians from Czechoslovakia casts doubt upon his fundamental sincerity [about human rights], or perhaps illustrates the fact that enthusiasm for human rights and hypocrisy not uncommonly go hand in hand.”³ This chapter challenges such views in light of contemporary understandings of human rights. In doing so, I focus on the interwar years and 1940s with the temporal coincidence of the debates around the partitions of Germany, British India, and Palestine on the one hand, and the construction of the postwar international order and its human rights regime on the other.⁴

It is possible to push the argument further than the viewpoint in which the Great Powers cynically replaced the League of Nations’ minority rights system with an unenforceable human rights regime so they could more easily deport destabilizing minorities. While many voices making this argument could indeed be heard in the 1940s, the concern for minority rights in Palestine and India continued to exercise British policymakers as before.⁵ This policy continuity outside Europe highlights the relevance of atrocity prevention, and suggests that the new human rights discourse functioned as more than a “smokescreen” (Mark Mazower) for expulsion.⁶ Accordingly, the relationship between partition, transfer, and

³ A. W. Brian Simpson, *Human Rights and the End of Empire: Britain and the Genesis of the European Convention* (Oxford: Oxford University Press, 2004), 161, 325; Alfred de Zayas, *Nemesis at Potsdam: The Anglo Americans and the Expulsion of the Germans: Background, Execution, Consequences* (London: Routledge and Kegan Paul, 1977). Most recently R. M. Douglas, *Orderly and Humane: The Expulsion of the Germans after the Second World War* (New Haven, CT: Yale University Press, 2012) complains about the human rights violations endured by Volksdeutsche in their expulsion. Latest scholarship includes Hugo Service, “Reinterpreting the Expulsion of Germans from Poland, 1945 9,” *Journal of Contemporary History* 47, no. 3 (2012): 528–50.

⁴ Arie Dubnov and Laura Robson, eds., *Partitions: A Transnational History of 20th Century Territorial Separatism* (Stanford: Stanford University Press, 2018), and my chapter “Partitions, Hostages, Transfer: Retributive Violence and National Security,” 257–95, 344–55. A defense of the human rights revolution teleology is Akira Iriye et al., eds., *The Human Rights Revolution: An International History* (New York: Oxford University Press, 2012).

⁵ For example, the work of Reginald Coupland, *Britain and India* (London: Longman, 1941, rev. eds. 1946 and 1948).

⁶ Inis L. Claude, *National Minorities: An International Problem* (Cambridge, MA: Harvard University Press, 1955); Mark Mazower, “Strange Triumph of Human Rights, 1933–1950,” *Historical Journal* 47, no. 2 (2004): 379–98; Mazower, *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations* (Princeton, NJ: Princeton University Press, 2009); Eric D. Weitz, “From the Vienna to the Paris System: International Politics and the Entangled Histories of Human Rights, Forced Deportations, and Civilizing Missions,” *American Historical Review* 113, no. 4. (2004): 1313–43.

human rights is only partially captured by Sam Moyn's suggestive "false start" thesis in his much-discussed book, *The Last Utopia: Human Rights in History*, in which national self-determination obtained as the predominant norm until the 1970s when it was replaced by international human rights.⁷ Human rights rhetoric, I argue here, was not a mere puff or only an enabling context for expulsion in the 1940s; it performed important work in inspiring and justifying the foundational violence of the postwar order.

To answer our question about the relationship between partition, expulsion, and the "human rights revolution," it is necessary to study the interwar discussion on population transfers, as they were called, and a slightly earlier partition debate, namely the partition of Palestine recommended by a British commission in 1937. This discussion was characterized by a Janus-faced reference system: on the one hand, the commission defended its population transfer recommendation in terms of the Greek–Turkish population exchange of 1923 and, on the other, important commentators thereafter linked the partitions of Germany, British India, and Palestine with population transfer and humanitarian ideals.⁸ Transfer was to be carried out not in contravention of human rights but in the name of establishing a new order based on the "rights of man" and what now is called genocide prevention; to use the contemporary terminology, they were to be expedited in the name of humanity and in a humane manner.

Significantly in this period, human rights were not yet always, or only, thought of as *international* human rights, as they are today. As Glenda Sluga has noted, continental figures like René Cassin understood the concept as translating the French *les droits de l'homme* – "the rights of man" – thereby linking it to the venerable revolutionary tradition of the national self-determination of qualified people rather than the new and abstract notion of international human rights *against* the state.⁹ Accordingly, contemporaries nestled the concept in an ensemble of the Western civilizational attributes that qualified a people for independence: fundamental freedoms and democracy, the rule of law, economic progress, and

⁷ Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge, MA: Belknap Press of Harvard University Press, 2010).

⁸ Article 143 of the earlier (1920) but superseded Treaty of Sèvres also stipulated population exchanges but on a voluntary basis. Thanks to Roland Burke for alerting me to this point.

⁹ Glenda Sluga, "René Cassin, *Les droits de l'homme* and the Universality of Human Rights, 1945–1966," in *Human Rights in the Twentieth Century*, ed. Stefan Ludwig Hoffmann (New York: Cambridge University Press, 2011), 108. This distinction is a core analytical point in Moyn, *Human Rights in History*.

modernity, often linked to successful settler projects. The relationship was cast in terms of a starkly drawn binary: human rights characterized modern, democratic, ethnically homogeneous societies; they did not obtain in feudal/premodern, undemocratic ones whose mixed populations demanded colonial supervision and/or minority protection.¹⁰

Self-determination and human rights entailed one another at this time, because human rights were a function of the state. Accordingly, self-determination crowned the Allied ideals declared in the Atlantic Charter of 1941. The Allied ideals required the total defeat of the Nazi occupier and the elimination of the causes of its temporary victory. Those obstacles to the progressive new order included German minorities in eastern and central Europe; and, as we will see for Zionists observing the Czechoslovak plans to expel Germans, Palestinian Arabs represented such an obstacle, although they were of course no minority but a large majority in Mandate Palestine: that they would become a minority was the avowed Zionist goal.¹¹

Because human rights became synonymous with civilization and modernity, namely the project of democratic self-governance of occupied nations after the defeat of Nazi barbarism, postwar stability was elemental for their institutionalization.¹² And the key to nation-state stability was thought to be ethnic homogeneity, yet another attribute of modern societies. As already noted, the interwar discourse on population “transfers” proposed them as a “humane” solution to seemingly intractable nationality conflicts and as a precondition for social and economic development. Far from somehow in tension with partition and transfer, as supposed today, human rights and the repertoire of civilization norms for which the concept stood, actually justified them. The euphoric rhetoric about the supposed human rights revolution obscures the intrinsic role of human rights in the foundational violence of the new order.¹³

¹⁰ The evidence from the interwar period suggests that the link between civilization, modernity, and human rights can be located then rather than after World War II, as suggested by Mark Mazower, “The End of Civilization and the Rise of Human Rights: The Mid Twentieth Century Disjuncture,” in Hoffmann, *Human Rights in the Twentieth Century*, 29–44.

¹¹ A. Dirk Moses, “Empire, Resistance, and Security: International Law and the Transformative Occupation of Palestine,” *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 8, no. 2 (2017): 379–409.

¹² Jay Winter, “From War Talk to Rights Talk: Exile Politics, Human Rights and the Two World Wars,” in *European Identity and the Second World War*, ed. Menno Spiering and Michael Wintle (Basingstoke, UK: Palgrave Macmillan, 2011), 55–74.

¹³ Cf. Mark Levene, *Genocide in the Age of the Nation State*, vol. 3, *The Crisis of Genocide* (Oxford: Oxford University Press, forthcoming, 2013), ch. 4, which discusses the sacrifice of minorities and diversity for the postwar order of nation states.

