



**BOOK REVIEW:
PALESTINIAN REFUGEES IN INTERNATIONAL LAW (2ND EDITION)
BY FRANCESCA P. ALBANESE AND LEX TAKKENBERG;
REDEFINING A LEGAL PARADIGM FOR PALESTINIAN REFUGEES**

MOSTAFA FAZAELI

Professor, Department of International Law, Faculty of Law, University of Qom, Qom, Iran. | m.fazayeli@qom.ac.ir

Article Info	ABSTRACT
Article type: Book Review	Francesca P. Albanese and Lex Takkenberg's <i>Palestinian Refugees in International Law</i> , the substantially expanded second edition of which was published in 2020 by Oxford University Press, is an exhaustive and meticulous work that can be considered the seminal legal text on the status of Palestinian refugees. This volume, which is fundamentally a new work built upon the foundation of the 1998 first edition, adopts a holistic and multidisciplinary approach to examine the historical, legal, and political dimensions of one of the world's most protracted refugee crises. The authors, both possessing extensive experience with the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), present a profound analysis of the distinctive legal regime governing this refugee population, arguing that any just and durable solution to their predicament must be firmly rooted in the principles of international law.
Article history: Received 20 June 2025	
Received in revised form 20 June 2025	
Accepted 25 June 2025	
Published online 31 June 2025	
 https://ijicl.qom.ac.ir/article_3795.html	
Keywords: Palestine, Refugees, International Law, Geneva Convention, UNRWA, UNHCR.	

Cite this article: Fazaeli. M., (2025). Book Review: *Palestinian Refugees in International Law (2nd Edition)* by Francesca P. Albanese and Lex Takkenberg; *Redefining a Legal Paradigm for Palestinian Refugees*, *Iranian Journal of International and Comparative Law*, 3(1), pp: [234-240](#).



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doi 10.22091/ijicl.2025.13998.1184

Publisher: University of Qom

Table of Contents

Introduction

1. Part One: Historical and Legal Foundations (Chapters I–III)
2. Part Two: Seventy Years of Exile Across the Globe (Chapters IV–V)
3. Part Three: Protection and Solutions (Chapters VI–VIII)
4. Overall Assessment

Introduction

In her foreword to the book, Karen Abu Zayd observes that *Palestinian Refugees in International Law* paints an accurate and complete portrait of the history of Palestinian refugees and the oppression they have endured. She contends that, through its fair and impartial assessment, the book has largely stemmed the tide of misinformation on the subject. Abu Zayd reflects that reading this book evoked memories of her tenure at the UNRWA office in Gaza from 2000 to 2010, recounting the oppression she witnessed and describing how the text reawakened a profound sense of anger and long-standing resentment. The authors' comprehensive approach to the various dimensions of the issue, she suggests, succeeds in clarifying the legal basis of the violations perpetrated against Palestinian refugees over the past seventy years. This edition marks the first time that the situation of Palestinian refugees across all five continents has been subjected to a comprehensive legal examination.

The authors elucidate the capacity of international law to identify and redress the injustices suffered by refugees. While assessing the roles of the United Nations High Commissioner for Refugees (UNHCR) and UNRWA in the Near East, as well as the cooperation between the two agencies, they trace the evolution of international law and practice with a view to enhancing protection for refugees.

The research and evaluations presented in this study demonstrate that international law has, to date, failed to provide sustained support for Palestinian refugees. The book presents a coherent picture of a nation in exile, scattered in the wake of forced migration. This picture reveals a fragmented reality that constantly challenges all established legal categories, legal structures, and common perceptions. The authors show that the only common denominator among all generations and different strata of Palestinian refugees around the world is their Palestinian identity and the shared experience of displacement.

The authors vehemently contest the idea that the Palestinian Authority is content with receiving international aid and passively waiting for a solution in refugee camps, having no agency over their own destiny. Instead, they demonstrate how Palestinians have sought to shape

their future through the political and legal activities of popular organizations, highlighting in particular the role of the Palestine Liberation Organization in the United Nations.

By narrating the legal course of this issue within its historical context, the book depicts not only the countless oppressions inflicted on the Palestinians but also their resilience and steadfastness over decades of suffering from continuous displacement. The narrative illustrates their persistent demand for justice, their resistance to the resettlement of hundreds of thousands of Palestinians across the world, and the numerous challenges that arise from this diaspora.

