



# The Past as Prelude? Negotiating the Palestinian Refugee Issue

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## Summary points

- The question of Palestinian refugees has long been one of the most difficult issues in dispute in the Israeli-Palestinian peace process. With the onset of renewed peace talks following the Annapolis summit of November 2007, it is once again an issue that the Israeli and Palestinian negotiators must address.
- The two sides are in a worse position to resolve the issue than they were during the last rounds of permanent status negotiations in 2000–01. The political weakness of the Israeli and Palestinian governments is compounded by heightened mistrust between the two societies, as well as by a hardening of Israeli public attitudes against even the symbolic return of any refugees to Israeli territory.
- There is now a substantial accumulated body of work on the Palestinian refugee issue to guide and inform negotiators and policy-makers. This includes past official negotiations among the key parties, wider discussions among regional states and the international donor community, unofficial and Track II initiatives and a considerable body of technical analysis.

## The challenge of the Palestinian refugee issue

With the establishment of the state of Israel in 1948, approximately 700,000 Palestinians fled or were driven from their homes to seek refuge in the neighbouring Arab territories. The properties that they left behind were seized by the nascent Jewish state. A further 300,000 were displaced by Israel's 1967 occupation of the West Bank and Gaza. Today, more than 4.5 million refugees and their descendants are registered with the United Nations Relief and Works Agency in the West Bank, Gaza, Jordan, Syria, and Lebanon (UNRWA 2007). Hundreds of thousands of others live elsewhere in the Palestinian diaspora.

The question of refugees is one of the most difficult and sensitive issues in the Palestinian-Israeli peace process. For Palestinians and Israelis alike, it touches upon deeply held historical narratives and even existential issues: the partition of Palestine and the establishment of the state of Israel; the forced displacement and refugee experience of the Palestinian people; the Palestinian 'right of return' and Israel's 'demographic security'. Palestinians demand that Israel acknowledge a moral responsibility for the refugees' flight, while most Israelis assert Arab culpability for the events of 1948. Israelis stress the need to assure the Jewish character of the state by barring the return of (Muslim and Christian) Palestinian refugees, a stance that the Palestinians view as both discriminatory and a violation of internationally recognized refugee rights.

For these reasons, the refugee question proved particularly problematic throughout the Madrid and Oslo eras, and during permanent status negotiations at Camp David in the US, Taba in Egypt and elsewhere. Since then, moreover, public attitudes seem to have hardened, while the political leadership on both sides is weak, and unwilling or unable to publicly articulate compromise positions. In Israel, the collapse of the Oslo process and eruption of the *intifada* heightened Jewish concerns about the existing Palestinian minority in the country, and stiffened opposition to even a token

return of 1948 refugees to Israeli territory. In the occupied Palestinian territory, political divisions have made the government of President Mahmoud Abbas reluctant to abandon its public commitment to the right of return, both as a matter of principle and for fear that it would be attacked by its Hamas rivals as having given in to Israeli pressure.

These challenges, however, should not blind one to the broader progress that has been made. With the onset of renewed Palestinian-Israeli peace negotiations following the Annapolis Conference of November 2007, the parties are undoubtedly further apart than they were at the previous permanent status negotiations at Taba in January 2001 – but perhaps still closer than they were when the peace process began in Madrid a decade earlier.

This briefing paper provides a descriptive overview of official refugee discussions since the opening of the Arab-Israeli peace process in Madrid in 1991. It addresses the evolution of the Refugee Working Group; the Quadripartite Committee on displaced persons; the Camp David negotiations of July 2000; the Clinton Parameters of December 2000; and the Taba negotiations of January 2001. It also briefly touches upon issues of donor coordination and economic planning in support of a refugee agreement, as well as the contribution of various so-called 'Track II' research and dialogue projects during this same period.

The passage of time, and changes in diplomatic personnel and political leadership, mean that this past record is not always fully known, even by those now directly involved in the current peace talks. Consequently, there is value in offering an overview of what has taken place in the past, in an effort to facilitate future negotiations and agreement.

### The Refugee Working Group (1991–97)

The Refugee Working Group (RWG) was established in 1991–92 as one of the five multilateral working groups (refugees, water, environment, regional economic development, arms control and regional security) of the Madrid peace process.<sup>1</sup> Canada was assigned the 'gavel'

<sup>1</sup> Peters 1996; Kaye 2001.

of the group. Participation was open to any interested state. As with other multilateral working groups, Syria and Lebanon did not participate. Israel, the Palestinians and Jordan did, as did many other regional states and other members of the broader international community.

The RWG subsequently met in eight plenary sessions between 1992 and 1995. It also met in various other smaller ‘intersessional’ activities undertaken either by the gavel or by the various thematic ‘shepherds’ assigned with the group. These themes (and the corresponding shepherds) were databases (Norway), family reunification (France), human resource development (US), job creation and vocational training (US), public health (Italy), child welfare (Sweden) and economic and social infrastructure (the European Union). Later in the process, Switzerland was given special responsibility for the ‘human dimension’ in the RWG and other working groups.

Because of its open character and broad-based membership, it was difficult for the RWG to address sensitive political issues.<sup>2</sup> Instead, the Palestinians tended to make broad declarative statements of Palestinian refugee rights, while Israel sought to direct the RWG into less political or apolitical efforts aimed at improving refugee conditions. The RWG did have some positive effect in focusing attention on refugee conditions, mobilizing some additional resources to address such conditions, and fostering a number of useful of research and data-collection projects. It also helped encourage an undertaking by Israel to slightly (and temporarily) liberalize its family reunification processes.

The RWG, like the multilateral track as a whole, also proved very vulnerable to disruptions in the broader Middle East peace process. In 1997, the Arab League called for a boycott of the multilaterals in protest over Israeli policies, although lower-level work by the RWG continued. This work ended, however, with the eruption of the second Palestinian *intifada* in September 2000, which led to a suspension of all multilateral track activities.

Periodically, there have been proposals to reactivate the multilateral track of the peace process – although to date there have been no real steps in this direction. Despite this, Canada has continued to use the RWG ‘chapeau’ to encourage a range of research, dialogue, technical and other projects aimed at both addressing the immediate needs of the refugees and enhancing the prospects for eventually achieving a negotiated, mutually acceptable resolution of the refugee issue.

### The Oslo Agreement (1993) and the Quadripartite Committee (1995–97)

While the 1993 Palestinian-Israeli Declaration of Principles (‘Oslo Agreement’) postponed discussion of the (1948) refugee issue until eventual permanent status negotiations, it did have more immediate provisions regarding those Palestinians displaced from the West Bank and Gaza because of the June 1967 Arab-Israeli War. Specifically, echoing Article A.1.e of the 1978 Egyptian-Israeli Camp David Accords, it called for immediate negotiations between Israel, the Palestinians, Jordan and Egypt on the ‘modalities of admission of persons displaced from the West Bank and Gaza in 1967’.

Subsequently, a Continuing (or ‘Quadripartite’) Committee was established to discuss these issues. The Committee first met in Amman in May 1995; subsequent meetings were held in Beersheba, Cairo, Gaza, Amman and Haifa. Work within the Committee was slow, with major differences over the definition of a ‘displaced person’ and hence the number of potential returnees. Moreover, Israel seemed unwilling to use the meetings to reach agreement on the issue of displaced persons, preferring to address this in the context of eventual negotiations on the broader refugee issue. By 1997, deterioration in the peace process saw work in the Committee grind to a virtual halt. By 2000, the quadripartite mechanism had been overshadowed by the onset of permanent status negotiations.

2 Brynen and Tansley 1995; Tamari 1996; Brynen 1997.

## The Beilin-Abu Mazen Understandings (1995)

In 1995, Yossi Beilin and Mahmoud Abbas (Abu Mazen) led a series of informal and unofficial meetings intended to sketch the possible parameters of a Palestinian-Israeli peace agreement. The Tel Aviv-based Economic Cooperation Foundation, headed by Oslo negotiation veterans Yair Hirschfeld and Ron Pundak, played a key role in these talks, as did London-based scholars Ahmad Khalidi and Hussein Agha. These meetings finally resulted in a statement of principles – the so-called ‘Beilin-Abu Mazen Understandings’<sup>3</sup>.

With regard to refugees, the understandings spoke of the need to establish an ‘International Commission for Palestinian Refugees’ that would oversee compensation and development efforts, and ‘explore’ issues of permanent residency. The understandings were much less clear on whether refugees had full rights to repatriate to the West Bank and Gaza, and contained only a weak indication that Israel would accept the return of some refugees to Israeli territory under the rubric of family reunification.

## The ‘Ottawa Process’ and other Track II efforts

Since the mid-1990s, there have been a significant number of academic and civil society initiatives on the refugee issue. These have variously sought to support Israeli-Palestinian dialogue; address important technical issues that would need to be resolved in any refugee deal; examine or shape public opinion; and engage the refugees themselves in thinking about their own future.

Among these were a series of workshops, publications, and networking activities supported by Canada and the International Development Research Centre (IDRC), which collectively became known as the ‘Ottawa Process’. As a consequence of these and other initiatives, considerable progress was made in developing collective knowledge and new and innovative thinking

about key aspects of the refugee issue. This is particularly true of the issue of refugee compensation, an issue on which IDRC has sponsored considerable research, including a major comparative ‘lessons learned’ exercise by the International Organization for Migration. The process was less successful at forging a joint approach to resolving the conflict, despite a considerable effort at fostering Track II discussions between well-connected Palestinian and Israeli scholars and (former) officials.<sup>4</sup>

## The World Bank refugee studies (2000–03)

Encouraged in part by Ottawa Process-related activities, and with permanent status negotiations approaching, the World Bank initiated a major analytical project on the refugee issue starting in early 2000. As part of this, it commissioned a series of initial analytical papers on various socio-economic aspects of refugee absorption, including physical and social infrastructure, job creation, macro-economic effects of repatriation, donor coordination and a literature review on compensation mechanisms. Although these papers never officially progressed past the ‘draft’ stage and were never published or formally released, the full set of papers was provided to the US government in support of preparations for the impending Camp David negotiations.

Additional analytical work was carried out in 2001–03, focused on refugee absorption in the West Bank, and undertaken in close cooperation with the Palestinian Ministry of Planning. These studies included cost estimates of housing construction, physical infrastructure (water, sanitation, roads) and social services; analysis of housing finance, land availability and potential sites for neighbourhood expansion or new towns; and a study of ‘lessons learned’ from Israel’s experience with large-scale immigrant absorption. Although these studies were also never formally published, they have been summarized in a number of public sources.<sup>5</sup>

<sup>3</sup> Beilin 2004: 299–312.

<sup>4</sup> Brynen et al. 2003; PRRN 2007.