I unfold the argument in two stages. In the first, I analyze the discussion about the morality and efficacy of population “transfer” in the 1930s, because at the time it became ineluctably associated with partition, and was justified in terms of modernity and preventing ethnic civil wars. Then I show how it became related to the question of human rights in the early 1940s. In the main, my subjects are academic or quasi-academic policy analysts and advocates who advised major organizations and/or states rather than the familiar actors like Churchill, Stalin, Roosevelt, and other political elites whose support for transferring German civilians is well known. Anything but isolated academic scribblers, these half-forgotten figures not only delivered the justifications employed by governments as they negotiated a distinctive phase of decolonization and its relationship to evolving human rights norms: the end of Nazi empire in Europe and dissolution of British imperial control in the Middle East and South Asia. They also made the case for the foundational violence of the new order in which we live today. As we will see, the consensus linking partition, population transfer, and human rights emerged in a highly Eurocentric and historically specific context: that of debate around the fate of German minorities in Central and Eastern Europe, and Zionist aspirations in Palestine.

The Interwar Debate on the Humanity of Transfer

It has become a commonplace in the recent literature to highlight the 1923 population exchange convention between Turkey and Greece, blessed and supported by the League of Nations, as a precedent for later commentators, policymakers, and politicians, and so it was. It also bears recalling that it was highly controversial at the time, with leading British figures expressing their unease with its compulsory dimension and the suffering of the over one million Greek Orthodox civilians who were driven from western Turkey and the roughly 350,000 Muslims who were then compelled to leave Greece for Turkey.¹⁴ For the post-World War I norm was not population exchange but minority protection, which entailed leaving minorities *in situ* and guaranteeing them legally articulated rights. The Treaty of Sèvres signed between the Entente

¹⁴ Mark Mazower, “Minorities and the League of Nations in Interwar Europe,” *Daedalus* 126, no. 2 (1997): 49; Christa Meindersma, “Population Exchanges: International Law and State Practice Part 1,” *International Journal of Refugee Law* 9, no. 3 (1997): 341; Weitz, “From Vienna to the Paris System,” 1136. Despite evidence to the contrary, Howard Adelman and Elazar Barkan come to the opposite conclusion: Adelman and Barkan, *No Return, No Refuge: Rites and Rights in Minority Repatriation* (New York: Columbia University Press, 2011), ch. 2.

Powers and the defeated Ottoman government in 1920 foresaw minority protection within the rump Turkish state (the Ottoman Arab and Armenian lands having passed into Europe and American mandates respectively), indeed the return of Armenian refugees and restitution of their property, though expressing concerns about the lack of “civilized opinion” there that might restrain the state.¹⁵ The defeat of the invading Greek forces and destruction of Smyrna by Turkish nationalist forces, led by Mustafa Kemal (“Atatürk”), in 1922 overturned the Sèvres order. Now the new Turkish government declared that Greeks would have to leave, leading to the Greek prime minister’s suggestion of a formal population exchange administered by the League of Nations. The fighting had caused a major refugee problem in any event, and the exchange convention signed in Lausanne in 1923 bestowed largely retrospective blessing and logistical support for the rehabilitation of refugees, at least concerning the Greeks.¹⁶

Ever since Lausanne, commentators who were partial to population transfers and exchanges have pointed to the peace and stability the convention brought to the eastern Mediterranean. Its compulsory nature was a small price to pay, it was reasoned, in what was ultimately a “humane” policy because future genocidal warfare had effectively been abolished: population transfer as a form of preventing “wars of extermination.” Commentators who argued in these terms were on the margins in the 1920s but found their arguments in the mainstream of even liberal internationalism a decade later, echoing earlier discourses about the removal of indigenous peoples to protect them from frontier violence.¹⁷

These points are well covered in the scholarly literature. What has not been registered sufficiently about Lausanne and population transfers, nor connected with the Palestine problematic, is how the commentary on these phenomena embedded them in a discourse about modernity, human rights, and the role of settler projects in its development. Eduard Beneš, the Czechoslovak leader who urged the expulsion of the Sudeten Germans, for example, complained that they were settlers or colonists in Slavic territory, of a lower cultural level to the Slavs, whereas

¹⁵ Sarah Shields, “Forced Migration as Nation Building: The League of Nations, Minority Protection, and the Greek Turkish Population Exchange,” *Journal of the History of International Law* 18 (2016): 120–45.

¹⁶ Yeşim Bayar, “In Pursuit of Homogeneity: The Lausanne Conference, Minorities and the Turkish Nation,” *Nationalities Papers* 42 (2013): 108–25.

¹⁷ On the European context, see Matthew Frank, “Fantasies of Ethnic Unmixing: Population ‘Transfer’ and the End of Empire in Europe,” in Panayi and Virdee, *Refugees and the End of Empire*, 81–101. Thanks to Lorenzo Veracini for pointing out the indigenous parallel.

the western European states had sent settlers around the world and “opened up new regions, and played a civilizing role.”¹⁸ While he was expressing the perspective of indigenous people, the Czechs and Slovaks, his frame of reference was the benefits that settlers brought to extra-European countries. He was merely reflecting the contemporary norm.¹⁹

The advantages conveyed to Greece by the refugees it received from Turkey are a case in point about the connection between population transfers, humane policies, and modernization. Zionist commentary in the 1930s in particular was fascinated by the agricultural development that the refugees brought to Macedonia, coupled with land reform, modern farming techniques, and general economic progress. What is more, the country’s ethnic homogeneity made it more peaceful and modern. Norman Bentwich, the first Attorney-General of Mandate Palestine, ardent Zionist and later professor of international relations at the Hebrew University, wrote already in 1926 about “Macedonia, which was formerly the most desperate welter of nationalities and the traditional breeding ground of feuds and wars, has now obtained an almost homogeneous Greek population. The productivity of the land has been doubled, and in some cases, trebled by the settlers.” He concluded by extolling the virtues of the population change’s effects on Greece: “This enormous enterprise of settlement has been executed by a sustained national effort which is a lesson for the whole of Europe.”²⁰ In this discourse, the refugee becomes the settler colonist: the bearer of modernity and its democratic social system.

This was also the view of the English colonial civil servant and politician John Hope Simpson, who three years later reported on the Refugee Settlement Commission that oversaw the integration into Greece of the Christians from Turkey. He referred to it as “the colonisation work of the Greek Government in the Province of Macedonia,” which entailed cultivating uncultivated land and replacing the Muslims who had left for Turkey. Thanks to a large League of Nations loan, the administrative infrastructure was impressive: fourteen colonization bureaux each with

¹⁸ Eduard Beneš, “The Organization of Postwar Europe,” *Foreign Affairs* 20, nos. 1–4 (1941/2): 235.

¹⁹ On settler colonialism, see Lorenzo Veracini, *Settler Colonialism: A Theoretical Overview* (Basingstoke, UK: Palgrave Macmillan, 2010) and the journal he has co established, *Settler Colonial Studies*.

²⁰ Norman Bentwich, “The New Ionian Migration,” *Contemporary Review*, no. 130 (July/December 1926): 323, 325. The modernization theme is central to Umut Özsu, “Fabricating Fidelity: Nation Building, International Law, and the Greek Turkish Population Exchange,” *Leiden Journal of International Law* 24 (2011): 823–47; Elisabeth Kontogiorgi, *Population Exchange in Greek Macedonia: The Rural Settlement of Refugees 1922–1930* (Oxford: Clarendon Press, 2006).

twenty-five staff, all told between 400 and 500 officials at first and increasing to 1,800. To increase crop yields to sell on the international market and diminish food imports, the Commission founded an Agricultural Colonization Service, which led to borrowing from the classic settler colony of Australia in the form of a drought-resistant and more productive strain of wheat. Massive public works improved the infrastructure of economic development while drainage increased the amount of cultivatable land. Simpson was impressed with the colonists, who on “the average is a better cultivator than the native Greek.” Not only did they bring prosperity to the country, they brought stability.

