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Middle East and North Africa Summary

The Palestinian Refugee Issue: Compensation and Implementation Mechanisms

18-19 December 2013

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INTRODUCTION

This is a summary of discussions that took place during a one-and-a-half day workshop on *The Palestinian Refugee Issue: Compensation and Implementation Mechanisms*, held on 18 and 19 December 2013 in Minster Lovell, Oxfordshire. The participants were experts on the Palestinian refugee issue, acting in a personal capacity, from the Palestinian territories, Israel, the international community and host countries. Participants were divided into working groups and asked to design specific mechanisms for Palestinian refugee compensation of the type that might be included in a future Israeli–Palestinian peace agreement. These were then collectively ‘stress-tested’ by the larger group in order to identify particular challenges that might arise. The workshop was hosted by the Chatham House Middle East and North Africa Programme and was kindly funded by a grant from the UK government Conflict Pool.

The workshop formed part of Chatham House's on-going work on the regional dimensions of the Palestinian refugee issue, known as the ‘Minster Lovell Process’, which aims at an informal and comprehensive discussion of the Palestinian refugee issue, including the role of host countries and international actors. This workshop built on previous work about an implementation mechanism undertaken by Chatham House and the International Development Research Centre (IDRC) in collaboration with the Foreign and Commonwealth Office and the European Commission in 2009–10.

Key findings

Some of the main findings of the workshop include:

- **Compensation is an extremely complicated issue and its technical details are very important.** If eligibility, valuation, inheritance laws, payment, and the structures and procedures of an international mechanism fund are not properly planned, then the process of compensation is likely to encounter serious political and practical problems.
- **A poorly designed and implemented compensation regime could actually undermine a broader peace agreement and prove to be a significant liability.** The effects of a compensation mechanism could prove to be neutral at best, rather than serving as a positive element to help ‘sell’ other parts of a broader refugee deal. Throwing money at the issue of past property seizures and forced displacement could aggravate refugee grievances if not accompanied by other measures.
- **At least \$30 billion in financing will be necessary for a well-functioning compensation mechanism, but resource limitations mean this is an ambitious sum.** At the Camp David negotiations in 2000 the United States estimated that up to \$20 billion in funding might be available for compensation for both Palestinian and Jewish refugees, and during the Taba refugee negotiations in 2001 Israel appeared willing to consider a fixed-sum contribution of around \$3–5 billion.

- **The success of a compensation mechanism hinges on also addressing normative issues of responsibility, moral acknowledgment and recognition.** Without addressing these issues, anticipated levels of financial compensation will be inadequate to provide real closure to the refugee issue.
- **It is useful to continue to examine the complex normative, social and technical aspects of the refugee issue, even if the current US-backed peace talks do not succeed.** Any eventual peace agreement will require attention to the refugee issue, and policy-relevant research and dialogue can help to inform such an agreement, whenever it might come.
- **Over the last decade, discussion of Palestinian refugee compensation, a topic long fraught with political sensitivities, has matured.** While Palestinians had previously feared that a focus on compensation might erode other refugee rights, it is now widely recognized that reparation is itself a right. Recent years have also seen a growing amount of policy-relevant research on the topic, including by Chatham House, the IDRC, the International Organization of Migration, the BADIL Resource Center for Palestinian Residency & Refugee Rights, the Negotiations Support Unit of the Palestinian Liberation Organization and academics, among others.

The meeting was held under the Chatham House Rule and the views expressed are those of the participants. This document is intended to serve as an *aide-mémoire* to those who took part and to provide a general summary of discussions for those who did not.

The Chatham House Rule

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THE REGIONAL AND INTERNATIONAL CONTEXT

The workshop began with a general discussion of the regional and international context. Participants noted that this has changed in significant ways in the past few years. First and most immediate were the growing humanitarian challenges and crises facing multiple Palestinian refugee communities. Of the 540,000 Palestinians normally resident in Syria, over half have been displaced by the civil war. More than 50,000 have fled to Lebanon, a country where most Palestinian refugees already live under adverse social conditions. Around 11,000 have fled to Jordan, where the government has sought to close its borders to Palestinians. Thousands have fled further afield. Meanwhile in Gaza, Egypt's closure of tunnels used for smuggling, and continued Israeli restrictions on imports and exports have aggravated already poor economic conditions. The crises in Syria and Egypt crises have placed severe pressures on the United Nations Relief and Works Agency (UNRWA), which must deal with the humanitarian emergency, increasing insecurity in Syria and Lebanon and a serious shortfall in resources provided by the donor community.