<sup>5</sup> Brynen in Dumper 2006; Brynen, Krafft, Elwan, and Alterman in Brynen and el-Rifai 2007.

## Pre-negotiation (May–June 2000)

During the spring and early summer of 2000, there were several attempts made to identify, and close the gaps between, the Palestinian and Israeli positions on permanent status issues. The most important of these was the secret ‘Stockholm channel,’ facilitated by the government of Sweden (with active American engagement) in May 2000.<sup>6</sup> Here, the two sides addressed the core of the refugee issue – among others – for the first time.

With regard to refugees, there appeared to be agreement on the establishment of an international commission to oversee implementation of a refugee deal, as well an international fund for refugee compensation. Major differences remained, however, on the key issue of Palestinian refugee repatriation/return. The Palestinians insisted that refugees be given a choice of four residential options: return to Israel, repatriation to a Palestinian state in the West Bank and Gaza, remaining in their current places of residence, or resettlement in a third country. All options would also involve compensation. In practice, the Palestinians argued, not many Palestinians would avail themselves of the first such option; this would allay Israeli fears of a refugee influx that would threaten the Jewish character of the state. It was important, however, the broad right of return be recognized, even if it were limited in its actual implementation. But this approach did not appeal to Israel, which was unwilling to accept ‘return’ as a right or principle. Instead, the Israelis proposed that the return of a limited number of Palestinians could be accepted, as a humanitarian gesture, under the rubric of ‘family reunification’ and as a matter of Israel’s sovereign discretion.

The Stockholm channel eventually collapsed, both because of events in the region and because of political tensions on the Palestinian side. Nevertheless, exploratory discussions were continued during June by the Americans, both in the Middle East and in Washington. These touched only marginally upon the refugee issue. The Palestinians reiterated that they would

accept limits on return to Israel (and possibly a fixed number) in exchange for recognition of the ‘right of return’ or UN General Assembly Resolution 194. Israel stressed that it could not accept the principle of right of return of refugees, and that the refugee issue would need to be resolved largely through resettlement or a return to a Palestinian state, coupled with an international fund for refugee compensation. At most it might be willing to accept a token number of Palestinians, at its discretion, in the context of family reunification.

Following the Stockholm meetings, and in preparation for the Camp David Summit, the Israeli team drew up a draft, internal ‘Framework Agreement on Permanent Status’. This document set forth the Israeli position on refugees and all other permanent status issue, and was updated over time to reflect discussions with the Palestinians (see Appendix 1).

## The Camp David Summit (July 2000)

The trilateral US-Palestinian-Israeli Camp David Summit of July 2000 represented the most important effort yet to address the core issues of the Palestinian-Israeli conflict. For the most part, however, it was the issues of territory, settlements, security and Jerusalem that received the greatest attention from the participants. By contrast, in the subcommittee addressing refugees, the two sides largely confined themselves to staking out initial positions and key principles, with even less flexibility than had been shown in the Stockholm track.<sup>7</sup>

The Palestinians sought Israeli acknowledgment of responsibility for the refugee issue, and of the right of return. Once these principles were established, they would be prepared to address how, in practice, the actual return of refugees to Israel might be limited in implementation. Most refugees, they argued, would remain in their current host countries or repatriate to a Palestinian state. The Palestinian side also sought reparations and compensation for all refugees, with Israel bearing primary responsibility for this.

6 Enderlin 2003: 157–8; Ross 2004: 612–20; Sher 2006: 21–39.

7 For an overview, see Hanieh 2001: 82; Ross 2004: 655, 663, 671, 703–4; Swisher 2004: 279–82, 319–20, 323–24; Ben-Ami 2006: 249.



By contrast, the Israeli side rejected any moral responsibility for the refugee issue, arguing that instead this was the fault of the Palestinians and Arabs for opposing partition in 1947. While Israel would acknowledge a Palestinian ‘right of return’ to a Palestinian state, it would not recognize any right of return to Israel, nor would it accept UN General Assembly Resolution (UNGAR) 194. Compensation would be paid to refugees out of an international, not Israeli, fund. Israel would be prepared to accept the phased return of a few thousand refugees, under the rubric of family reunification and at its discretion. UNRWA would be phased out within ten years. Particular weight was placed on the termination of refugee status, and clear acknowledgment that any permanent status agreement would represent an end to the conflict, and that its implementation would bring with it the end of any refugee claims. Israel also introduced the issue of Jewish refugees from Arab countries, and sought to have their financial claims addressed too.<sup>8</sup>

The US approach sought to incorporate symbolic recognition of Palestinian concerns with practical arrangements that would address Israeli concerns, such as reference to UNGAR 194 combined with the return of only a very limited number of refugees to Israeli territory, at Israel’s sovereign discretion. It also suggested an international fund for refugee compensation, to which Israel would be only one of many donors. This could also address the question of Jewish refugees from Arab countries.

Some minor progress was made at Camp David in discussing an international commission that would implement aspects of a refugee deal. In general, however, both parties shifted little from their initial position. For the Palestinians in particular, flexibility on the refugee issue was something that they were unwilling to offer until the other major elements of an overall permanent status agreement were clear.

### Clinton Parameters (December 2000)

Following the failure of the Camp David summit, the US continued to engage the parties on permanent status

issues – a task complicated by the eruption in late September of the second *intifada* in the West Bank and Gaza, as well as by Palestinian ambiguity and the weakness of Ehud Barak’s gradually collapsing political coalition.

Washington also began to develop, in greater detail, a US bridging position on this and other permanent status issues. This position was formally delivered to the Palestinians and Israelis on 23 December 2000 by President Clinton himself, in what have become known as the ‘Clinton Parameters’ (see Appendix 2).

On the question of refugees, President Clinton suggested that he had ‘a sense that the remaining gaps have more to do with formulations than practical realities’. He proceeded to outline a series of key principles, including recognition of ‘the state of Palestine as the homeland of the Palestinian people and the state of Israel as the homeland of the Jewish people’. Refugees would be provided with a series of residential choices: the state of Palestine; areas in Israel being transferred to Palestine in a land swap; rehabilitation in a host country; resettlement in a third country; and admission to Israel. This last option, however, would be limited by ‘Israel’s sovereign decision’ as to how many refugees to admit. The issue of the right of return would be addressed by joint agreement on ‘the right of Palestinian refugees to return to Historic Palestine’ or ‘the right of the Palestinian refugees to return to their homeland,’ and both sides would agree that ‘this implements [General Assembly] Resolution 194.’ An international commission would be established to oversee and implement refugee compensation, resettlement, and rehabilitation.

In its subsequent response, Israel informed Washington that it considered the Clinton parameters to be a basis for subsequent negotiations, provided that the Palestinians did so too. At the same time, it registered a number of misgivings. With regard to refugees, it warned Washington that it had underestimated Israel’s opposition to any form of a ‘right of return’.<sup>9</sup>

Yasser Arafat was unwilling to give the President a

<sup>8</sup> Sher 2006: 247–50.

<sup>9</sup> *Ibid.* 207.

clear response to the Parameters. Instead, the Palestinian negotiating team sought clarifications regarding the Clinton formulation, which it was felt ‘taken together and as presented without clarification, fail to satisfy the conditions required for a permanent peace.’ Regarding the refugee component of these, the Palestinians raised a number of objections (see Appendix 3).

When he presented his ideas to the parties, President Clinton noted that all of the US ideas would be considered ‘off the table’ when he left office. The subsequent Bush administration did not seek to revive them.

### Taba negotiations (January 2001)

The final set of Palestinian-Israeli negotiations was held in Taba in late January shortly before elections in Israel. Although President Clinton had recently left office, the Clinton Parameters were the implicit reference point for much of the discussion at Taba.<sup>10</sup>

Although this summit failed – and, indeed, Prime Minister Barak would be voted out of office shortly thereafter – there seemed to be substantial progress on the refugee issue.

The initial Palestinian position at Taba largely mirrored the position that had been put forward at Camp David (see Appendix 4).

The Israeli refugee negotiating team, headed by then Justice Minister Yossi Beilin, submitted an Israeli ‘non-paper’ on 23 January that attempted to bridge the Palestinian and Israeli positions, and which indeed contained substantial Palestinian input. This contained a substantial joint narrative that sought to span the very different Israeli and Palestinian views of the origin of, and responsibility for, the refugee issue. It called for refugee compensation from an international fund, to which Israel would contribute an agreed amount (Appendix 5).

On the question of refugee residence, the non-paper followed the Clinton model by outlining a menu of five choices for refugees. With regard to the critical question of return to Israel, it proposed this be capped to an agreed limit, with priority being accorded to those

Palestinian refugees currently resident in Lebanon. In oral communications, members of the Israeli negotiating team suggested that 25,000 refugees might be accepted over three years or 40,000 over five years, in the context of a 15-year programme of absorption that would also include (possibly additional) family reunification. This ambiguous formula could be read as representing anything from 25,000 to 125,000 or more refugees. As an alternative to this, Israeli negotiators had also suggested granting the ‘right of return’ to original 1948 refugees only – a relatively small number of refugees who were well past reproductive age and therefore posed no demographic threat to the Jewish character of Israel. This proposal was deemed unacceptable by the Palestinian side. Palestinian negotiators had been urged to press for a level ‘in the six figures’, but with no more explicit political guidance.

It was agreed that refugees would be eligible for compensation for properties seized by Israel, and that host countries would also be compensated for the costs of hosting the refugees. Agreement was not reached on the valuation of compensation claims, with the Palestinians pressing for compensation of non-material as well as material losses. The issue of financing compensation was not fully agreed. Israel was willing to make a contribution towards this, but pressed for a lump sum amount that would include both cash and the value of evacuated settlements in Palestinian territories. Israel assumed that the international community would provide much of the compensation, possibly in the form of development assistance. The Palestinians emphasized full Israeli responsibility for paying compensation.

In addition to the non-paper, the two sides developed a joint paper on implementation mechanisms (Appendix 6). The parties largely agreed on the definition of a refugee, on the general mechanisms of an international fund to finance refugee compensation and development efforts, and on the broad structure of an international commission to oversee all this.

<sup>10</sup> Eldar 2002; Beilin 2004: 227–48.

Both sides agreed to exclude the question of Jewish refugee claims against Arab countries from the agreement, although Israel pressed for an acknowledgment of this issue in any text.