Before the transfer of populations . . . the Greek population of Greece amounted to only 80 per cent. of the total, 20 per cent. being Turks, Bulgarians and people of other races. After the transfer, of the total population 93.75 per cent. are Greeks and only 6.25 per cent. persons of other nationalities. As a result, the frequent political difficulties which used to arise owing to the presence of considerable foreign elements in the population have disappeared.²¹

This concentrated investment of resources in resettlement and agriculture demonstrated to Zionists that large-scale population transfers were viable when underwritten by states.

They were less enamored of Simpson’s simultaneous deliberations on Palestine, where he was sent in 1929 to investigate the causes of the violent riots that year. Although Zionists were displeased with his report’s findings, because it recommended limiting Jewish immigration and criticized Mandate economic policy that favored Jews, it was entirely in keeping with the racist developmentalism of the time. As in the Greek case, he regarded the settlers as the economically dynamic element, more so given that they were European. The pressing problem of increasing number of landless Arab peasants was a consequence of too rapid change to what he regarded as the backward Arab rural economy, in particular the widespread existence of commons at the expense of privately owned holdings. They should be privatized to increase production, he thought. Besides extensive tax reform to alleviate peasant indebtedness and sale of their lands, he recommended the Greek solution: a new department of economic development for the rural sector to repopulate the countryside more densely with landless peasants on newly privatized and irrigated land, thereby reconciling Arab and Jewish agendas. Although Simpson’s modernization recommendations were controversial because they

²¹ John Hope Simpson, “The Work of the Greek Refugee Settlement Commission,” *Journal of the Royal Institute of International Affairs* 8, no. 6 (1929): 585, 586, 588, 589, 601.

dispelled the illusion that all was well in the Mandate, they were taken up in large measure by his successors.²²

Yet another commission of inquiry was assembled the wake of the Arab rebellion that broke out in 1936. Famously or infamously, depending on your viewpoint, the Peel Commission, as it was unofficially called, recommended the partition of the mandate after determining the irreconcilable nature of the Jewish settlers' European civilization and that of the Palestinian Arabs. What is more, because it was impossible to draw borders for a viable Jewish state, it recommended the transfer of Arabs eastward into less fertile territory, allocating the more fertile coastal areas to the minority Jewish population which it regarded as the better agriculturalists. The interior was to be made habitable for the Palestinian Arabs by irrigation projects and other forms of capital investment.²³

For the Zionist leaders making representations to the commission, the success of Greek settler-refugees after 1923 was evidence that population transfers were progressive acts that benefited all sides. The problem of landless Arab peasants could be solved this way, while bringing prosperity to the underpopulated regions of Transjordan, Syria, and Iraq. Zionist leader David Ben Gurion himself declared at a Zionist congress in 1937 that it was a "humane and Zionist ideal, to shift part of a people [Arabs] to their own country and to settle empty lands," by which he meant transferring Palestinian Arabs eastward to other countries.²⁴

The Commission agreed. Its report was largely written by the Oxford historian Reginald Coupland, who sympathized with the Zionists' modernizing project.²⁵ The report tackled the thorny moral question of compulsion in the following way:

so vigorously and effectively was the task accomplished that within about eighteen months from the spring of 1923 the whole exchange was completed. Dr. Nansen was sharply criticized at the time for the inhumanity of his proposal, and the operation manifestly imposed the gravest hardships on multitudes of people.

²² John Hope Simpson, *Report on Immigration, Land Settlement and Development* (London: HMSO, 1930); Charles Anderson, "The British Mandate and the Crisis of Palestinian Landlessness, 1929–1936," *Middle Eastern Studies* 54, no. 2 (2018): 171–215.

²³ *Palestine Royal Commission Report 1937* (London: HMSO, 1937).

²⁴ Quoted in Benny Morris, "Refabricating 1948," *Journal of Palestine Studies* 27, no. 2 (1998): 86. Generally, see Patrick Wolfe, "Purchase by Other Means: The Palestine Nakba and Zionism's Conquest of Economics," *Settler Colonial Studies* 2, no. 1 (2012): 133–71.

²⁵ Penny Sinanoglou, "The Peel Commission and Partition, 1936–1938," in Rory Miller, ed., *Britain, Palestine and the Empire: The Mandate Years* (Aldershot: Ashgate, 2010), 119–40; Arie M. Dubnov, "The Architect of Two Partitions or a Federalist Daydreamer? The Curious Case of Reginald Coupland," in Dubnov and Robson, *Partitions*.

But the courage of the Greek and Turkish statesmen concerned has been justified by the result. Before the operation the Greek and Turkish minorities had been a constant irritant. Now the ulcer has been clean cut out, and Greco Turkish relations, we understand, are friendlier than they have ever been before.²⁶

Again, population transfer was seen as an anti-genocidal measure (although the word genocide did not yet exist, being coined in 1944), or a “question of humanity,” as the report put it. Reasoning analogically, and in view of the massacres of Assyrians by Iraqi Arabs in 1933, the Commission applied these lessons to the Palestine, concluding that it could not entrust the Jewish minority to the sovereign authority of the Arab majority.²⁷ In doing so, the British continued their belief, shared by scholars today like the Israeli historian Benny Morris, that non-European majorities could not be trusted to protect the rights of minorities, especially a European one. The report’s reference to post-colonial Iraq conveniently omitted the fact that the British preordained the retribution against Assyrians by enlisting them to police the majority Arab population during its mandate. What is more, the British demanded the inclusion of the Ottoman vilayet of Mosul in the British-dominated Iraqi state in 1924–5 on minority protection grounds, although its oil reserves were the draw card.²⁸ Protection, partitions, and transfer participated in the same logic as minority protection: the prevention of ethnic warfare by imperial design or supervision.

The Commission had also been influenced by minority issues elsewhere, determining that “If . . . the settlement is to be clean and final, this question of the minorities must be boldly faced and firmly dealt with. It calls for the highest statesmanship on the part of all concerned” – like the leaders of the Lausanne settlement, the report implied.²⁹ Modernization also played a key role in the option for partition: the Jews had developed a modern capitalist economy that was unmanageable for an Arab government “not fully acquainted with financial and commercial problems on a worldwide scale.”³⁰

²⁶ *Palestine Royal Commission Report 1937*, 390. ²⁷ *Ibid.*, 141.

²⁸ Thanks to Laura Robson for discussions on this point. Laura Robson, *States of Separation: Transfer, Partition, and the Making of the Modern Middle East* (Berkeley: University of California Press, 2017), 36; Sarah Shields, “Mosul, the Ottoman Legacy and the League of Nations,” *International Journal of Contemporary Iraqi Studies* 3, no. 2 (2009): 217–30; cf. Benny Morris, “Explaining Transfer: Zionist Thinking and the Creation of the Palestinian Refugee Problem,” in *Removing People: Forced Removal in the Modern World*, ed. Richard Bessel and Claudia Haake (Oxford University Press, Oxford, 2009), 349–60. The murderous attack on Jews in Hebron in 1929 shocked the Zionist leadership in Palestine, which commenced self defense measures and pressed the Mandate authorities for greater protection.

²⁹ *Palestine Royal Commission Report 1937*, 390. ³⁰ *Ibid.*, 141.