While Palestinian refugees face perhaps their gravest humanitarian threat in more than two decades, many participants felt the Palestinian issue has become less of a political priority in the region. For many countries, the Arab uprisings have generated on-going domestic and regional political challenges that divert attention from the issue.

Refugees and the peace process

The escalating humanitarian crisis takes place against the backdrop of US-mediated Israeli–Palestinian peace talks, which began in July 2013 and are intended to produce a framework agreement between the parties by mid-2014. Most participants felt that the talks had made very little progress to date. However, there was also recognition that the United States has pledged to introduce new ideas and bridging proposals. One participant emphasized the need for it to address the technical issues in order to advance negotiations, and another argued that political elements such as the 2014 mid-term elections could shape US involvement in negotiations. It was further noted that previous rounds of talks, such as the Annapolis process in 2007–08, had been left inconclusive and open to conflicting interpretation. It was also not clear to what extent the current Israeli government felt bound by the negotiating positions of its predecessors. In the meantime, the facts on the ground are themselves changing, notably in the form of settlement construction.

Participants noted that if the US were to put forward positions on the refugee issue, these could have a lasting effect regardless of the success or failure of the current negotiating process. It was argued that formulations developed within the Clinton Parameters in 2000 and at the Taba negotiations in 2001 are still considered to be possible building blocks for any future deal.

TECHNICAL DIMENSIONS OF COMPENSATION

Participants delved into the technical details of compensation, which include eligibility, types of losses, valuation, inheritance laws, payment, funding and implementation mechanisms, including the structures and procedures of an international mechanism. Efforts were made to address Palestinian and Israeli perspectives, needs and concerns, in addition to the technical requirements of making a deal work. It was noted that if a compensation regime were to fail to address the needs of the parties, it could prove politically unsustainable. Equally, however, if it were to face serious technical and practical problems in implementation, it could prove to be a liability and generate a backlash among refugees against the whole peace process.

Individual versus collective compensation

Most participants began the workshop with a strong preference for individual compensation to refugees, as opposed to collective compensation through payments to the Palestinian state, funding for development projects or the provision of public goods. After some discussion, however, certain participants revised their preference, arguing that individual payments to refugees might be too low and could be perceived as insulting, rather than providing moral and financial closure. One participant commented that it might be necessary to rethink the paradigm of individualized compensation.

Discussion over whether it would be more beneficial to Palestinians to fund development projects than to fast-track individual compensation did not arrive at consensus. It was noted that refugees have long expected the latter, and that any sort of collective compensation might be more difficult to sell. Some participants suggested it could be viable to instead create a rehabilitation donor fund for urban upgrading in which compensation funds are used to rebuild refugee communities. Another suggested that the decision ought to be left to refugees themselves: an Israeli–Palestinian agreement could establish an international fund for compensation, but its ultimate use could be decided by a broader consultation within the refugee community or even a referendum.

Eligibility, types of losses and payments

There are two main categories of eligibility for compensation: first, compensation for property losses, and second, compensation for ‘refugeehood’, including loss of livelihood, loss of earnings and moral damages as a result of displacement. In a claims-based system, the original 1948 refugees, or their estate or descendants if deceased, would be eligible for compensation. Participants recommended that the rules determining specifically which descendants would be eligible should be set out in the agreement, and a preference was expressed for using a ‘self-contained regime’ rather than applying different national inheritance laws. Claims-based systems of compensation are likely to be especially

complicated, given the need to trace back properties, ownerships, and values over 65 years and three generations.

Many agreed that fast-track compensation (for refugeehood) should be prioritized, given the longer time period required for slow-track compensation (of property) owing to the latter's [?] need for evidence-based procedures and valuation processes. However, for the fast-track system to be considered the better option, most Palestinians would have to benefit more than they would from the slow-track option, and the system would actually have to be fast. It was also argued that refugees should have the option to choose either fast-track or slow-track compensation, with the former possibly being a fixed sum and the slow track intended for those making larger property claims.

Some participants suggested implementing a system of per capita payments in order to facilitate compensation and reduce administrative costs. Under such a system, all refugees would receive compensation, although it could be weighted to favour surviving first-generation refugees, for example.