One of the main features of the new edition is the complete rewriting of the final section on solutions. In presenting solutions to overcome the impasse on the question of Palestine, the authors argue that, despite the many missed opportunities, possibilities remain to be seized. They posit that a just and sustainable solution requires a fundamental change to existing paradigms and must be fully grounded in international law, necessitating the pursuit of multilateral efforts such as those emphasized in the 2016 New York Declaration for Refugees and Migrants and the 2018 Global Compact on Refugees.

Ms. Albanese asserts that even if Palestinian refugees agree to a compromise for whatever reasons, the international community must not forget that their return to their homeland is an inalienable legal right, a principle that constitutes the central mission of a legal text such as this. She interrogates why international law, particularly in the case of Palestine, is, as Victor Kattan notes, “closer to power than justice,” and explores how its subordination to political considerations and geopolitical objectives might be countered.

While the first edition of the book was largely influenced by the optimism of the Oslo process and did not examine studies on the right of return as a legal right, the second edition presents a more realistic assessment, critiquing the hypocritical policies of Israel and the United States. The first edition was written in the wake of the Oslo Accords, which optimistically envisaged limited Palestinian autonomy in the Gaza Strip and the West Bank and the establishment of an independent Palestinian State after a five-year interim period. However, subsequent developments, including the collapse of the peace process, the gradual fragmentation of the Palestinian territory through intensified Israeli settlement expansion, widespread violence in the occupied territories (especially East Jerusalem and the Gaza Strip), the protracted siege of Gaza, the shift in the United States’ policy from mediator to open supporter for Israel under the Trump administration, and the unprecedented actions of this administration in 2017 such as relocating the U.S. embassy to Jerusalem, reducing funding to UNRWA, and terminating U.S. aid to the agency, necessitated a comprehensive review of previous studies on the Palestinian issue.

Then, the second edition of *Palestinian Refugees in International Law* offers a comprehensive and rigorous legal analysis of the status, rights, and protection gaps affecting Palestinian refugees under international law. Drawing on historical, political, and legal perspectives, the book meticulously examines the unique legal regime applicable to Palestinian refugees, particularly under Article 1D of the 1951 Refugee Convention, and situates their plight within broader frameworks of international human rights law, the right to self-determination, and the law of state responsibility.

The work is structured into three main parts and eight chapters, providing a comprehensive analysis from the genesis of the refugee question to their current dispersal across five continents.



1. Part One: Historical and Legal Foundations (Chapters I–III)

The first part of the book is dedicated to tracing the historical origins and examining the legal foundations of the Palestinian refugee issue.

Chapter I provides a historical overview of the events that led to the mass displacement of a large part of the indigenous Arab population of Palestine in 1948. It begins by analyzing the developments from the final decades of Ottoman rule through the British occupation and its subsequent thirty-year administration of the Palestinian territory under the Mandate system. This chapter elucidates how the League of Nations Mandate, established by the victors of World War I, served to justify colonial rule over occupied territories and, in the case of Palestine, created the political and social conditions for the displacement and dispossession of its indigenous people. The authors carefully analyze the early United Nations efforts to resolve the issue, as well as subsequent so-called peace negotiations (from Madrid to Oslo and Camp David), concluding that these processes largely marginalized international law. They contend that this marginalization was a principal cause for the failure of these initiatives.

Chapter II is one of the most technical and crucial parts of the book, analyzing the “distinct normative and institutional regime” for Palestinian refugees. It delineates in detail the complementary roles of various UN agencies, such as the United Nations Conciliation Commission for Palestine (UNCCP), the UNRWA, and the UNHCR. The chapter’s fulcrum is an in-depth analysis of Article 1D of the 1951 Geneva Convention relating to the Status of Refugees. Drawing on historical documents and state practice, the authors argue that this provision was conceived not as an “exception clause” but as a mechanism to ensure “continuity of protection.” This interpretation posits that Palestinian refugees are automatically entitled to the Convention’s protections, even while they are under the care of another agency, until a durable solution is achieved in accordance with relevant UN resolutions. This chapter also addresses the definition of “Palestinian refugee” in UNRWA’s operational practice and rejects claims that this definition conflicts with international refugee law.