The work done on the refugee issue at Taba was far more detailed, and embodied a far higher degree of agreement, than any of the discussions that had preceded it. Indeed, members of both delegations to the refugee component of the talks would later comment that it was a lack of time – rather than fundamental impediments – that prevented them from reaching agreement on the issue. But the progress at Taba can also be viewed with a significant degree of scepticism. Beilin (perhaps the most dovish member of the Israeli cabinet) was clearly willing to go beyond his instructions from Barak, in the hope that if a deal on refugees was reached the prime minister would find it impossible to reject it. The head of the Palestinian refugee team, Nabil Sha'ath, took a relatively soft line on the issue. However much progress was made on implementation mechanisms, the key issue of *how many* refugees might return to Israel was never resolved, nor was the amount of compensation Israel would be willing to contribute. Perhaps most important of all, it is far from clear that the broader negotiations were really about reaching an agreement at all. For Barak, it was important to signal his commitment to reach a peace agreement while in the midst of an election campaign. For Arafat, it was important to pin down Israeli positions before they could change under a new Israeli prime minister.

In any case, the negotiations failed. In February 2001, Ariel Sharon was elected prime minister of Israel. With this, and amid the escalating violence of the *intifada*, all permanent status negotiations came to an end.

### The No-Name Group (2000–05) and Refugee Coordination Forum (2007–)

In December 2000, ongoing permanent status negotiations, coupled with the failure of past donor mechanisms to address sensitive political and economic aspects of a possible refugee deal, led to a

small and informal meeting of key states at the Canadian Embassy in Washington DC to discuss how the international community might best support the refugee component of any future peace agreement.

Although subsequent permanent status negotiations at Taba in January 2001 were not successful, the small six-hour 'no-name' meeting nonetheless represented perhaps the most productive (semi-) official international dialogue on the refugee issue yet held during the entire peace process. Donors attending the meeting highlighted their general unwillingness to foot the full bill for refugee compensation, identified the possible costs and limits of donor support for refugee-related development efforts, and identified challenges that might lie ahead. Some of the findings of World Bank research were also discussed.

Despite the collapse of the peace process, the so-called 'No-Name Group' was considered useful enough for further meetings to be held quietly over the new few years in London, Washington, Geneva and Brussels under more official Canadian auspices. These addressed a range of issues including Palestinian policy research, refugee compensation mechanisms, the refugee components of the unofficial 'Geneva Accord' and the refugee implications of Gaza disengagement.

In 2007, the No-Name Group was superseded by a similar informal donor discussion group, the Refugee Coordination Forum. This group, also chaired by Canada, met in Berlin in April 2007, and again in London in July 2007.

### The Beirut Arab Summit Declaration (March 2002)

Following a Saudi initiative, in March 2002 the Arab League endorsed a peace initiative calling for full Arab recognition of Israel in exchange for a full Israeli withdrawal from the Arab territories occupied in 1967. This initiative was endorsed again by the Arab League at its March 2007 summit meeting.

With regard to the refugee issue, the summit statement contained two clauses on the issue (Appendix 7). The first – part of the original draft – called for 'achievement of a just solution to the Palestinian refugee problem to be



agreed upon in accordance with UN General Assembly Resolution 194'. A later clause, added during the summit at Syrian and Lebanese insistence, rejected 'all forms of Palestinian settlement (*tawtiin*) which conflict with the special circumstances of the Arab host countries'.

Within Israel, the inclusion of UNGAR 194 has been widely seen as an assertion of the Palestinian 'right of return' and indeed has been one of the most frequently cited stumbling blocks in any positive Israeli response to the Arab League initiative. The reference to UNGAR 194 was favoured by Saudi Arabia, Jordan and the Palestinians, however, as a reflection of language found in the Clinton Parameters and Taba refugee negotiations – and hence more flexible than any blanket assertion of refugee rights. More important still, the declaration stated that any resolution of the refugee issue had to be 'agreed upon' – implicitly providing Israel with a veto over the contents of such an agreement.

### The Roadmap (April 2003)

In April 2003, the Quartet (the United States, the European Union, Russia and the United Nations) released its 'Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict'. This called for a three-stage process of mutual steps by both Israel and the Palestinians, with the goal of establishing an 'independent Palestinian state with provisional borders and attributes of sovereignty' by the end of 2003. This would be followed by permanent status negotiations, with the aim of reaching an agreement (and full Palestinian statehood) by the end of 2005.<sup>11</sup>

The Roadmap had relatively little to say about the refugee issue, which was reserved for permanent status negotiations. It did, however, call for an 'agreed, just, fair, and realistic solution to the refugee issue'. Moreover, at the start of the second stage of the process (during which 'efforts are focused on the option of creating an independent Palestinian state with provisional borders and attributes of sovereignty'), the Roadmap proposed revival of multilateral engagement

on issues, including the refugee issue (meaning, presumably, the RWG).

More broadly, the Roadmap stated that a negotiated agreement 'will resolve the Israel-Palestinian conflict, and end the occupation that began in 1967, based on the foundations of the Madrid Conference, the principle of land for peace, UNSCRs 242, 338 and 1397, agreements previously reached by the parties, and the initiative of Saudi Crown Prince Abdullah – endorsed by the Beirut Arab League summit – calling for acceptance of Israel as a neighbor living in peace and security, in the context of a comprehensive settlement'.

In its official acceptance of the Roadmap, the Israeli cabinet staked out a number of objections and positions relating to the refugee issue.<sup>12</sup> These included insistence that 'In connection to both the introductory statements and the final settlement, declared references must be made to Israel's right to exist as a Jewish state and to the waiver of any right of return for Palestinian refugees to the State of Israel.' It also stressed that 'the end of the process will lead to the end of all claims and not only the end of the conflict'. Finally, it called for 'the removal of references other than 242 and 338 (1397, the Saudi Initiative and the Arab Initiative adopted in Beirut)'.

### Unofficial initiatives: The 'People's Voice' (July 2002), the 'Geneva Accord' (December 2003) and the Aix Group (November 2007)

With the collapse of permanent status negotiations in 2001, a number of Israeli-Palestinian dialogue projects sought to build agreement on the principle for a future Palestinian-Israeli peace agreement.

One example of this has been 'People's Voice' initiative. Co-founders Sari Nusseibeh and Ami Ayalon released a statement of principles in July 2002 that included two sections particularly relevant to the refugee issue (Appendix 8).

An even fuller treatment of the refugee agreement was offered by the Geneva Initiative, a collaborative effort of

<sup>11</sup> Quartet 2003.

<sup>12</sup> Israel 2003.

a number of Israeli and Palestinian figures generally associated with Fateh or the Israeli centre-left. In December 2003 they unveiled the 'Geneva Accord,' a detailed (if incomplete) model of a possible Palestinian-Israeli peace agreement (Appendix 9).

In its broad outlines, the Geneva Accord reflects previous proposals and understandings developed at the Taba final status negotiations in January 2001, as well as the prior Clinton Parameters of December 2000.<sup>13</sup> Refugee return to Israel was again made subject to Israel's 'sovereign discretion', although this was loosely linked to the number of refugees accepted for third country resettlement.

The Geneva Accord recognizes several types of compensation. Refugees are entitled for compensation for both 'their refugeehood and for loss of property', while the agreement also recognizes 'the right of states that have hosted Palestinian refugees to remuneration'. There is little indication of how compensation to host countries shall be calculated or paid. Unlike US proposals at Camp David in 2000, or the Israeli position at Taba, there is no mention in the Geneva Accord of compensation for Jewish refugees from Arab countries. Compensation is to be paid out of an international fund, to which Israel will make an agreed lump sum payment based on the valuation of properties lost by refugees in 1948. Payments to refugees are to consist of fast-track per capita payments for claims below a certain level, a claim-based award for property claims exceeding a certain value, and a 'refugeehood fund' that would support local projects and commemoration activities in refugee communities.

In proposing an implementation mechanism for refugee components of a peace agreement, the Geneva Accord largely follows the preliminary agreements reached at Taba regarding the establishment of an international commission. The Geneva Accord stresses that 'The Parties recognize that UNGAR 194, UNSC Resolution 242, and the Arab Peace Initiative ... concerning the rights of the Palestinian refugees represent the basis for

resolving the refugee issue, and agree that these rights are fulfilled according to Article 7 of this Agreement.' It also emphasizes (as did the Israeli position before and at Taba) that implementation of the agreement constitutes the end of both refugee status and refugee claims.

The Geneva Accord was rejected by the then Israeli government of Ariel Sharon, and only weakly and ambiguously endorsed by the Palestinian Authority. Polls conducted immediately after its release showed both the Palestinian and Israeli publics split on the initiative, with the refugee component being among those that enjoyed the least support (albeit still from a large minority). More recent data show that this remains the case. According to a December 2006 poll by the Harry S. Truman Research Institute for the Advancement of Peace at the Hebrew University of Jerusalem and the Palestinian Center for Policy and Survey Research:<sup>14</sup>

*The findings indicate a slight decrease in support among Israelis and some increase in support among Palestinians compared to six months ago. Among Israelis, a majority of 52% support these parameters as a combined overall package, compared to 55% who supported them in June 2006. These results corroborate the declining support for the Clinton [Geneva] package among Israelis throughout 2006, whereas in January and December 2005 the level of support was 64%. Among Palestinians the level of support fluctuated in 2006 between 44% and 48% in the current poll marking a pattern of stability in Palestinians' attitudes in this regard in 2006, down from 54% in December 2004.*

*Among Palestinians, 41% support and 54% oppose a refugee settlement in which both sides agree that the solution will be based on UN resolutions 194 and 242. The refugees would be given five choices for permanent residency. These are: the Palestinian state and the Israeli areas transferred to the Palestinian state in the territorial exchange mentioned above; no restrictions would be imposed on refugee return to these two areas. Residency in the other three areas (in host countries, third coun-*

13 Brynen 2004.

14 PCPSR 2006.

tries, and Israel) would be subject to the decision of these states. As a base for its decision Israel will consider the average number of refugees admitted to third countries like Australia, Canada, Europe, and others. All refugees would be entitled to compensation for their 'refugeehood' and loss of property. In June 2006, 41% agreed with an identical compromise while 55% opposed it.

Among Israelis 38% support such an arrangement and 60% oppose it. In June 2006 43% supported it and 53% opposed.

A further contribution to resolving the technical aspects of the refugee issue has been provided by the 'Aix Group' of Israeli, Palestinian, and international researchers. The Aix Group's work on the *Economic Dimensions of a Two-State Agreement between Israel and Palestine* contained a substantial analysis of the economic element of any refugee deal, including issues of compensation and economic development.<sup>15</sup>

## Annapolis Conference and bilateral negotiations (2007–)

Following a hiatus of more than seven years, substantive Palestinian-Israeli negotiations were resumed with the Annapolis Conference of November 2007. Subsequently, the two sides have held regular talks in Jerusalem on a broad range of interim and permanent status issues, in the hope of reaching some sort of agreement within the year.