Although discussion centred on compensation for Palestinian refugees, the issue of compensation for Jews forcibly displaced from Arab countries was also raised. Most participants agreed that legitimate claims exist against certain Arab countries, but that it is not appropriate to include these claims in Israeli–Palestinian negotiations, or to link them to compensating Palestinians for their losses and suffering. Some participants did state, however, that failure to address the claims of Jews from Arab countries could prove politically divisive in Israel.

Valuation

There was debate over whether valuation of losses is essential, or whether the parameters of compensation are more likely to be limited by available funding and an agreed Israeli lump-sum contribution. Participants also expressed concern that valuation processes could slow down and complicate the compensation process.

It was suggested that Israeli archives, along with those of UNRWA and the UN Conciliation Commission for Palestine, could be used in the claims process to determine 1948 property ownership and values. However, one participant warned that since these records are incomplete, they might not be sufficient to resolve all ownership and valuation questions.

Funding

The level of resources available to support a future refugee compensation regime emerged as a major issue. None of the mechanisms identified by the working groups were likely to function well with less than \$30 billion in funding. By contrast, at the Camp David negotiations in 2000 the US estimated that up to \$20 billion might be available for compensation for both

Palestinian and Jewish refugees, and during the Taba refugee negotiations in 2001 Israel appeared willing to consider a fixed-sum contribution of around \$3–5 billion. Several participants with considerable experience in the donor community warned that international contributions to a compensation fund could be limited. Very large transfers to Palestinian refugees would be likely to generate public and political backlash within donor countries, especially if these took the form of cash transfers to individuals. Instead, donors would be more willing to provide support for the costs of repatriation and development.

Some participants warned that the level of funding likely to be available would simply not meet refugees' expectations. In this case, a compensation mechanism could actually prove to be a lightning rod for refugee discontent, rather than addressing past dispossession or building support for a peace agreement.

Most participants agreed that Israel should be the primary source of the funding for Palestinian refugee compensation. While many also argued that this would need to be augmented by additional donor resources, some felt that Israel should bear sole responsibility for property loss compensation, and that international donors should finance other elements of a solution to the refugee issue. One participant suggested that the Israeli contribution could be increased from what had previously been discussed if funds could be provided over a longer period, such as by allocating 1% of GDP over ten years.

The importance of raising the necessary funds for a fast-track compensation process was stressed. One participant argued that if insufficient funds are available, it would be better to satisfy a greater number of poorer refugees than the much smaller number of refugees from land-owning families. However, even relatively small compensation amounts can quickly add up to high figures, as another participant noted: the sum of \$1,000 per person, which refugees would be likely to reject as grossly inadequate, already amounts to a total of \$5–8 billion.

A concern was raised that without having a sense of how much funding is realistic, it is very difficult to gain clarity on the parameters of potential compensation mechanisms. A participant responded that details about funding are dependent upon the prospect of a broader agreement, and that donors will be reluctant to provide funds if they are not assured of the success of such an agreement. One participant argued that even without a clear idea of funding, it is still possible to elaborate different compensation formulas and devise options for implementation mechanisms and methodologies.

Implementation mechanism (IM)

The discussion on a mechanism to implement an agreement on refugee compensation focused on its organizational structure, functions and procedures. There was general agreement that it should have three types of organs: a policy board, one or more decision-making bodies (commissions) and a secretariat. The policy board would supervise decision-

making and determine policies which had not been spelled out in the agreement. Participants had differing views on membership of the policy board. Certain states or organizations were proposed as members for functional reasons, while others were put forward in order to ensure politically desirable representation. Depending on the categories of claims and the type of compensation envisaged, participants recommended models with one or more commissions. All agreed on the need to have at least one, and probably more than one, specific commission dedicated to expediting the resolution of fast-track claims. Most participants agreed that the mechanism itself should be self-standing, independent and based outside the Middle East, whereas the secretariat supporting the board and the commissions should have regional offices.

Host countries

Several participants stressed the need to include the host countries in a compensation mechanism. It was generally felt that this is more likely to occur through donor support for development projects, likely as part of a broader 'peace dividend' for supporting an agreement, rather than through direct financial compensation. It was also noted that host countries stand to gain substantially from compensation payments made to refugees who remain within host-country territory, whether through taxation or the injection of additional spending power and investment into the local economy.