As might be expected, many Zionists were excited by the transfer aspect of the report, as was the Polish government, which saw it as an opportunity for Jews to migrate from Poland.³¹ Typical was the Jewish Agency's Kurt Mendelsohn, who traveled to Greece to inspect the results of the exchange so as to urge its analogous benefits for the Palestine case. Writing in 1938 in a pamphlet called *The Balance of Resettlements: A Precedent for Palestine*, he took pains to counter the moral scruples about compulsory transfer. "The circumstances accompanying their realization or execution may indeed tend to obliterate the idea, or may even bear the stamp of inhumanity," he wrote, "but this is by no means an inherent element." However strong the "impression of injustice, suffering and cruelty" associated with what he euphemistically called "the withdrawal of the Greeks from Anatolia," Mendelsohn stressed the "constructive and progressive features even in these difficult circumstances."³² They were the familiar trinity of economic development, social reform, and international peace. Population transfer was linked to the end of reactionary social relations and onset of modernity. Of Lausanne, Mendelsohn wrote "Not until the unmixing of population and the creation of homogeneous States and territories, was the way cleared for the economic development of these countries, for the victory over feudalism, and for the social liberation of the peasants. Only with the exchange of population, and under the pressure of the exigencies of resettlement was this incubus of the past washed away."³³ He continued that the situation resembled the British settler colonies a century earlier, namely the combination of unused population reserves and empty land – all to the benefit of the indigenous Arab population of course.

Mendelsohn dealt with the compulsion question in the following manner: "Even if a resettling process is carried out as humanely as possible, with the greatest consideration for the individual and the group, the separation from what had hitherto been home will always be very painful to many and there are undoubtedly indications that a part of the old generation are not yet reconciled to their forced transfer," he conceded. Then comes the inevitable qualification: "But it is as certain that the growing generation have taken firm root in their new country and

³¹ Yossi Katz, "Transfer of Population as a Solution to International Disputes," *Political Geography* 11, no. 1 (1992): 55–72. On the Polish government's position, see Susan Pedersen, "The Impact of League Oversight on British Policy in Palestine," in Miller, *Britain, Palestine and Empire*, 57.

³² Kurt Mendelsohn, *The Balance of Resettlements: A Precedent for Palestine* (Leiden: A.W. Sijthoff's Uitgeversmaatschappij, N.V., 1939), 3.

³³ *Ibid.*, 19.

have completely adapted themselves to the new conditions of life.”³⁴ These Zionist thinkers were hardly alone in making such arguments. They only were echoing Lord Curzon’s statement in 1923 that “the suffering entailed, great as it must be, would be repaid by the advantages which would ultimately accrue to both countries from a great homogeneity of population and from the removal of old and deep-rooted causes of quarrel.”³⁵

Now, for all that, few statesmen at the time were willing to publicly endorse the thorny issue of *compulsory* transfer; indeed Curzon himself famously had huge misgivings about the Lausanne Convention. After all, the Greek–Turkish case had been a *fait accompli* thanks to Turkish expulsions. *Initiating* transfers to affect a partition was quite another matter, one that bore on the question of what we today call human rights. While Reginald Coupland and Jewish Agency operatives were prepared to entertain this proposition because of the perceived long-term benefits to both parties, others like Yosef Weitz, head of the Jewish National Fund’s Land Department, preferred to devise incentives for Arabs to abandon their land because he could not envisage any power to forcibly transfer the Arabs.³⁶ And, sure enough, the Foreign Office and Anthony Eden rejected Coupland’s plan as unfeasible, as they could not foresee imposing it upon the majority Arab population whose leaders made it clear that they were not to be enticed to abandon their villages and fertile land for arid areas in the east on the promise of irrigation and development.³⁷

The question of compulsion and repatriation as great power policy was placed on the table by Hitler and Nazi Germany’s agreements with the Soviet Union and other European states to bring Germans “home into the Empire” (*heim ins Reich*). Hitler’s logic was the following:

the whole of East and South east Europe is interspersed with untenable splinters of the German nation. In this lies the reason for the continued disturbances between States. In this age of the nationality principle and the racial idea it is utopian to believe that members of superior race can simply be assimilated. It is

³⁴ *Ibid.*, 28.

³⁵ Lord Curzon, January 27, 1923, Lausanne Conference on Near Eastern Affairs, quoted in Michael Barutciski, “Lausanne Revisited: Population Exchanges in International Law and Policy,” in *Crossing the Aegean: An Appraisal of the 1923 Compulsory Population Exchange between Greece and Turkey*, ed. Renée Hirschon (New York: Berghahn, 2003), 29. A more balanced assessment can be found in J. R., “The Exchange of Minorities and Transfers of Population in Europe since 1919 I,” *Bulletin of International News* 21, no. 15 (June 22, 1944): 579–88.

³⁶ Katz, “Transfer of Population,” 64–5.

³⁷ Roza I. M. El Eini, *Mandated Landscapes: British Imperial Rule in Palestine, 1929–1948* (New York: Routledge, 2006), 367–8.

therefore one of the tasks of a far seeing regulation of European life to carry out resettlements in order thus to remove at least part the causes of conflict in Europe.³⁸

The revisionist Zionist leader, Ze'ev Jabotinsky, who had opposed the partition and transfer recommendation of the Peel Commission because it entailed relinquishing significant parts of Palestine to the Arabs, softened his opposition to population exchanges in light of Germany and Italy's agreement about populations in South Tirol in 1939.³⁹ As we will see, Hitler's reasoning was taken up by Beneš and the British Labour Party international relations expert and politician, Hugh Dalton, in the 1940s. It is no accident that Beneš and Dalton knew one another in London, as Dalton moved in exile circles.⁴⁰ A closer inspection of Beneš's views shows that he provided the template for reasoning about forced population expulsions, democracy, and human rights.

Human Rights and Transfer

What, then, was the relationship between human rights language, population transfer, and self-determination? In the early 1940s, Beneš was publishing in English-language journals to advocate "the transfer of populations" in view of the failed minority protection regime and the success of the Greek–Turkish exchange nearly twenty years before; it had prevented "a systematic mass murder of millions of people." Not only was it an exercise in genocide prevention, and therefore humane, the praxis could also be humanized: "If the problem is carefully considered and wide measures are adopted in good time, the transfer can be made amicably under decent human conditions, under international control and with international support."⁴¹ He elaborated his case in a well-known essay, "The Organization of Postwar Europe," published in that venerable journal, *Foreign Affairs*, whose editor was sympathetic to

³⁸ Quotation in Wenzel Jaksch, "Mass Transfer of Minorities," *Socialist Commentary*, October 1944. A different translation appears in J. R., "The Exchange of Minorities and Transfer of Population in Europe since 1919 II," *Bulletin of International News* 21, no. 17 (August 19, 1944): 658, and in Matthew Frank, *Expelling the Germans: British Opinion and Post 1945 Population Transfer in Context* (Oxford: Oxford University Press, 2007), 40.

³⁹ Joseph B. Schechtman's biography of Jabotinsky, *Fighter and Prophet: The Vladimir Jabotinsky Story, the Last Years* (New York: Barnes, 1961), 325–6. Discussions of the vigorous Zionist debate on partition include Aaron S. Kleiman, "The Resolution of Conflicts through Territorial Partition: The Palestine Experience," *Comparative Studies in Society and History* 22, no. 2 (1980): 281–300; Itzhak Galnoor, "The Zionist Debate on Partition (1919–1947)," *Israel Studies* 14, no. 2 (2009): 74–87.

⁴⁰ Frank, *Expelling the Germans*, 63–4.

⁴¹ Eduard Beneš, "The New Order in Europe," *Nineteenth Century*, no. 130 (September 1941): 154.

Beneš's views. A future European federation of democratic states enjoying self-determination could no longer allow Germany to use its minorities in other countries as a fifth column to tyrannize their democratic majorities. What is more, Nazi crimes deserved punishment, and the German people as a whole were responsible for them as any people were responsible for its state's actions. Indeed, German minorities had become what he called an "international menace," and they should be transferred, though he disavowed "any method which involves brutality or violence." Presumably, this scruple was consistent with his reference to Hitler's precedent: "Hitler himself has transferred German minorities from the Baltic and from Bessarabia. Germany, therefore, cannot *a priori* regard it as an injury to her if other states adopt the same methods with regard to German minorities."⁴² All these measures also entailed the modernization of the country, he added.