It is unclear how much detailed discussion of the refugee issue has taken place to date. It would appear that the most difficult and emotive issues – refugees and Jerusalem – are unlikely to be tackled until greater progress is achieved on the 'easier' questions of borders, settlements, and security. The absence of discussions on the complex refugee issue at a committee or technical level would seem to confirm this impression.

One issue that has grown in salience since the negotiations of 2000–01 is that of Jewish refugees from Arab countries. At Camp David, the US suggested that a

refugee compensation fund might address both Palestinian and Jewish refugee claims. At Taba, the two sides agreed that such issues lay outside a Palestinian-Israeli agreement. Since then, there has been considerable political mobilization around this issue, encouraged by Israeli officials as a possible counterweight to Palestinian refugee claims.

## Conclusion

This paper has offered a brief descriptive overview of various efforts to address the Palestinian refugee issue since the onset of the Middle East peace process in 1991. As noted at the outset, despite the great difficulties of the issue, significant progress was made in the course of the Stockholm channel, Camp David summit, Clinton Parameters, and Taba negotiations. Significant progress was also made in enhancing technical knowledge of the refugee issue, and what might be needed to implement any eventual agreement – especially in the key areas of refugee repatriation and development and compensation/reparations. Despite substantial growth in the volume and quality of policy-relevant research on the Palestinian refugee issue, political and personnel changes mean that not all current negotiators may be well acquainted with it.

As noted above, Palestinian and Israeli publics remain deeply split on the desirability of Clinton- or Geneva-type arrangements. Years of violent conflict and the breakdown of the process may have hardened attitudes, and certainly have damaged confidence and heightened mistrust. Hamas – winner of the 2006 Palestinian Legislative Council elections, and in full control of the Gaza Strip since the 2007 schism in the Palestinian polity – has repeatedly reiterated its commitment to a full Palestinian 'right of return'. In a context of heightened domestic conflict and political competition, Fateh officials have been reluctant to voice any other position. On the Israeli side, Prime Minister Olmert has stated in a lengthy 2007 interview in the *Jerusalem Post* that he does not see the Clinton Parameters as providing the basis for a resolution of the refugee issue:<sup>16</sup>

<sup>15</sup> Arnon and Banya 2007.

<sup>16</sup> Keinin and Horovitz 2007.

[JP] Do you accept the Clinton parameters from 2000 on the refugees?

[Olmert] No. I will not agree to accept any kind of Israeli responsibility for the refugees. Full stop. It's a moral issue. It's a moral issue of the highest standard. I don't think that we should accept any kind of responsibility for the creation of this problem. Full stop.

[JP] What role should or could we play in solving the refugee problem? What solution is acceptable? Would you rule out...?

[Olmert]...Any refugee coming to Israel. Full stop. Out of the question.

[JP] Not for family reunification?

[Olmert] Are you talking about family reunification, or are you talking about a solution for the refugees? Refugees, no way. Family reunification we have now to some degree. Even now it's becoming more of a problem than a solution. But this is not the solution to the refugee problem. And I'll never accept a solution that is based on their return to Israel, any number.

[JP] Our understanding of the Clinton parameters was that it involved a certain recognition by Israel, in principle, of a right to return, but that Israel would have the sovereign right to deny them a return. That was accepted by the Barak government. Is that acceptable to you?

[Olmert] No.

Nevertheless, as international efforts continue to encourage and support current Palestinian-Israeli permanent peace talks, it is certainly worth taking stock of the discussions, negotiations and technical progress made on the refugee issue in the past.

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## APPENDIX 1: Israeli draft of the Framework Agreement on Permanent Status

Source: Gilead Sher, *The Israeli-Palestinian Peace Negotiations, 1999-2001: Within Reach* (London: Routledge, 2006), pp. 247–50.

### Article 6 – Refugees

71. The parties are cognizant of the suffering caused to individuals and communities on both sides during and following the 1948 War. Israel further recognizes the urgent need for a humane, just, and realistic settlement to the plight of Palestinian Refugees within the context of terminating the Israeli-Palestinian conflict.

72. A resolution of the Palestinian refugee problem in all its aspects will be achieved through an international effort with the participation of, as appropriate, the Arab States, the European Union, the United States, and the rest of the international community. Israel, in accordance with this Article, will take part in this effort.

73. The termination of Palestinian refugee problem shall incorporate possible return to the State of Palestine, integration within the Host Countries, and immigration to other third countries.

74. In light of the new era of peace, the Palestinian Party recognizes that the Right of Return of Palestine refugees shall apply solely to the State of Palestine. Israel recognizes the right of Palestinian refugees to return to the state of Palestine.

75. Israel shall, as a matter of its sovereign discretion, facilitate a phased entry of [XX] Palestinian Refugees to its territories on humanitarian grounds. These refugees shall be reunited with their families in their present place of residence in Israel, accept Israeli citizenship and waive their legal status as refugees.

76. An International Commission (Commission) shall be established. Canada, the European Union, the Host Countries (Jordan, Syria, Lebanon, and Egypt), Japan, Norway, the State of Palestine, [the PLO], the Russian Federation, the United Nations, the United States and Israel shall be invited to participate therein. Special attention will be given to the special role of the Hashemite Kingdom of Jordan with respect to the Palestinian Refugees within its borders.

77. An International Fund (Fund) shall be established and supervised by the Commission and the World Bank. The Fund shall be managed as an international financial institution ensuring transparency, accountability, and due process. It will collect, manage and disburse the resources pertaining to the rehabilitation of and compensation to Palestinian refugees.

78. The objective of the Commission and the Fund is to provide for a comprehensive and conclusive settlement of the Palestinian Refugee Problem in all its aspects.

79. The Fund shall establish and manage a Registration Committee in order to compile a definitive and complete register of property claims of the refugees due to the 1948 War. The modalities, criteria, timeline, and procedures of the registration of claims, their verification and pro-rata evaluation shall be drawn up as appropriate by agreement upon the establishment of the Fund and within its framework.

80. The Parties affirm that the register of the claims verified by the Registration Committee shall constitute the definitive statement of all Palestinian refugees' property claims.

81. Every Palestinian refugee-household that became a refugee in 1948 or its direct descendants may, within an agreed period, submit one sole claim due to the 1948 War to the Registration Committee for the purpose of compensation for its property. No further individual claims may be filed beyond the agreed date.

82. The Parties agree that a just settlement of the Israeli-Arab conflict should settle the claims by Jewish individuals and committees that left Arab countries or parts of Mandatory Palestine due to the 1948 War and its aftermath. An international mechanism affiliated with the above Commission and Fund will be established to deal with such claims.

83. The rehabilitation of refugees in their current places of residence or their relocation to their new places of residence shall be carried out on the basis of comprehensive Programs for Development and Rehabilitation (PDRs). The PDRs will be concluded between the omission, the Fund and the relevant country with the aim of enabling the refugee to rebuild his life and the life of his family.

84. The PDR shall provide for gradual elimination of the formal and practical aspects of the refugee problem including the phased withdrawal of UNRWA within ten years and the transfer of its responsibilities to the Host Country, the provision of full personal-legal status to all refugees that wish to live in such Host Country and the settlement of its national refugee-related claim.

85. The Parties shall call upon the international community to support the permanent settlement of the Palestinian refugee problem by defining a Lump Sum [of XX] and to develop immigration options for those refugees wishing to immigrate to third countries. The Lump Sum shall provide for all the financial requirements for the comprehensive and final settlement of the Palestinian refugee problem including those of rehabilitation and all individual or collective claims.

86. Eligibility of a claimant for property compensation shall be proportionate, limited by and subject to, the resources accumulated by the Fund as well as by allocations to rehabilitation programs. Transfer of compensation to a claimant shall be conditioned by such claimant's waiver of further proprietary claims.

87. The Parties call upon the international community to convene a conference for that purpose.

88. In the context of and within such international pledge, Israel will address the issue of a financial annual contribution of XX for XX years.

89. The mandate of the Fund and the Commission shall be concluded between the Parties in the CAPS based on this Article.

90. The Commission, the Fund and the State of Palestine shall design and implement a PDR for the permanent resolution of the Palestinian refugee problem in the State of Palestine within ten years of the conclusion of the CAPS. The State of Palestine shall view the implementation of this program as a final settlement of its national claim in this respect.

91. UNRWA records shall be the main basis for the implementation of this Article. Records from other relevant sources shall be subject to the Commission's scrutiny and approval.

92. The wishes and claims of the Palestinian refugees shall be taken into account to the extent and manner agreed between the Parties in the FAPS and the CAPS.

93. The timeline for the implementation of this article is provided for in Annex XXX.



## The Past as Prelude?

94. Israel shall have no further commitment or obligation emanating from the Refugee issue beyond those specified in this Agreement.

95. The implementation of this Article and the completion of the Commission's work as described in paragraph (X) shall resolve the Palestinian refugees problem in a permanent way thus amounting to the implementation of all relevant international resolutions.

96. The Parties encourage the Refugee Multilateral Working Group to continue its work on the basis of its agreed terms-of-reference specifically focusing on those individuals who personally became refugees during the 1948 War.

*Nothing is Agreed Until Everything is Agreed*

### APPENDIX 2: Clinton Parameters, 23 December 2000 (excerpt on refugees)

#### Refugees

I sense that the differences are more relating to formulations and less to what will happen on a practical level. I believe that Israel is prepared to acknowledge the moral and material suffering caused to the Palestinian people as a result of the 1948 war and the need to assist the international community in addressing the problem.

An international commission should be established to implement all the aspects that flow from your agreement: compensation, resettlement, rehabilitation, etc.

The U.S. is prepared to lead an international effort to help the refugees.

The fundamental gap is on how to handle the concept of the right of return. I know the history of the issue and how hard it will be for the Palestinian leadership to appear to be abandoning this principle.

The Israeli side could simply not accept any reference to right of return that would imply a right to immigrate to Israel in defiance of Israel's sovereign policies on admission or that would threaten the Jewish character of the state.

Any solution must address both needs.

The solution will have to be consistent with the two-state approach that both sides have accepted as the to end the Palestinian-Israeli conflict: the state of Palestine as the homeland of the Palestinian people and the state of Israel as the homeland of the Jewish people.

Under the two-state solution, the guiding principle should be that the Palestinian state will be the focal point for Palestinians who choose to return to the area without ruling out that Israel will accept some of these refugees. I believe that we need to adopt a formulation on the right of return to Israel itself but that does not negate the aspiration of the Palestinian people to return to the area.

In light of the above, I propose two alternatives:

1. Both sides recognize the right of Palestinian refugees to return to Historic Palestine. Or,
2. Both sides recognize the right of the Palestinian refugees to return to their homeland.