Chapter III completes the legal framework by examining the status of Palestinian refugees under various branches of international law. It shows that Palestinians hold rights not only as “refugees” but also as “protected persons” under international humanitarian law, as “stateless persons,” and, in some cases, “internally displaced persons” (IDPs). The authors’ main argument is that the “exceptionalist” approach adopted towards Palestinian refugees has, contrary to prevailing assumptions, resulted in less protection for Palestinian refugees in practice- a reality rooted in political considerations rather than legal necessity.

2. Part Two: Seventy Years of Exile Across the Globe (Chapters IV–V)

This section presents an unprecedented and comprehensive picture of the geographical dispersal of Palestinians worldwide.

Chapter IV addresses the situation of refugees in the Middle East and North Africa. It begins with an analysis of the role of the Arab League and the Casablanca Protocol, and then proceeds to a detailed examination of the legal and social status of refugees in UNRWA’s areas of operation (Jordan, Lebanon, Syria, and the Occupied Palestinian Territory) and other Arab

host countries (such as Egypt and Iraq). This precise analysis reveals that the status of refugees in these states is highly varied and often precarious.

Chapter V expands the geographical scope of the Palestinian exile beyond the Arab world, examining their situation in Europe, the Americas, Asia-Pacific region, and Africa. Drawing on extensive field research and data, including from globally distributed questionnaires, this chapter highlights the challenges of the “statistical invisibility” of Palestinian refugees, a consequence of uncoordinated registration and identity verification procedures. This section is one of the most important contributions of the book, as it provides the first relatively comprehensive global mapping of the Palestinian diaspora and its statistical realities.

3. Part Three: Protection and Solutions (Chapters VI–VIII)

The final section of the book examines the specific rights of Palestinian refugees and displaced persons and the search for sustainable solutions. Part Three focuses on specific rights, including self-determination, return, compensation, and socio-economic rights.

Chapter VI focuses on the specific rights of Palestinian refugees, which are divided into two categories: collective rights, such as the right to self-determination, and individual rights, which include the right to return, restitution, and compensation (as “historical claims”), as well as other civil, economic, and social rights essential for a dignified life in prolonged exile.

3.1. Right to Self-Determination

The authors trace the evolution of the right to self-determination from its roots in the post-World War I era to its codification in the UN Charter and subsequent human rights covenants. They argue that the Palestinian people’s right to self-determination was implicitly recognized even before the establishment of Israel, particularly under the League of Nations Mandate system, which provisionally acknowledged the independence of Class A mandates, including Palestine.

The book highlights how political realities, including the Oslo Accords and the establishment of the Palestinian Authority, have complicated the exercise of this right. Despite international recognition of Palestine as a non-member observer state in 2012, the ongoing Israeli occupation, settlement expansion, and fragmentation of Palestinian territory have severely undermined the realization of both external and internal self-determination. The authors emphasize that self-determination remains a collective right essential for the Palestinian people’s political, economic, and cultural development, but its fulfillment is inextricably linked to the resolution of the refugee issue.

3.2. Right to Return and Compensation

The authors provide a detailed legal-historical analysis of the rights to return and compensation, anchored in UN General Assembly Resolution 194 (III). They argue that Resolution 194 did not create new rights but affirmed existing norms under international law, including the prohibition of mass displacement and the obligation to provide reparations for wrongful acts.

The book challenges arguments that deny the applicability of these rights to Palestinian refugees, such as claims that Resolution 194 is non-binding or that population exchanges were historically accepted. Instead, the authors demonstrate that the principles of return, restitution,



and compensation were well-established in international law by 1948, supported by precedents such as the Nuremberg Trials and the *Chorzów Factory* case.

The authors also discuss how subsequent developments in international human rights law, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), have strengthened these rights. They note that the right to return is not limited to formal nationals but extends to those with enduring ties to their country, an interpretation that clearly encompasses Palestinian refugees.

Chapter VII deals with the concept of “international protection.” It traces the evolution of UNRWA’s role from a mere relief agency to an institution with more explicit protection functions (such as the Operations Support Officer - OSO program). It also discusses the concept of the “protection gap” and the strategic partnership between UNRWA and UNHCR to ensure “continuity of protection.”