Dalton proposed Beneš's ideas as Labour Party policy, also invoking Hitler. "The German 'national minorities' were one of the plagues of Europe in the inter-war period," he wrote in a draft party report in 1943. "This time, the frontiers having been drawn, having regard to geographical and economic convenience, all minorities should be encouraged to join the national States to which they belong. In particular, all Germans left outside the post-war frontiers of Germany should be encouraged to 'go home to the Reich': here he consciously invoked Hitler's terminology, turning the Nazi logic against the Germans.⁴³ Again, Lausanne was referred to as a successful precedent. Rather than adjust borders to people, one should adjust populations to borders. Consistently, the Labour Party and Dalton also supported transfer in Palestine, although that did not become British government policy after the war.⁴⁴

How could these arguments be justified in terms of human rights? The question is relevant because Beneš was a member of the Institut du Droit International that in 1929 issued a declaration on the "international rights of man," and in 1942 he himself wrote an article called "The Rights of Man and International Law" that made a case for an international regime to promote democracy as the postwar norm.⁴⁵ Democratic rights were

⁴² Beneš, "Organization of Postwar Europe," 227–8.

⁴³ Frank, *Expelling the Germans*, 66.

⁴⁴ On British policy, see Wm. Roger Louis, *Ends of British Imperialism: The Scramble for Empire, Suez and Decolonization* (London: I.B. Tauris, 2007).

⁴⁵ It is translated with a commentary by George A. Finch as "Declaration of the International Rights of Man," *American Journal International Law* 35, no. 4 (1944): 662–5; Edward Beneš, "The Rights of Man and International Law," *Czechoslovak Yearbook of International Law* (1942): 1–6. Background to the 1929 declaration can be found in Jan Herman Burgers, "The Road to San Francisco: The Revival of the Human Rights Idea in the Twentieth Century," *Human Rights Quarterly* 14 (1992): 447–77.

human rights for Beneš: “The protection of minorities in the future should consist primarily in the defense of human democratic rights and not of national rights.” The resulting stability, he was arguing, was the precondition to federal blocs of democratic countries with progressive social policy dedicated to development. While “Human Rights must be constitutionally established throughout the world,” they should not become an excuse to intervene capriciously or opportunistically in the affairs of other countries.⁴⁶

There was no perceived contradiction between human rights and population expulsion, as commonly supposed, because at this point human rights were to be guaranteed primarily by the state and only as a last resort by an international organization like the UN. The first priority was to establish the modern, democratic, and homogeneous nation-state dedicated to human rights. The expelled minorities’ temporary suffering was for the greater good and, besides, they were collectively guilty in this case. The United Nations could then host a human rights regime that applied to all countries, rather than selectively like the interwar minorities treaties; it could condemn the persecution of individuals as necessary, but minorities as such would enjoy no collective rights. Beneš assured the international public that the “protection of the democratic and human rights of every citizen are guaranteed in Czechoslovakia forever,” but retained a loophole for his expulsion program. Only those citizens could stay who had “remained faithful to the Republic, kept its laws and helped defend its independence” during the Nazi occupation, meaning that only those few Germans who joined the anti-Nazi resistance were safe. What is more, those who threatened what he called “Czechoslovak national tradition of humanitarian democracy” with the prospect of “a most serious civil war,” namely the Germans and Hungarian minorities, could not be allowed to remain.⁴⁷ Individual human rights were selectively applied for the greater good of a new human rights order.

This was not isolated reasoning. Beneš’s colleague, the Czechoslovak foreign minister in exile, Jan Masaryk, also saw no place for the German minority in the state when Nazi tyranny ended. The majority of ethnic Germans had welcomed the annexation of the “Sudetenland” and took on German citizenship. There would be a reckoning with them, he implied in 1943, when comparing the “liberation” of the country from

⁴⁶ Beneš, “Organization of Postwar Europe,” 237; Beneš, “Czechoslovakia’s Struggle for Freedom,” *Dalhousie Review* 21 (October 1941): 259–72, esp. 269.

⁴⁷ Eduard Beneš, “Czechoslovakia Plans for Peace,” *Foreign Affairs* 23, nos. 1–4 (1944/5): 33, 35–6; cf. Bruce R. Berglund, “‘All Germans Are the Same’: Czech and Sudeten German Exiles in Britain and the Transfer Plans,” *National Identities* 2, no. 3 (2000): 225–44.

Austro-Hungarian rule in 1918 with the coming liberation: whereas there was no “retribution” against the German oppressors, who had come as “settlers” hundreds of years earlier and taken over, after World War I, there would be after the second one. The “minority problem shall be settled radically and with finality,” he declared to his Jewish audience in London, for interests of economic, political, and religious “security.”⁴⁸

It was also no accident that other celebrated members of the Institut du Droit International advanced such arguments: Nicolas Politis, the Greek-French jurist and politician, and René Cassin, the French lawyer instrumental in the formulation of the UN’s Universal Declaration of Human Rights. Politis also incarnated the easy reconciliation of liberalism, internationalism, and population transfers. A highly regarded proponent of “international morality,” the “juridical conscience,” collective security and arbitration, Politis was at the vanguard of the League’s mission to convert diplomacy from force to law. Reform, whether at home or abroad, required stability, and because minorities led to instability, he shared the policy of liberal Greek governments to homogenize the non-Greek populations gained with northern territory won in the Balkan Wars of 1912–13. He drafted the treaty with Bulgaria after World War I to voluntarily exchange populations and the compulsory population exchange with Turkey soon thereafter, which he regarded as a raging success for reducing the minority population, increasing the overall population and cereal production. Writing in 1940 soon after Nazi German had commenced extensive population exchanges with neighboring states to import ethnic Germans, he commended the policy with striking candor to his French audience. Minority agitation had destabilized Europe, he declared, agreeing with Hitler. He was equally candid that compulsory exchange was inconsistent with “humanity” but, like other transfer proponents, stressed on the long-term benefits. Significant for our purposes is his invocation of human rights in this regard. “International human rights,” he assured, “will one day be a valid rule for all States, without any exception.” But not yet. First national and international “health” had to obtain, by which he meant national homogeneity to guarantee stability. “Surgery” was required to effect continental recovery. “It is a painful operation, but it

⁴⁸ Jan Masaryk, “Minorities and the Democratic State,” Lucien Wolf memorial lecture (Jewish Historical Society of England, 1943), 19–20. On the Jewish question in Czechoslovakia, see Jan Láníček, *Czechs, Slovaks and the Jews, 1938–48: Beyond Idealisation and Condemnation* (Basingstoke, UK: Palgrave Macmillan, 2012); Livia Rothkirchen, *The Jews of Bohemia and Moravia: Facing the Holocaust* (Lincoln: University of Nebraska Press, 2012).

is true of all operations,” he conceded, the gain, however, should not be “arrested by false feelings,” a distorted sentimentalism.⁴⁹

Cassin argued in similar terms in relation to Zionism and Palestine. At the same time as he advocated human rights at the UN in 1947, he led the French Alliance Israélite Universelle campaign for the UN’s partition of Palestine in 1947, a marked change from its French republican prewar hostility to a Jewish state or nation. Jewish national rights trumped Palestinian ones – Arabs were not mentioned by name in the memo he wrote, “On the Palestine Problem.” Again there was no contradiction in his mind between his agendas because the benefits of the new order would justify the means of its establishment, in this case Jewish settlers acting as the vehicle of democracy in the darkness of the orient: “the democratic hope in the Near East can only progress under the influence of the Jewish ambition in Palestine,” he wrote. The establishment of Israel, Cassin was suggesting, would at once alleviate the Jewish refugee crisis in Europe and inaugurate a human rights order in a part of the world run by what he called the “thieving and bloody indigenous masters” of Jewish minorities in the Middle East, namely the Arabs whom he saw as oppressors of Jewish minorities on North Africa.⁵⁰

Arab human rights were entirely consistent with their denationalization. As Chaim Weizmann had argued a few years before, although Jews “will control their own immigration” in their future state, all citizens will enjoy “complete civil and political equality of rights . . . without distinction of race or religion, and, in addition, the Arabs will enjoy full autonomy of their own internal affairs.”⁵¹ In this mode, human rights did not trump minority rights; here they trumped Arab *majority* rights. In the worldview making human rights a marker of democracy, dangerous and/or backward peoples like German minorities and Arab majorities had to make way for the progressive and modern nation-state led by civilized titular minorities or majorities. The right to self-determination did not

⁴⁹ Nicolas Politis, “Le transfert des populations,” *Politique étrangère* 5, no. 2 (1940): 93–4; Robert Kolb, “Politis and Sociological Jurisprudence of Inter War International Law,” *European Journal of International Law* 23 no. 1 (2012): 239; Marilena Papadaki, “The ‘Government Intellectuals’: Nicolas Politis – An Intellectual Portrait,” *ibid.*, 221–31; Umut Özsu, “Politis and the Limits of Legal Form,” *ibid.*, 243–53.