The agreement will define the implementation of this general right in a way that is consistent with the two-state solution. It would list five possible final homes for the refugees:

- The state of Palestine
- Areas in Israel being transferred to Palestine in the land swap
- Rehabilitation in a host country
- Resettlement in a third country
- Admission to Israel

In listing these options, the agreement will make clear that the return to the West Bank, Gaza Strip, and the areas acquired in the land swap would be a right to all Palestinian refugees.

While rehabilitation in host countries, resettlement in third world countries and absorption into Israel will depend upon the policies of those countries.

Israel could indicate in the agreement that it intends to establish a policy so that some of the refugees would be absorbed into Israel consistent with Israel's sovereign decision.

I believe that priority should be given to the refugee population in Lebanon.

The parties would agree that this implements Resolution 194.

I propose that the agreement clearly mark the end of the conflict and its implementation put an end to all its claims. This could be implemented through a UN Security Council Resolution that notes that Resolutions 242 and 338 have been implemented through the release of Palestinian prisoners.

I believe that this is an outline of a fair and lasting agreement.

It gives the Palestinian people the ability to determine the future on their own land, a sovereign and viable state recognized by the international community, Al-Qods as its capital, sovereignty over the Haram, and new lives for the refugees.

It gives the people of Israel a genuine end to the conflict, real security, the preservation of sacred religious ties, the incorporation of 80% of the settlers into Israel, and the largest Jewish Jerusalem in history recognized by all as its capital.

This is the best I can do. Brief your leaders and tell me if they are prepared to come for discussions based on these ideas. If so, I would meet the next week separately. If not, I have taken this as far as I can.

These are my ideas. If they are not accepted, they are not just off the table, they also go with me when I leave the office

### APPENDIX 3: PLO Department of Negotiation Affairs, 'Remarks and Questions from the Palestinian Negotiating Team Regarding the United States Proposal,' 1 January 2001 (excerpt on refugees)

On the issue of Palestinian refugees, driven from their homes as a result of the establishment of the state of Israel, the United States proposed that both sides recognize the right of Palestinian refugees to return either to 'historic Palestine' or to 'their homeland,' but

added that the agreement should make clear that there is no specific right of return to what is now Israel. Instead, it proposed five possible final homes for the refugees:

1. the State of Palestine
2. areas in Israel transferred to Palestine in the 'land swap'
3. rehabilitation in the host countries
4. resettlement in third countries
5. admission to Israel

All refugees would have the right to 'return' to the State of Palestine; however, rehabilitation in host countries, resettlement in third countries, and admission to Israel all would depend on the policies of those individual countries.

The United States proposal reflects a wholesale adoption of the Israeli position that the implementation of the right of return be subject entirely to Israel's discretion. It is important to recall that Resolution 194, long regarded as the basis for a just settlement of the refugee problem, calls for the return of Palestinian refugees to 'their homes,' wherever located – not to their 'homeland' or to 'historic Palestine.'

The essence of the right of return is choice: Palestinians should be given the option to choose where they wish to settle, including return to the homes from which they were driven. There is no historical precedent for a people abandoning their fundamental right to return to their homes whether they were forced to leave or fled in fear. We will not be the first people to do so. Recognition of the right of return and the provision of choice to refugees is a pre-requisite for the closure of the conflict.

The Palestinians are prepared to think flexibly and creatively about the mechanisms for implementing the right of return. In many discussions with Israel, mechanisms for implementing this right in such a way so as to end the refugee status and refugee problem, as well as to otherwise accommodate Israeli concerns, have been identified and elaborated in some detail. The United States proposal fails to make reference to any of these advances and refers back to earlier Israeli negotiating positions.

In addition, the United States proposal fails to provide any assurance that refugee' rights to restitution and compensation will be fulfilled.

## APPENDIX 4: Palestinian position on refugees, Taba, 22 January 2001

### Article XX: Refugees

#### *The Significance of Resolving the Problem*

1. The Parties recognize that a just resolution of the refugee problem is necessary for achieving a just, comprehensive and lasting peace.

#### *Moral Responsibility*

2. Israel recognizes its moral and legal responsibility for the forced displacement and dispossession of the Palestinian civilian population during the 1948 war and for preventing the refugees from returning to their homes in accordance with United Nations General Assembly Resolution 194.

3. Israel shall bear responsibility for the resolution of the refugee problem.

#### *The Basis for a Settlement of the Refugee Problem*

4. A just settlement of the refugee problem, in accordance with United Nations Security Council Resolution 242, must lead to the implementation of United Nations General Assembly Resolution 194.

#### *Right of Return*

5. a. In accordance with United Nations General Assembly Resolution 194 (III), all refugees who wish to return to their homes in Israel and live at peace with their neighbors have the right to do so. The right of every refugee to return shall be exercised in accordance with the modalities set out in the Agreement.

6. a. A Palestinian refugee is any Palestinian who was prevented from returning to his or her home after November 29, 1947.

b. Without limiting the generality of the term 'refugee', a 'refugee' in this Agreement shall include a refugee's descendants and spouse.

c. Without limiting the generality of the term 'refugee', all registered persons with UNRWA shall be considered refugees in accordance with this Article.

#### *Repatriation Commission*

7. A Repatriation Commission shall be established in order to guarantee and manage the implementation of the right to return in accordance with this Article.

8. The Commission, inter alia, shall:

- a. Verify refugee status as defined in this Article.
- b. Determine priorities for certain categories of refugees and certain areas.
- c. Determine procedures for repatriation.
- d. Process applications.
- e. Repatriate the refugees.
- f. Provide assistance to returning refugees.
- g. Ensure the protection of returning refugees.

9. The Commission shall be composed of representatives from the United Nations, the United States, the Parties, UNRWA, the Arab host countries, the EU, and Canada. The Commission shall consult the governments of the Arab host countries as it may deem it necessary.

10. The Parties should implement the decisions of the Commission and should take appropriate actions to facilitate the execution of the Commission's decisions.

11. The Commission shall define its structure and work procedures.

12. The Commission shall have its headquarters in XX and may have offices at other locations, as it deems appropriate.

13. The Commission shall establish a mechanism for resolution of disputes arising from the interpretation, application or performance of this Article.

14. Refugees shall have the right to appeal decisions rendered by the Commission pursuant to this Article. The Commission shall establish a mechanism for appeals.

#### *Modalities of Return*

15. All refugees who currently reside in Lebanon and choose to exercise the right of return in accordance with this Article shall be enabled to return to Israel within two years of the signing of this Agreement.

16. Without prejudice to the right of every refugee to return to Israel,

and in addition to refugees returning pursuant to Paragraph 15 above, a minimum of XX refugees will be allowed to return to Israel annually.

17. The refugees who wish to return should declare their to the Commission, in accordance with procedures to be set out by the Commission, within 5 years of the date the Commission starts receiving these declarations. The exercise of the right of return subsequent to such declaration shall not be limited in time.

18. The Commission shall determine, according to transparent criteria, who will be allowed to return in any given year in accordance with Paragraph 16 of this Article.

19. Repatriation should be based on individual voluntary decision, and should be carried out in a way that maintains family unit.

20. The refugees should be provided with information necessary for them to make an informed decision with regard to all aspects of repatriation.

21. The refugees should not be compelled to remain in or move to situations of danger or insecurity, or to areas lacking in the basic infrastructure necessary to resume a normal life.

22. The refugees shall be permitted to return safely, without risk of harassment, intimidation, persecution, or discrimination, particularly on account of their national origin, religious belief, or political opinion.

23. The Parties shall make such modifications to their internal laws as are necessary to facilitate the implementation of the right of return.

24. The Parties shall call upon states that currently host refugees to facilitate the early return of refugees in a manner consistent with human rights and international law.

#### *Legal Status of Returning Refugees*

25. Returning refugees should enjoy full civil and social rights and should be protected against discrimination, particularly in employment, education and the right to own property.

26. The returning refugees shall assume Israeli citizenship. This shall end his or her status as a refugee.

#### *Restitution of Refugees' Real Property*

27. Real property owned by a returning refugee at the time of his or her displacement shall be restored to the refugee or his or her lawful successors.

28. In case where, according to criteria determined by the Repatriation Commission, it is impossible, impracticable or inequitable to restore the property to its refugee owner, or where the property within Israel, equal in size and/or value to the land and other property that they lost.

#### *UNRWA*

29. UNRWA should be maintained until this Article is fully implemented and UNRWA's services are no longer needed. The scope of UNRWA's services should change appropriately as the implementation of this Article proceeds.

#### *Compensation*

30. The State of Israel shall compensate refugees for the property from which they were deprived as a result of their displacement, including, but not limited to, destroyed property and placed under the custodianship of the 'Custodian for Absentees' Property'. Compensation should cover loss of property and loss of use and profit [from] the date of dispossession to the current day expressed in today's value.

31. The State of Israel shall also compensate refugees to for suffering and losses incurred as a result of the refugees' physical displacement.

32. Refugees shall, as the case may be, receive repatriation assistance, in order to help them resettle in their places of origin, or rehabilitation assistance, in order to be rehabilitated in the place of their future residence. Funds for Repatriation Assistance and Rehabilitation Assistance should come from the International Fund described below.

33. The rights of return and compensation are independent and cumulative. A refugee's exercise of his or her right of return to Israel shall not prejudice his or her right to receive compensation pursuant to Paragraph 30, nor shall a refugee's receipt of compensation prejudice his or her right of return in accordance with this Article.

34. Unless property is collectively owned, material (and non-material) compensation should be awarded on an individual basis.

35. Pursuant to its responsibility for the compensation to the refugees, set forth in Article 30, Israel shall provide the funds needed for such compensation. These funds should be transferred to the International Funds described below and disbursed by the Fund and the Compensation Commission with this Article.

36. In particular, and without limiting in anyway Israel's responsibility in accordance with Paragraph 35 above, resources available to the 'Custodian for Absentees' Property' should be used to compensate the refugees for losses emanating from the dissipation of assets put under its trust. Furthermore, all the records of the 'Custodian for Absentees' Property pertaining to refugees' property shall be transferred to Compensation Commission.

37. Additional funds from the International Fund referenced below may be used to supplement Israeli funds for compensation purposes.

#### *Compensation for Communal Property*

38. The State of Israeli shall pay compensation to the state of Palestine for the Palestinian communal property existing within the internationally recognized borders of the State of Israel.

39. The communal property referenced in Paragraph 36 of this Article shall include real property as well as financial and other movable property.

40. Claims for compensation under Paragraph 36 should be administered and adjudicated by the Compensation Commission.

#### *Compensation for Host Countries*

41. The refugees' host countries (i.e., Lebanon, Syria, Jordan, Egypt, Iraq and the Palestinian Authority) shall receive compensation for the significant costs they bore in hosting the refugees.