3.3. Contemporary Challenges

The book addresses the ongoing failure to implement these rights, attributing it to a lack of political will and Israel’s persistent refusal to comply with international law. The authors also examine how secondary displacements, such as those resulting from the 1967 war and subsequent conflicts in Lebanon, Syria, and Iraq, have compounded the vulnerability of Palestinian refugees.

The authors critique the uneven application of Article 1D across jurisdictions, noting that many states fail to recognize the distinct legal regime for Palestinian refugees and instead assess their claims under Article 1A(2) of the Refugee Convention. This practice often results in denied protection and increased invisibility in asylum statistics.

Chapter VIII examines fair and sustainable solutions to the challenges arising from the protracted issue of Palestinian refugees. It analyzes the role of the New York Declaration, which is often reflected in United Nations resolutions, including **General Assembly Resolutions 194 (1948)** and **2256 (1967)**, and proposes fundamental changes to existing theoretical models on three levels: first, that the United Nations should reassume direct responsibility for finding a solution; second, that the individual and social ethical aspects of the refugee problem should be addressed; and third, that an end to displacement should be sought within the framework of international law.

Thus, the final chapter, titled “The Quest for Durable Solutions,” serves as the book’s culmination. Here, the authors call for a “fundamental paradigm shift” in the approach to the Palestinian refugee issue. This paradigm shift entails three key elements:

1. The UN must reclaim its responsibility for finding a solution, moving the issue out of the bilateral negotiations’ framework.
2. International law, particularly relevant UN resolutions, must serve as the primary framework and guide for resolving the refugee status and its material and moral dimensions.
3. The belief that securing refugees’ rights (such as citizenship) in host countries undermines their historical claims against Israel must be abandoned.

The authors contend that the “New York Declaration for Refugees and Migrants” (2016) and the “Global Compact on Refugees” (2018) have the potential to inform a “Comprehensive Refugee Response Framework” (CRF-PR) tailored to the situation of Palestinian refugees.



4. Overall Assessment

Palestinian Refugees in International Law (2nd Edition) is a landmark, exhaustive, and thoroughly documented work. It not only provides a rigorous legal analysis but also enriches the understanding of this protracted crisis by situating this analysis within its historical and political context. As Karen Abu Zayd notes in the foreword, this book is “a masterful portrayal of the history of, and injustices visited upon, Palestinian refugees,” which corrects the pervasive misinformation surrounding the subject.

The authors’ extensive lived experience in the Middle East and their collaboration with the UNRWA, along with unique access to resources and a deeper understanding of the situation’s complexity, have culminated in a unique, comprehensive, accurate, rigorous, and data-based research project. This was further enhanced by the insights of a global advisory group of experts in Palestine refugee affairs and international law.

Ms. Albanese participated in informal seminars and workshops in Amman, Beirut, Jerusalem, London, New York, Ramallah, Singapore, and Washington from 2016 to 2018, and published a number of research findings, exposing some of the results to criticism and review. The book was finally completed in the fall of 2019 and covers all developments up to that point. Therefore, it does not address subsequent events. It is evident that the significant developments of recent years, particularly those following October 2023, constitute a distinct narrative that warrants separate and new analysis.

Albanese and Takkenberg’s work is a seminal contribution to the field of international refugee and human rights law. It provides a compelling legal argument for the rights of Palestinian refugees to self-determination, return, and compensation, while also highlighting the systemic failures in their protection. The book thus serves as both an indispensable scholarly reference and a clarion call to action for states, international organizations, and legal practitioners to uphold the rights of Palestinian refugees in accordance with international law.

The authors conclude that without a just and durable solution, one that addresses both collective and individual rights, the cycle of displacement and dispossession will persist. They advocate for a comprehensive approach that integrates legal, political, and humanitarian efforts to ensure justice for Palestinian refugees.

This book is an essential resource for academics, policymakers, diplomats, lawyers, and activists in the fields of international law, refugee law, and Middle East studies. With this work, Albanese and Takkenberg have not only filled a significant lacuna in the legal literature but have also established a coherent legal framework, paving the way for future efforts to find just and durable solutions to one of the most intractable issues of our time. by providing a coherent legal framework.