⁵⁰ René Cassin, “Mémorandum de l’AIU sur le problème palestinien,” June 9, 1947, p. 3, Alliance Israélite Universelle Archive, Paris, AM Présidence 030. The second quotation is taken from Jay Winter, “René Cassin and the Alliance Israélite Universelle,” *Modern Judaism* 32, no. 1 (2012): 16.

⁵¹ Chaim Weizmann, “Palestine’s Role in the Solution of the Jewish Problem,” *Foreign Affairs* 20, nos. 1–4 (1941/2): 337. He immediately added that “if any Arabs do not wish to remain in a Jewish state, every facility will be given to them to transfer to one of the many and vast Arab countries.”

belong to defeated Axis powers and their supporters. The Palestinians, Weizmann, said, were after all supporters of the Axis powers. And as the Peel Commission had determined, they were most definitely not modern. These assumptions also underlay the Programme for Peace produced by the Committee on Peace Aims of the New Zealand League of Nations Union in 1942. Chaired by Professor Julius Stone of the University of Sydney, it advocated “large-scale settlement” of the persecuted “Jewish people in central and eastern Europe” to Palestine and elsewhere “in conformity with the dictates of humanity,” although Stone opposed Beneš’s transfer notions because it implied a mono-national state. His main target was Britain’s 1939 White Paper that restricted Jewish migration to Palestine.⁵²

The discursive link between Europe, Palestine, and India was also provided by the Lithuanian Jewish jurist Jacob Robinson. Born in 1891 in (what is now) Lithuania, he worked for Zionist causes before the war, fleeing to New York in 1940, where he established the Institute of Jewish Affairs, sponsored by the American and the World Jewish Congresses.⁵³ That he was a major Jewish thinker of global order and the place of Jews in it was evident in his various positions. Until 1948, a special consultant for Jewish affairs to the US chief of counsel at the Nuremberg trials, and a consultant to the UN Secretariat in the establishment of the Human Rights Commission, the Jewish Agency appointed him a legal advisor when the Palestine question came before the UN, and in 1948 he entered the service of the new State of Israel.

Like many European Jewish lawyers of his generation, he was a proponent of the minority protection treaty regime that sought to safeguard Jewish and other minorities after World War I. I only have space here to outline his views very briefly. By 1943, he had largely abandoned his faith in the minority protection regime and saw the future of the surviving

⁵² Julius Stone, *The Atlantic Charter: New Worlds for Old* (Sydney: Angus & Robertson, 1943), 134, 78–9. Like many of his generation, Stone was a proponent of the minorities treaties before becoming a partisan of Israel: Stone, *International Guarantees of Minority Rights: Procedure of the Council of the League of Nations in Theory and Practice* (London: Oxford University Press, 1932); Stone, “Behind the Cease Fire Lines: Israel’s Administration in Gaza and the West Bank,” in Shlomo Shoham, ed., *Of Law and Men: Essays in Honor of Haim M. Cohn* (New York: Sabra Books, 1971), 79–110; Stone, *Israel and Palestine: Assault on the Law of Nations* (Baltimore: Johns Hopkins University Press, 1981).

⁵³ Omry K. Feuerstein, “Geschichtserfahrung und Völkerrecht: Jacob Robinson und die Gründung des Institute of Jewish Affairs,” *Leipziger Beiträge* 2 (2004): 307–30; Mark A. Lewis, “The World Jewish Congress and the Institute for International Affairs at Nuremberg: Ideas, Strategies, and Political Goals, 1942–1946,” *Yad Vashem Studies* 36, no. 1 (2008): 181–210.

European Jews in the mass colonization of Palestine.⁵⁴ Debates within the World Jewish Congress show that most Jewish leaders disagreed with his Palestine exclusivism and advocated continuing protection for Jewish rights in the diaspora. There was some alarm at Beneš's transfer and anti-minority position at a time when German authorities were deporting Jewish minorities to "the east," so assurances were sought from him that he did not mean to expel Jews from Czechoslovakia.⁵⁵ Robinson therefore modified Beneš's approach in an ingenious argument. In an article called "Minorities in a New World" in 1943, he criticized the tendency to condemn all minorities as "vicious fifth columns who contributed to the downfall and ruin of their states." Adopting the tone of moderation, he argued that distinctions needed to be made between irredentist minorities and those that reconciled themselves to their minority status, as he did not think the League of Nations minorities rights system had abjectly failed. Any weaknesses were attributable to "*Those groups which permitted themselves to be used as tools for the disruptive plans of their powerful co-nationals.*"⁵⁶ German minorities were the worst of irredentist minorities, while Jewish minorities were a model minority that did not cause problems for their host state.

The urgent need, he continued, was to consider what he called "specific danger zones where this problem is of special importance, regions like Central-Eastern Europe, India, and others." The post-World War I period offered two solutions to the problem, namely transfer and minority protection. And now some new special provisions included "guarantees of human rights."⁵⁷ He doubted the efficacy of any human and minority rights; after all, the minority protection treaties had not saved the Jews from genocide, and nor likely would human rights declarations. "Realistically," he concluded, "we must envisage . . . the transfer of populations" in these danger zones.

Regarding the coercion question, he admitted that "Of course, the humanitarian aspect cannot be neglected, and hardship must certainly be avoided, or at least reduced. Moreover, it is certainly undemocratic to force a person to emigrate against his will." Like commentators since Lausanne twenty years earlier, he immediately qualified this humanitarian

⁵⁴ Jacob Robinson, "Uprooted Jews in the Immediate Postwar World," *International Conciliation* 21 (1942 3): 291-310.

⁵⁵ Gil Rubin, "The End of Minority Rights: Jacob Robinson and the Minority Question in World War II," *Jahrbuch des Simon Dubnow Instituts* 11 (2012): 55-72.

⁵⁶ Jacob Robinson, et al., *Were the Minorities Treaties a Failure?* (New York: Institute of Jewish Affairs, 1943), 260. Emphasis in original.