#### *Compensation Commission*

42. A Compensation Commission shall be established to evaluate the Palestinian material and non-material losses, to administer the implementation of the provisions of this Article on compensation, and to administer and adjudicate claims of real property by refugees made pursuant to Paragraphs 27–28.

43. The Commission shall set out the modalities and procedures for submission and adjudication of claims for compensation, and disbursement of payments.

44. The Commission shall be composed of representatives from the Parties, the United States, the EU, the United Nations, the World Bank and donor countries.

45. The Commission shall accept the records of the United Nations Conciliation Commission for Palestine, as well as the records of the ‘Custodian for Absentees’ Property’ made available to the Commission pursuant to Paragraph 36 above, as prima facie evidence of the losses of the refugees. The Commission may also use UNRWA’s records and any other relevant records.

46. The Commission shall send a specialized technical team to evaluate the current value of the property for which compensation is due.

47. The parties should implement the decisions of the Commission and should take appropriate actions to facilitate the execution of the Commission’s decisions. In addition, the state of Israel shall pass, within six months of the date of this Agreement, internal legislation that guarantees access by the individual compensation claimants or their authorized representative to the relevant Israeli state archives in order to facilitate the development of their claims.

48. The Commission shall have its headquarters in XX and may be have offices at other locations, as it deems appropriate.

49. The Commission shall establish a mechanism for resolution of disputes arising from the interpretation, application or performance of this Article.

50. Refugees shall have the right to appeal decisions rendered by the Commission pursuant to the Agreement. The Commission shall establish a mechanism for appeals.

#### *International Fund*

51. An International Fund shall be established to support and finance the implementation of the provisions in this Agreement related to the resolution of the Palestinian refugee issue.

52. The Fund shall have a Steering Committee responsible for setting priorities and policies for the use of international assistance consistent with the provisions of this Agreement on refugees.

53. The Steering Committee shall be composed of Palestine, the United States, the World Bank, EU, donor countries, \_\_\_\_ . The Steering Committee will be supplemented by the participation of affected or interested regional parties as might be necessary. The Steering Committee will be responsible for mobilizing, coordinating and managing international financial and other assistance provided to enable implementation of the various aspects and dimensions of this Agreement related to refugees.

54. The World Bank and the United Nations shall be Joint-secretariat for the Fund. The secretariat shall be based at the World Bank.

55. The Steering Committee shall ask the World Bank to establish multilateral funding instruments to ensure that each aspect of this Agreement on refugees requiring financial assistance has corresponding instruments available to donors wishing to make use of multilateral mechanisms.

56. The World Bank shall have overall responsibility for ensuring that these funds are managed according to international standards of accounting and transparency. The secretariat shall be responsible for monitoring the overall level of donor contributions and disbursements (both via multilateral and bilateral channels) to support the implementation of the refugee agreement.

57. Assistance from the Fund shall include inter alia support for: return, compensation, repatriation assistance, rehabilitation assis-

tance, transitional costs and related socio-economic assistance. Assistance for compensation shall be disbursed through the Compensation Commission.

58. Recipients of funds channeled through the Fund shall include inter alia: refugees, relevant Palestinian Ministries and public bodies, host Government Ministries and public bodies, and international public or private bodies selected to implement project assistance or provide technical or transitional support.

#### *General*

59. The Parties should make appropriate modifications to their internal laws to facilitate the execution of this Article.

#### *End of Claims*

60. The full implementation of this Article shall constitute a complete resolution of the refugee problem and shall end all claims emanating from that problem.

61. The right of each refugee in accordance with United Nations General Assembly Resolution 194 shall not be prejudiced until the refugee has exercised his right of return and received compensation under this Article or until the refugee has, based on his voluntary choice, received compensation and settled somewhere else.

## APPENDIX 5: Israel’s private response to Palestinian refugee paper of 22 January, Taba, 23 January 2001 (draft 2)

### *The significance of resolving the refugee problem*

1. The issue of the Palestinian refugees is central to Israeli-Palestinian relations. Its comprehensive and just resolution is essential to creating a lasting and morally scrupulous peace.

### *Narrative*

2. The State of Israel solemnly expresses its sorrow for the tragedy of the Palestinian refugees, their suffering and losses, and will be an active partner in ending this terrible chapter that was opened 53 years ago, contributing its part to the attainment of a comprehensive and fair solution to the Palestinian refugee problem.

3. For all those parties directly or indirectly responsible for the creation of the status of Palestinian refugeeism, as well as those for whom a just and stable peace in the region is an imperative, it is incumbent to take upon themselves responsibility to assist in resolving the Palestinian refugee problem of 1948.

4. Despite accepting the UNGAR 181 of November 1947, the emergent State of Israel became embroiled in the war and bloodshed of 1948–49, that led to victims and suffering on both sides, including the displacement and dispossession of the Palestinian civilian population who became refugees. These refugees spent decades without dignity, citizenship and property ever since.

5. Consequently, the solution to the refugee issue must address the needs and aspirations of the refugees, while accounting for the realities since the 1948–49 war. Thus, the wish to return shall be implemented in a manner consistent with the existence of the State of Israel as the homeland for Jewish people, and the establishment of the State of Palestine as the homeland of the Palestinian people.

*Basis*

6. A just settlement of the refugee problem in accordance with UNSCR 242 must lead to the implementation of UNGAR 194 (P Position).

7. Since 1948, the Palestinian yearning has been enshrined in the twin principles of the 'Right of Return' and the establishment of an independent Palestinian State deriving the basis from International Law. The realization of the aspirations of the Palestinian people, as recognized in this agreement, includes the exercise of their right to self-determination and a comprehensive and just solution for the Palestinian refugees, based on UNGAR 194, providing for their return and guaranteeing the future welfare and wellbeing of the refugees, thereby addressing the refugee problem in all its aspects.

8. Regarding return, repatriation and relocation, each refugee may apply to one of the following programs, thus fulfilling the relevant clause of UNGAR 194:

a. To Israel – capped to an agreed limit of XX refugees, and with priority being accorded to those Palestinian refugees currently resident in Lebanon. The State of Israel notes its moral commitment to the swift resolution of the plight of the refugee population of the Sabra and Shatila camps.

b. To Israeli swapped territory. For this purpose, the infrastructure shall be prepared for the absorption of refugees in the sovereign areas of the State of Israel that shall be turned over to Palestinian sovereignty in the context of an overall development program.

c. To the State of Palestine: the Palestinian refugees may exercise their return in an unrestricted manner to the State of Palestine, as the homeland of the Palestinian people, in accordance with its sovereign laws and legislation.

d. Rehabilitation within existing Host Countries. Where this option is exercised the rehabilitation shall be immediate and extensive.

e. Relocation to third countries: voluntary relocation to third countries expressing the willingness and capacity to absorb Palestinian refugees.

*Definition of a Refugee*

9. See Article 6 of Palestinian paper as a P Position.

*Compensation and Rehabilitation*

10. Each refugee may apply for compensation programs and rehabilitation assistance as shall be detailed in Articles XX. For this purpose an International Commission and an International Fund shall be established (Articles XX below) that shall have full and exclusive responsibility for the implementation of the resolution of the refugee problem in all its aspects, including the gathering and verification of claims, and allocation and disbursement of resources, to be conducted in accordance with the following principles:

a. These programs shall address financial and in-kind compensation for displacement (moral suffering – P based position) and material loss, as well as the economic growth of the relevant communities. The dual objectives of individual historic justice and communal economic development shall guide the elaboration of these programs.

b. Programs of a compensatory nature shall be devised on both per-capita [sic] and claims based criteria, the former being of a fast-track nature (as detailed in Article XX below), and shall be managed according to a definitive and complete register of property claims to be compiled by an appropriate arm of the International Commission and Fund.

c. The Rehabilitation Assistance and Compensation Programs shall form an integral part of efforts to promote economic development and social regeneration of both the individuals concerned and the communities and societies in which they live or resettle, thus incorporating options or baskets of assistance (to be detailed).

d. Compensation for Host Countries will be in accordance with Article XX below.

e. The international community and the State of Israel shall be the principal contributors to the International Fund up to an agreed ceiling respectively. Israeli fixed assets that will remain in the State of Palestine following the Israeli withdrawal will be transferred to become assets of the International Fund in lieu of an amount of \$XX, constituting an integral part of the overall lump-sum of \$XX.

*Host Countries*

11. The refugees host countries shall receive compensation for the significant costs they bore in hosting the refugees. Future rehabilitation costs and investments shall be addressed according to the details of this agreement, via bilateral arrangements between the host countries and the International Commission.

*International Commission*

12. The International Commission shall consist of the Palestinian State, Host Countries, Israel and members of the international community, including the United Nations, the World Bank, the European Union and the G8, as well as other relevant international institutions. The International Commission shall have full and exclusive responsibility for implementing the resolution of the refugee issue in all its aspects. The mandate, structure and mode of operation of the International Commission shall be detailed in this agreement.

*UNRWA*

13. The phased termination of UNRWA shall be in accordance with a timetable to be agreed upon between the parties, and shall not exceed five years. The scope of UNRWA's services should change appropriately as the implementation of this agreement proceeds (whereby the first phase shall include the transfer of the service and administrative functions of UNRWA to host governments and modalities for the transfer of relevant functions to the International Commission, as well as the discontinuation of the status of Palestinian refugee camp – new P text to be suggested).

*Priority to Lebanese refugees*

14. Preference in all the above programs shall be accorded to the Palestinian refugee population in Lebanon.

*Former Jewish refugees*

15. Although the issue of compensation to former Jewish refugees from Arab countries is not part of the bilateral Israeli-Palestinian agreement, in recognition of their suffering and losses, the Parties pledge to cooperate in pursuing an equitable and just resolution to the issue.

*End of claims*

16. The Parties agree that the above constitutes a complete and final implementation of Article 11 of UNGAR 194 of 11th December 1948, and consider the implementation of the agreed programs and measures as detailed above constitute a full, final and irrevocable



settlement of the Palestinian refugee issue in all its dimensions. No additional claims or demands arising from this issue shall be made by either Party. With the implementation of these articles there shall be no individuals qualified for the status of a Palestinian Refugee.

## APPENDIX 6: Joint refugee mechanism paper (draft 2), Taba, 25 January 2001

### *Establishment of Commission*

1. An [Internal Commission for Palestinian Refugees] (the Commission) shall be established to manage, oversee, and guarantee the implementation of the provisions of this Agreement pertaining to refugees.

2. In addition to themselves, the Parties call upon [the United Nations, the United States, the Parties, UNRWA, the Arab host countries, the EU, Canada, Norway, and Japan, \_\_\_\_\_] to be the members of the Commission.

### *Board of Directors*

3. The Commission shall be governed by a [Board of Directors] (Board) composed of representatives of the member states.

4. The Board shall be the highest authority in the Commission and shall make the relevant policy decisions [*enumerate such decisions at this stage?*] in accordance with this Agreement.

5. The Board shall value the Palestinian material and non-material losses calculated from the date of dispossession to the current day expressed in today's value. For that purpose, the Board shall send a specialized technical team to value the property for which compensation is due.

6. The Board shall implement the priorities set forth in this Agreement for certain categories of refugees and certain areas. In particular, first priority shall be given for those Palestinian refugees currently residing in Lebanon.

a. For this purpose, the Board will seek immigration quotes from third Countries so as to implement the resettlement options for Palestinian refugees who wish to do so.

7. The Board shall draw the procedures governing the work of the Commission in accordance with this Agreement. In particular,

a. A time limit of years shall be imposed on the submission of applications and claims to the Commission.

b. The Exercise of the right of return shall not be limited in time.

8. The Board shall oversee the conduct of the various arms of the Commission. The said arms shall periodically report to the Board in accordance with procedures set forth thereby.

9. Board decisions shall be taken by [*voting mode*] of the members present and voting.

### *Technical Committees*

10. The commission shall establish the following Technical Committees (Committees):

a. Status-determination Committee.

b. Return, Repatriation, and Relocation Committee.

c. Compensation and Restitution Committee.

11. The Committees shall have the powers and functions specified in this Agreement pertaining to refugees.

12. Unless otherwise specified in this Agreement, the Board shall determine the structure and procedures of the Committees.

13. The Committees shall periodically report to the Board in accordance with procedures set forth by the Board.

14. The Parties shall implement the decisions of the Committees [as if they were issued by their respective domestic courts].

15. The Parties may make submissions to the Committees as deemed necessary.

16. The Committees shall establish mechanisms for resolution of disputes arising from the interpretation, application or performance of the provisions of this Agreement relating to refugees.

17. Refugees shall have the right to appeal decisions rendered by the Committees pursuant to this Article pursuant to mechanisms established thereby.

18. Israel shall guarantee access by the Committees or by claimants before the Committees or their authorized representative to the relevant Israeli state archives.

### *Status-determination Committee:*

19. The Status-determination Committee shall be responsible for verifying refugee status as defined in [*Refugee Definition Article*].

20. UNRWA registration shall be considered as *prima facie* proof of refugee status.

### *Return, Repatriation, and Relocation Committee:*

21. The Return, Repatriation, and Relocation Committee shall be responsible for guaranteeing and managing the implementation of [*Return, Repatriation, and Relocation Articles*].

22. The Return, Repatriation, and Relocation Committee shall,

a. Determine procedures for return, repatriation, and relocation

b. Ensure that repatriation is based on individual voluntary decision, and is carried out in a way that maintains family unity

c. Process applications

d. Return, repatriate, or relocate refugees, as the case may be

e. Provide assistance to returning refugees in accordance with [*Repatriation and Rehabilitation Assistance Article*]

f. Assist in the re-integration of refugees in their new homes

g. Ensure the protection of returning refugees

### *Compensation and Restitution Committee:*

23. The Compensation and Restitution Committee shall be responsible for administering the implementation of the [*Compensation Articles*], and for administering and adjusting claims of real property by refugees made pursuant to [*Restitution Articles*].

24. The Committee shall:

a. Set out the modalities and procedures for submission and adjudication of claims for compensation, and

b. Disburse awards.

25. Compensation Awards shall be made as follows:

a. A fixed *per capita* compensation for suffering and losses incurred as a result of the refugee's physical displacement, and

b. Compensation of the property from which the refugees were deprived as a result of their displacement. In turn, this compensation shall be awarded pursuant to the following modalities:

- i. A fixed *per capita* award for property claims under a specified value. This will require the claimant to only prove title, or
- ii. A claims-based award for property claims exceeding a specified value from fixed assets and other financial assets. This will require the claimant to prove both title and the value of the losses.

26. The Committee shall accept the records of the United Nations Conciliation Commission for Palestine, as well as the records of the 'Custodian for Absentees' Property' made available to the Commission pursuant to [*Transfer of Custodian Records Article*] as a prima facie evidence of the losses of the refugees. The Committee may also use UNRWA's records and any other relevant records.

#### *International Fund*

27. An International Fund (Fund) shall be established to raise the funds necessary for financing the implementation of the provisions in this Agreement related to refugees.

28. In addition to themselves, the Parties call upon [the United States, the World Bank, EU, donor countries, \_\_\_\_\_] to be the members of the Fund. The Fund will be supplemented by the participation of affected or interested regional parties as might be necessary.

29. Priorities and policies for the use of international assistance shall be consistent with the relevant provisions of this Agreement pertaining to refugees. In particular, the Fund shall:

- a. Finance the Commission's Annual Budget, including:
  - i. Running costs
  - ii. The various financial awards specified in the [*the various Technical Committees Articles*]
- b. Compensate host states in accordance with [*Host State Compensation Articles*] as well as for the costs of absorbing refugees who choose to settle in these countries. This function shall be regarded as an integral part of regional development efforts.
- c. Compensate with the Palestinian state for Palestinian communal property in accordance with [*Communal Property Compensation Articles*]. This function shall be regarded as an integral part of regional development efforts.
- d. Audit and monitor the Commission to ensure efficiency and transparency.

30. A Secretariat shall be established for the Fund. [The Parties call upon the World Bank and the United Nations shall be the joint-Secretariat. The Secretariat shall be based at the World Bank.]

31. [The Fund shall ask the World Bank to establish multilateral funding instruments to ensure that each aspect of this Agreement on refugees requiring financial assistance has corresponding instruments available to donors wishing to make use of multilateral mechanisms.]

32. The Secretariat shall be responsible for:

- a. Mobilizing, coordinating and managing international financial and other assistance.
- b. Ensuring that these funds are managed according to international standards of accountability and transparency.

- c. Monitoring the overall level of donor contributions and disbursements (both via multilateral and bilateral channels) to support the implementation of the refugee agreement.

## APPENDIX 7: Arab Peace Initiative, Beirut, 28 March 2002

The Council of the League of Arab States at the Summit Level, at its 14th Ordinary Session,

- Reaffirms the resolution taken in June 1996 at the Cairo extraordinary Arab summit that a just and comprehensive peace in the Middle East is the strategic option of the Arab countries, to be achieved in accordance with international legality, and which would require a comparable commitment on the part of the Israeli government.
- Having listened to the statement made by his royal highness Prince Abdullah Bin Abdullaziz, the crown prince of the Kingdom of Saudi Arabia in which his highness presented his initiative, calling for full Israeli withdrawal from all the Arab territories occupied since June 1967, in implementation of Security Council Resolutions 242 and 338, reaffirmed by the Madrid Conference of 1991 and the land for peace principle, and Israel's acceptance of an independent Palestinian state, with East Jerusalem as its capital, in return for the establishment of normal relations in the context of a comprehensive peace with Israel.
- Emanating from the conviction of the Arab countries that a military solution to the conflict will not achieve peace or provide security for the parties, the council:
  1. Requests Israel to reconsider its policies and declare that a just peace is its strategic option as well.
  2. Further calls upon Israel to affirm:
    - a. Full Israeli withdrawal from all the territories occupied since 1967, including the Syrian Golan Heights to the lines of June 4, 1967 as well as the remaining occupied Lebanese territories in the south of Lebanon.
    - b. Achievement of a just solution to the Palestinian refugee problem to be agreed upon in accordance with U.N. General Assembly Resolution 194.
    - c. The acceptance of the establishment of a Sovereign Independent Palestinian State on the Palestinian territories occupied since the 4th of June 1967 in the West Bank and Gaza strip, with east Jerusalem as its capital.
  3. Consequently, the Arab countries affirm the following:
    - a. Consider the Arab-Israeli conflict ended, and enter into a peace agreement with Israel, and provide security for all the states of the region.
    - b. Establish normal relations with Israel in the context of this comprehensive peace.
  4. Assures the rejection of all forms of Palestinian patriation [sic] which conflict with the special circumstances of the Arab host countries.

5. Calls upon the government of Israel and all Israelis to accept this initiative in order to safeguard the prospects for peace and stop the further shedding of blood, enabling the Arab Countries and Israel to live in peace and good neighborliness and provide future generations with security, stability, and prosperity.

6. Invites the international community and all countries and organizations to support this initiative.

Requests the chairman of the summit to form a special committee composed of some of its concerned member states and the secretary general of the League of Arab States to pursue the necessary contacts to gain support for this initiative at all levels, particularly from the United Nations, the security council, the United States of America, the Russian Federation, the Muslim States and the European Union.

## APPENDIX 8: Ayalon-Nusseibeh Plan ('People's Voice'), 27 July 2002 (refugee excerpt)

**Two states for two peoples:** Both sides will declare that Palestine is the only state of the Palestinian people and Israel is the only state of the Jewish people.

**Right of return:** Recognizing the suffering and the plight of the Palestinian refugees, the international community, Israel, and the Palestinian State will initiate and contribute to an international fund to compensate them.

Palestinian refugees will return only to the State of Palestine; Jews will return only to the State of Israel.

The international community will offer to compensate toward bettering the lot of those refugees willing to remain in their present country of residence, or who wish to immigrate to third-party countries.

**End of conflict:** Upon the full implementation of these principles, all claims on both sides and the Israeli-Palestinian conflict will end

## APPENDIX 9: Geneva Accord, December 2003

### Article 7 – Refugees

#### 1. Significance of the Refugee Problem

- i. The Parties recognize that, in the context of two independent states, Palestine and Israel, living side by side in peace, an agreed resolution of the refugee problem is necessary for achieving a just, comprehensive and lasting peace between them.
- ii. Such a resolution will also be central to stability building and development in the region.

#### 2. UNGAR 194, UNSC Resolution 242, and the Arab Peace Initiative

- i. The Parties recognize that UNGAR 194, UNSC Resolution 242, and the Arab Peace Initiative (Article 2.ii.) concerning the rights of the Palestinian refugees represent the basis for resolving the refugee issue, and agree that these rights are fulfilled according to Article 7 of this Agreement.

#### 3. Compensation

- i. Refugees shall be entitled to compensation for their refugeehood and for loss of property. This shall not prejudice

or be prejudiced by the refugee's permanent place of residence.

- ii. The Parties recognize the right of states that have hosted Palestinian refugees to remuneration.