⁵⁷ Jacob Robinson, "Minorities in a Free World," *Free World* 5, no. 5 (May 1943): 450-4.

sensibility and theodicy of the future pay-off with a sentence beginning with “but”:

But after all, the peace of Europe and the world is of greater importance than adherence to certain procedures for the protection of minorities . . . If it is well established that both the state and the minority will otherwise remain dissatisfied, why not with all necessary safeguards against hardships and with guarantees for the property of transferred remove the reasons for the perpetuation of hatred and dissension?⁵⁸

By 1947, Robinson had embraced the coming human rights regime because it meant that what he called “militant Fascist minorities” could not appeal as collectives to an international body against the democratic majority, an argument made by Beneš before him.⁵⁹ Indeed, he cited Beneš as the “prophet” of population homogeneity and progress, noting that population transfer enabled the “liberated peoples to destroy the last vestiges of Nazism and Fascism and to create democratic institutions of their own choice. This is the principle of the Atlantic Charter,” he wrote, “the right of all peoples to choose the form of government under which they live – the restoration of sovereign right and self-government to those people who had been forcibly deprived of them by the aggressor nations.” Henceforth, they could “form interim governmental authorities broadly representative of all democratic elements in the population.” Human rights, then, depended on the ability to create “conditions of stability and well-being which are necessary for peaceful and friendly relations among nations.” And such conditions entailed mobilizing what he called, in a notably Soviet-sounding statement, “all democratic elements in the population” against the irredentist, fascist ones.⁶⁰ That is why Churchill had said the Atlantic Charter norms did not apply to the Axis powers, and why the Allies were able to ignore the minorities protection treaties when agreeing to expel the Germans at their Potsdam meeting in August 1945.⁶¹ For all his modifications, Robinson followed Beneš in making human rights a license to expel. Writing that year, Hans Morgenthau declared the stabilizing formula to be “partition and repatriation.”⁶²

⁵⁸ Robinson, “Minorities in a Free World,” 453.

⁵⁹ Cf. Joseph B. Schechtman, “Decline of International Minority Protection,” *Western Political Quarterly* 4, no. 1 (1951): 2.

⁶⁰ Jacob Robinson, “From Protection of Minorities to Promotion of Human Rights,” *Jewish Yearbook of International Law* 1 (1949): 137–41. This article was likely written in 1947.

⁶¹ E/CN.4/367, Commission on Human Rights, sixth session, April 7, 1950, “Study of the Legal Validity of the Undertaking Concerning Minorities Treaties,” 60.

⁶² Hans Morgenthau, *Germany Our Problem* (New York: Harper, 1945), 160.

Robinson apparently did not write much about Palestine until he was appointed by the Jewish Agency to represent its case in the UN in 1947. The figure who connected the dots between partition, transfer, and human rights in the Middle East was Joseph Schechtman, long cited as the authority on population exchanges. Recent scholarship has reminded us that he was a Russian-born revisionist Zionist, indeed a biographer of Jabotinsky, with a personal investment in the subject.⁶³ Early in the 1940s, he was employed by Robinson at the Institute for Jewish Affairs to write about the German expulsions and colonization in Europe.⁶⁴ Subsequently, in 1949, he was engaged by the State of Israel to justify the expulsion of Palestinian Arabs and the refusal to allow their return.⁶⁵

Impressively industrious, he published his book *Population Transfers in Asia* in 1949, covering South Asia and the Middle East. Of the former, he wrote that “Both Pakistan and Indian leaders . . . stubbornly refused to accept the exchange of population as a bitter but inevitable necessity and to conduct it in a constructive way” and, in the last section of the book, he made a case for an exchange of Jewish and Arab populations in the Middle East: Jews in Arab countries going to Israel and Arabs in Palestine replacing them in other parts of the Middle East. Partition by itself was insufficient there, he argued. For “The minority problem, which is a question of life and death for the success of any constructive scheme for Palestine,” wrote Schechtman, “cannot be solved without resorting to what the last President Eduard Beneš of Czechoslovakia called ‘the grim necessity of transfer.’”⁶⁶ Using the same arguments as Robinson, Schechtman was effectively saying that the Arabs were an irredentist minority – or rather majority – for their inexplicably stubborn refusal to be reduced to minority status in a majority Jewish Palestine.⁶⁷

⁶³ Nur Masalha, “From Propaganda to Scholarship: Dr. Joseph Schechtman and the Origins of the Israeli Polemics on the Palestinian Refugees,” *Holy Land Studies* 2 (2002): 188–97; Mazower, *No Enchanted Palace*, 117–23; Antonio Ferrara, “Eugene Kulischer, Joseph Schechtman and the Historiography of European Forced Migrations,” *Journal of Contemporary History* 46, no. 4 (2011): 715–40.

⁶⁴ Ferrara, “Eugene Kulischer, Joseph Schechtman.”

⁶⁵ Rafael Medoff, *Militant Zionism in America: The Rise and Impact of the Jabotinsky Movement in the United States, 1926–1948* (Tuscaloosa: University of Alabama Press, 2002), 214–15.

⁶⁶ Joseph B. Schechtman, *Population Transfers in Asia* (New York: Hallsby Press, 1949), 86. There is no footnote for this quotation, but we know he was quoting Beneš, “Speech at the Foreign Press Association, London, 28 April 1942,” in Holborn, *War and Peace Aims of the United Nations*, 427–8; cf. Masalha, “From Propaganda to Scholarship”; Ferrara, “Eugene Kulischer, Joseph Schechtman.”

⁶⁷ Morris makes the point that in the 1930s Zionist leaders had adjudged a future Palestinian minority to be irredentist: Morris, “Explaining Transfer,” 353.

Norman Bentwich, now at the Hebrew University, agreed. Also writing in 1949 in the wake of the Palestine refugee crisis, he regarded the massive population transfers in India's partition as a success and, referring to the Palestinian refugees, wrote that "Some large transfer of population was inevitable, and it offered the most humane as well as the most realistic solution," as well as ending what he termed "stagnation in that part of the world" by enabling the foundation of Israel in terms reminiscent of Cassin's memo two years before. They should be resettled, he concluded, like the refugees of Indian partition, and thereby halt the "enmities in what has been for thirty years one of the danger spots of the world." In a few sentences, he repeated the well-worn arguments for transfer since Lausanne: the prevention of ethnic warfare and stimulation of material progress. And, like Cassin and Weizmann, he asserted that the self-determination of Jews in their ancestral homeland would benefit all. The Arabs could not return, he added, now that their houses had been occupied by Jewish refugees from Europe; again resorting to analogy, he observed that their position resembled those of the Orthodox Greeks driven from Turkey into Macedonia in 1922.⁶⁸

The 1948 conflict between Zionist and Arab forces provided the opportunity for forced transfer that was missing after the Peel Commission a decade earlier. Presciently, a year before, in 1947, in an unpublished memo, Robinson had warned Zionists that India's planned partition offered no model for Palestine because South Asia was what he called "static" whereas Palestine was still a "dynamic" situation.⁶⁹ The message of his guarded prose is not difficult to decipher. "Dynamic" was the term that Zionists like Mendelsohn used to depict Palestine's malleable demography: "not only to consider mechanically the present relative strength in the number of the two populations but the differences in their economic quality and in their potentialities," by which he meant "not only the actual but probable number of immigrants, the country's absorptive capacity and the scarcity of settlers in the neighbouring countries."⁷⁰ The problem with the Indian case – Robinson was writing before the population expulsions in the second half of 1947 – was that it left large minorities in India and Pakistan; population exchanges were not seriously envisaged by the Muslim League and Congress leaders, and nor were provisions made for their protection: that is why it was a static situation. In view of his earlier advocacy of transfer in "danger zones,"

⁶⁸ Norman Bentwich, "The Arab Refugees," *Contemporary Review*, no. 176 (1949): 81–2.

⁶⁹ Jacob Robinson, "Partition of India: Implications for Palestine," Confidential Memo #24, 1947, Central Zionist Archive, S25/9029.

⁷⁰ Mendelsohn, *Balance of Resettlements*, 30.

it is fair to suppose that he was implying that transfer was still on the cards in Palestine, and he was right.

Conclusion

What then of the relationship between these partitions, transfer, minorities, and the question of refugees? A common misunderstanding is that the British imposed partition on India and Palestine with a perfidious imperial policy of “divide and quit.” In fact, they referred the Palestine Mandate to the UN in part because they were unwilling to impose partition on the Arabs, and because the Zionists had commenced a violent uprising against its plan to hand over the state to the majority Arab population as set out in the White Paper of 1939. The British only reluctantly resorted to partition in India when they could not convince the contending parties to sign off on the Cabinet Mission’s federal solution in 1946. Leo Amery, the Secretary of State for India, asked Reginald Coupland, the English architect of the abandoned 1937 Palestine partition proposal, in late 1940 to write a study of the problem. This time he opposed partition because he did not think population exchanges were viable in the Indian case; the numbers were far too large for the “clean cut” envisaged by such a policy.⁷¹ In the end, the British only supported the partition of Germany’s 1937 borders and population transfers, and even then they were taken aback by the extent and vehemence of the expulsions. Given the wild cleansings and Soviet annexation of eastern Poland, the British and Americans were presented with a *fait accompli*, as were the Greeks and League of Nations in 1922 and 1923 when the Turks expelled its Orthodox population. It was far from the “orderly and humane” procedure that the Potsdam Agreement had licensed.

In effect, the UN Palestine partition plan and the partition of India were closer to the League of Nations model of statehood: new states with large minorities and no population exchanges, and with domestic minority protection guarantees. While the British favored national homogeneity in eastern and central Europe, they entreated heterogeneous federations in South Asia and the Middle East that would allow

⁷¹ Reginald Coupland, *India: A Re Statement* (London: Oxford University Press, 1945), 263; T. G. Fraser, “Sir Reginald Coupland, the Round Table and the Problem of Divided Societies,” in *The Round Table, the Empire/Commonwealth, and British Foreign Policy*, ed. Andrew Bosco and Alex May (London: Lothian Foundation Press, 1997), 413–14. Dalit leader B. R. Ambedkar admired the Lausanne solution and thought it a model for India. See my discussion in A. Dirk Moses, “Partitions, Hostages, Transfer: Retributive Violence and National Security,” in Dubnov and Robson, *Partitions*.

them to retain the residual imperial presence they deemed essential to their global security strategy. This time, though, in India and Palestine, nationalists on each side prevailed on the ground, or rather the civil war broke out that the British had feared all along, and in which they did not wish to become embroiled. The 1923-style refugee exchange fait accompli occurred in India as well, sanctioned after the fact by the two new states in 1950. That it has not been so sanctioned in Palestine – that is, that the Palestinian refugee issue remains on the international table – vexes Zionists today who, like Schechtman and Bentwich in 1949, assert that a Lausanne-style retrospective blessing of transfer should occur.⁷²

Why it has not occurred is part of the later story of human rights as well as of self-determination and its roots in the assumption of the new world order that all peoples should be housed in their national homeland. The logic of homeland belonging and self-determination claimed by Zionists can be easily utilized by Palestinians as well, after all. As time passed, Palestinians and their supporters could dislodge human rights from its nesting in the nation-state and claim it as an abstract norm to protest their treatment – or to make self-determination a human right. Thus in 1961, in his debate with the Israeli foreign minister, the historian Arnold Toynbee said “I submit that the human rights of the native inhabitants of a country have an absolute priority over all other claims upon that country, and that these overriding rights are not forfeited if the native inhabitants are dispossessed of their homes and property.” By paying the price for Germany’s genocide of the Jews – that is, expulsion from their country – he concluded, “The Palestinian Arabs have, in fact, been treated as if they did not have human rights.”⁷³

The “human rights revolution” of the 1940s and early 1950s was ultimately disastrous for Palestinians. For while Arab governments

⁷² Adelman and Barkan, *No Return, No Refuge*. They ignore the minimum requirements for consensus identified by Dimitri Pentzopoulos, *The Balkan Exchange of Minorities and its Impact upon Greece* (The Hague: Mouton, 1962), 248–52. First, the affected countries should both accept the exchange; second, the exchange must be carried out under international supervision; third, economic compensation must be provided for the refugees; and fourth, there must be an effective management to accommodate, feed, and integrate the refugees into the new society. Thanks to Volker Prott for this reference.

⁷³ Arnold Toynbee, “Jewish Rights in Palestine,” *Jewish Quarterly Review*, n.s., 52, no. 1 (1961): 1–11. Although human rights is the subject of his chapter that ends with European Jewish refugees possibly replacing Palestinian refugees, as Bentwich urged, G. Daniel Cohen does not thematize the question. The “human rights revolution” was nevertheless “at work” with the displaced persons in Europe, he argues: Cohen, “The ‘Human Rights Revolution’ at Work: Displaced Persons in Occupied Europe,” in Hoffmann, *Human Rights in the Twentieth Century*, 59–60.

successfully insisted that the right to “return to his country” be included in Article 13 during of the UN Declaration of Human Rights,⁷⁴ and the Fourth Geneva Convention prohibited “individual or mass forcible transfer . . . regardless of their motive,”⁷⁵ it came a year too late for Palestinians. Moreover, the Refugee Convention of 1951 gestured primarily to the plight of European refugees whose imperative was the granting of asylum elsewhere rather than right of return, although Arab governments were able to water down Cassin’s attempt to enshrine the right to asylum with a lesser right to “seek and enjoy” it.⁷⁶ German advocates of those expelled from Central and Eastern Europe argued in similar terms, invoking a right of return and of homeland, again without legal effect.⁷⁷ Likewise, the UN General Assembly’s resolution 194 of December 11, 1948 for the return of Palestinian refugees has no standing in international law and has proven impotent even though it was hardly an unqualified approval of mass repatriation: it made any return contingent upon the refugees’ acceptance of the new State of Israel (i.e., no longer constitute an irredentist entity).⁷⁸

Arab commentators, like the Secretary of the Arab League, Edward Atiyah, had conceded that Jewish displaced persons (DPs) possessed “a human and moral right against the whole civilised world,” but not a right to asylum in Palestine where they would come as settlers to overwhelm or displace the Indigenous Arabs – as Weizman, Bentwich, Robinson, and Cassin always intended; the DPs should be granted asylum “on an international basis, by all the countries of the United Nations opening their doors to them in proportion to their resources and absorptive capacities.”⁷⁹ Atiyah’s main point, however, was to contest the UN’s decision to partition Palestine, a decision in which the plight of the DPs had played a large role. The right of indigenous people to resist the settler would not prevail for the reasons Coupland had set out in his shelved report of 1937. Zionist advocates had supplied it to the UN delegates, but it is difficult to say whether Coupland’s arguments swayed them; certainly Coupland thought that the UN

⁷⁴ Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (New York: Random House, 2001), 153.

⁷⁵ www.icrc.org/ihl.nsf/WebART/380_600056

⁷⁶ G. Daniel Cohen, *In War’s Wake: Europe’s Displaced Persons in the Postwar Order* (Oxford: Oxford University Press, 2012), 21.

⁷⁷ Lora Wildenthal, “Rudolf Laun and the Human Rights of Germans in Occupied and Early West Germany,” in Hoffmann, *Human Rights in the Twentieth Century*, 125–44.

⁷⁸ UNGA Resolution 194 (III), December 11, 1948.

⁷⁹ Edward Atiyah, “Palestine,” *Contemporary Review*, no. 174 (1948): 7.

partition recommendation endorsed his ideas.⁸⁰ We do know that in June 1948 Moshe Sharett, Israel's future foreign minister and prime minister, told an interim government meeting that the flight of Palestinian Arabs resembled the expulsion of Germans from Czechoslovakia as well as the earlier, omnipresent Lausanne precedent. He concluded with a statement that summarized the basis of the postwar order: "they are not coming back . . . they need to get used to the idea that this [a possible return] is a lost cause and this is a change that cannot be undone."⁸¹

⁸⁰ Fraser, "Sir Reginald Coupland," 417. Abba Eban reports thus on his meeting with Coupland whom he visited in Oxford; Eban, *An Autobiography* (London: Weidenfeld & Nicolson, 1978), 85.

⁸¹ Eban cited in Alon Confino, "Miracles and Snow in Palestine and Israel: Tantura, a History of 1948," *Israel Studies* 17, no. 2 (2012): 42–3; cf. Abba Eban, *How to Solve the Arab Refugee Problem* (New York: Israel Office of Information, 1957).