#### 4. Choice of Permanent Place of Residence (PPR)

The solution to the PPR aspect of the refugee problem shall entail an act of informed choice on the part of the refugee to be exercised in accordance with the options and modalities set forth in this agreement. PPR options from which the refugees may choose shall be as follows;

- i. The state of Palestine, in accordance with clause a below.
- ii. Areas in Israel being transferred to Palestine in the land swap, following assumption of Palestinian sovereignty, in accordance with clause a below.
- iii. Third Countries, in accordance with clause b below.
- iv. The state of Israel, in accordance with clause c below.
- v. Present Host countries, in accordance with clause d below.

- a. PPR options i and ii shall be the right of all Palestinian refugees and shall be in accordance with the laws of the State of Palestine.

- b. Option iii shall be at the sovereign discretion of third countries and shall be in accordance with numbers that each third country will submit to the International Commission. These numbers shall represent the total number of Palestinian refugees that each third country shall accept.

- c. Option iv shall be at the sovereign discretion of Israel and will be in accordance with a number that Israel will submit to the International Commission. This number shall represent the total number of Palestinian refugees that Israel shall accept. As a basis, Israel will consider the average of the total numbers submitted by the different third countries to the International Commission.

- d. Option v shall be in accordance with the sovereign discretion of present host countries. Where exercised this shall be in the context of prompt and extensive development and rehabilitation programs for the refugee communities. Priority in all the above shall be accorded to the Palestinian refugee population in Lebanon.

#### 5. Free and Informed Choice

The process by which Palestinian refugees shall express their PPR choice shall be on the basis of a free and informed decision. The Parties themselves are committed and will encourage third parties to facilitate the refugees' free choice in expressing their preferences, and to countering any attempts at interference or organized pressure on the process of choice. This will not prejudice the recognition of Palestine as the realization of Palestinian self-determination and statehood.

#### 6. End of Refugee Status

Palestinian refugee status shall be terminated upon the realization of an individual refugee's permanent place of residence (PPR) as determined by the International Commission.

#### 7. End of Claims

This agreement provides for the permanent and complete resolution of the Palestinian refugee problem. No claims may be raised except for those related to the implementation of this agreement.

### 8. *International Role*

The Parties call upon the international community to participate fully in the comprehensive resolution of the refugee problem in accordance with this Agreement, including, inter alia, the establishment of an International Commission and an International Fund.

### 9. *Property Compensation*

- i. Refugees shall be compensated for the loss of property resulting from their displacement.
- ii. The aggregate sum of property compensation shall be calculated as follows:
  - a. The Parties shall request the International Commission to appoint a Panel of Experts to estimate the value of Palestinians' property at the time of displacement.
  - b. The Panel of Experts shall base its assessment on the UNCCP records, the records of the Custodian for Absentee Property, and any other records it deems relevant. The Parties shall make these records available to the Panel.
  - c. The Parties shall appoint experts to advise and assist the Panel in its work.
  - d. Within 6 months, the Panel shall submit its estimates to the Parties.
  - e. The Parties shall agree on an economic multiplier, to be applied to the estimates, to reach a fair aggregate value of the property.
- iii. The aggregate value agreed to by the Parties shall constitute the Israeli 'lump sum' contribution to the International Fund. No other financial claims arising from the Palestinian refugee problem may be raised against Israel.
- iv. Israel's contribution shall be made in installments in accordance with Schedule X.
- v. The value of the Israeli fixed assets that shall remain intact in former settlements and transferred to the state of Palestine will be deducted from Israel's contribution to the International Fund. An estimation of this value shall be made by the International Fund, taking into account assessment of damage caused by the settlements.

### 10. *Compensation for Refugeehood*

- i. A 'Refugeehood Fund' shall be established in recognition of each individual's refugeehood. The Fund, to which Israel shall be a contributing party, shall be overseen by the International Commission. The structure and financing of the Fund is set forth in Annex X.
- ii. Funds will be disbursed to refugee communities in the former areas of UNRWA operation, and will be at their disposal for communal development and commemoration of the refugee experience. Appropriate mechanisms will be devised by the International Commission whereby the beneficiary refugee communities are empowered to determine and administer the use of this Fund.

### 11. *The International Commission (Commission)*

- i. Mandate and Composition
  - a. An International Commission shall be established and shall have full and exclusive responsibility for imple-

menting all aspects of this Agreement pertaining to refugees.

b. In addition to themselves, the Parties call upon the United Nations, the United States, UNRWA, the Arab host countries, the EU, Switzerland, Canada, Norway, Japan, the World Bank, the Russian Federation, and others to be the members of the Commission.

c. The Commission shall:

1. Oversee and manage the process whereby the status and PPR of Palestinian refugees is determined and realized.
2. Oversee and manage, in close cooperation with the host states, the rehabilitation and development programs.
3. Raise and disburse funds as appropriate.

d. The Parties shall make available to the Commission all relevant documentary records and archival materials in their possession that it deems necessary for the functioning of the Commission and its organs. The Commission may request such materials from all other relevant parties and bodies, including, inter alia, UNCCP and UNRWA.

#### ii. Structure

- a. The Commission shall be governed by an Executive Board (Board) composed of representatives of its members.
- b. The Board shall be the highest authority in the Commission and shall make the relevant policy decisions in accordance with this Agreement.
- c. The Board shall draw up the procedures governing the work of the Commission in accordance with this Agreement.
- d. The Board shall oversee the conduct of the various Committees of the Commission. The said Committees shall periodically report to the Board in accordance with procedures set forth thereby.
- e. The Board shall create a Secretariat and appoint a Chair thereof. The Chair and the Secretariat shall conduct the day-to-day operation of the Commission.

#### iii. Specific Committees

- a. The Commission shall establish the Technical Committees specified below.
- b. Unless otherwise specified in this Agreement, the Board shall determine the structure and procedures of the Committees.
- c. The Parties may make submissions to the Committees as deemed necessary.
- d. The Committees shall establish mechanisms for resolution of disputes arising from the interpretation or implementation of the provisions of this Agreement relating to refugees.
- e. The Committees shall function in accordance with this Agreement, and shall render binding decisions accordingly.
- f. Refugees shall have the right to appeal decisions affecting them according to mechanisms established by this Agreement and detailed in Annex X.

## iv. Status-determination Committee

- a. The Status-determination Committee shall be responsible for verifying refugee status.
- b. UNRWA registration shall be considered as rebuttable presumption (*prima facie* proof) of refugee status.

## v. Compensation Committee

- a. The Compensation Committee shall be responsible for administering the implementation of the compensation provisions.
- b. The Committee shall disburse compensation for individual property pursuant to the following modalities:
  1. Either a fixed per capita award for property claims below a specified value. This will require the claimant to only prove title, and shall be processed according to a fast-track procedure, or
  2. A claims-based award for property claims exceeding a specified value for immovables and other assets. This will require the claimant to prove both title and the value of the losses.
- c. Annex X shall elaborate the details of the above including, but not limited to, evidentiary issues and the use of UNCCP, 'Custodian for Absentees' Property', and UNRWA records, along with any other relevant records.

## vi. Host State Remuneration Committee:

There shall be remuneration for host states.

## vii. Permanent Place of Residence Committee (PPR Committee):

The PPR Committee shall,

- a. Develop with all the relevant parties detailed programs regarding the implementation of the PPR options pursuant to Article 7/4 above.
- b. Assist the applicants in making an informed choice regarding PPR options.
- c. Receive applications from refugees regarding PPR. The applicants must indicate a number of preferences in accordance with article 7/4 above. The applications shall be received no later than two years after the start of the International Commission's operations. Refugees who do not submit such applications within the two-year period shall lose their refugee status.
- d. Determine, in accordance with sub-Article (a) above, the PPR of the applicants, taking into account individual preferences and maintenance of family unity. Applicants who do not avail themselves of the Committee's PPR determination shall lose their refugee status.
- e. Provide the applicants with the appropriate technical and legal assistance.
- f. The PPR of Palestinian refugees shall be realized within 5 years of the start of the International Commission's operations.

## viii. Refugeehood Fund Committee

The Refugeehood Fund Committee shall implement Article 7/10 as detailed in Annex X.

## ix. Rehabilitation and Development Committee

In accordance with the aims of this Agreement and noting the above PPR programs, the Rehabilitation and Development Committee shall work closely with Palestine, Host Countries and other relevant third countries and parties in pursuing the goal of refugee rehabilitation and community development. This shall include devising programs and plans to provide the former refugees with opportunities for personal and communal development, housing, education, healthcare, re-training and other needs. This shall be integrated in the general development plans for the region.

*12. The International Fund*

- i. An International Fund (the Fund) shall be established to receive contributions outlined in this Article and additional contributions from the international community. The Fund shall disburse monies to the Commission to enable it to carry out its functions. The Fund shall audit the Commission's work.
- ii. The structure, composition and operation of the Fund are set forth in Annex X.

*13. UNRWA*

- i. UNRWA should be phased out in each country in which it operates, based on the end of refugee status in that country.
- ii. UNRWA should cease to exist five years after the start of the Commission's operations. The Commission shall draw up a plan for the phasing out of UNRWA and shall facilitate the transfer of UNRWA functions to host states.

*14. Reconciliation Programs*

- i. The Parties will encourage and promote the development of cooperation between their relevant institutions and civil societies in creating forums for exchanging historical narratives and enhancing mutual understanding regarding the past.
- ii. The Parties shall encourage and facilitate exchanges in order to disseminate a richer appreciation of these respective narratives, in the fields of formal and informal education, by providing conditions for direct contacts between schools, educational institutions and civil society.
- iii. The Parties may consider cross-community cultural programs in order to promote the goals of conciliation in relation to their respective histories.
- iv. These programs may include developing appropriate ways of commemorating those villages and communities that existed prior to 1949.



## Chatham House Palestinian Refugees Project (The Minster Lovell Process)

The Chatham House project on the Palestinian Refugee Issue in the Middle East Peace Process, ongoing since 1999, aims at an in-depth examination of the regional, legal and political complexities of the issue. By the end of 2008, 28 gatherings will have been held, mostly in the Oxfordshire village of Minster Lovell, and also in Cyprus and the Middle East. The activities over that period have been funded by the European Union, the International Development Research Centre (Canada), the Swiss Agency for Development and Cooperation and the UK Foreign and Commonwealth Office.

The Minster Lovell Process provides an informal mechanism to bridge some of the communication gaps that exist between parties directly concerned with the Palestinian refugee issue. It seeks to raise awareness of the issue and to highlight the importance of its regional dimension through continuous dialogue in the absence of, and in preparation for, formal negotiations.

This briefing paper is the first in a series to be published in 2008.

For further information, please see:

[www.chathamhouse.org.uk/palestinian\\_refugees](http://www.chathamhouse.org.uk/palestinian_refugees)



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