SOCIAL EFFECTS

Compensation payments to Palestinian refugees would be likely to amount to billions of dollars, making a significant impact on individuals, families, and communities. There was considerable discussion of the extent to which a compensation regime should address these effects or even attempt to promote certain social and development outcomes.

One participant stressed that property ownership in 1948 Palestine had been very unequal, and that claims-based compensation systems might therefore reproduce historical inequalities. Per capita, fast-track or 'category' systems would have a more progressive social impact, since they would benefit smaller property owners more than large ones.

There was considerable discussion of the potential gendered effects of compensation. Although per capita payments would benefit men and women equally, claims-based compensation would be subject to inheritance law, which in many countries disadvantages women by allocating them a smaller share of an estate. A compensation regime could either include its own rules for distributing shares of a claim or leave it for families to decide.

Some participants expressed concern about large cash payments, which they suggested would increase consumption, cause inflation and would offer nothing in terms of economic sustainability and stability. In Gaza, there might be limited opportunities to invest this money or build capital. Others noted that cash payments have become an increasingly common mechanism to alleviate poverty and strengthen communities, and that inflationary effects might be reduced by spreading payments out over a period of time. It was also argued that refugees are in the best position to decide how compensation payments can be used to benefit themselves and their families.

END OF CLAIMS, INDIVIDUAL RIGHTS AND NORMATIVE DIMENSIONS

A key Israeli demand in previous negotiations on the refugee issue has been that an agreement represent an 'end of claims' and a definitive resolution of the issue. A number of participants questioned whether this is legal and mentioned that even if an agreement were to stipulate an end to claims, individual refugees could still pursue their rights in courts and other forums. It would then depend on those courts and forums whether or not they would uphold the finality of the agreement. It was generally agreed that an agreement should attempt to resolve outstanding issues to the satisfaction of the two parties as well as the large majority of the refugees.

Participants explored the rights of an individual refugee to opt out of the compensation mechanism. One participant endorsed this way of embedding individual rights into a collective process, thereby giving the process greater flexibility and a more constructive meaning. It was also noted that refugees would not be assured of any viable alternative route for settling their claims if they chose to opt out of a compensation mechanism.

Palestinian perspectives

Participants agreed that the refugee issue cannot be resolved solely through financial and technical solutions, and that, rather, the normative aspect is essential. Compensation is important not only for its financial value, but even more for what it is seen to represent. It could have positive effects if Palestinian refugees saw it as representing Israeli and international recognition of the wrongs and dispossession that they have suffered, and it could have quite negative effects if they regarded it as an attempt to bribe or buy them off. One participant noted that what matters is the value and meaning that refugees themselves assign to the process, rather than what others assert to be its symbolic meaning.

However, the amount of money under discussion for 'refugeehood' payments could be seen as insulting, rather than providing moral and emotional closure. One participant argued that the amounts being considered are little more than the insurance payments he would expect if a car ran over his cat, and another participant stated that no amount of money would compensate for the years of suffering from displacement. It was added that refugees have primarily experienced humiliation and indignity from the continuing conflict, and that therefore the objective of compensation should be to avoid further humiliation and to re-establish their dignity. One participant asked if a substitute for the word 'compensation' could be found in the discussion of this process, since the word has the painful connotation of it being impossible to 'compensate' for 60 years of suffering.

Participants agreed that, in the eyes of refugees, a compensation mechanism would not replace the right of return. One participant suggested that giving Palestinian refugees an opportunity to take greater ownership of the process of designing compensation might lead to

a more successful outcome. There was also broad agreement among the participants that any form of refugee compensation should be accompanied by at least a degree of moral acknowledgment that the Palestinian people had been wronged, since this would carry a lot of value and would be important for closure of the issue.

Israeli perspectives

One participant noted that, that from an Israeli standpoint, compensation for Palestinian refugees is very unlikely to feature among Israeli priorities in the negotiations, since their main concerns are about security in the region. As a result, it is possible that Israelis have not fully considered all the technical issues that would be involved in compensation, and serious, detailed attention to the issue is a far-off prospect. Other participants described what they see as limited policy capacity in Israel on the refugee issue, which has implications for the development of its negotiating positions. Similarly, the Israeli public generally does not give much thought to the refugee issue, although there is acceptance that it will need to be dealt with.

Participants affirmed the importance of an 'end of claims' to the Israeli government and public, as well as the matter of Jews forcibly displaced from Arab countries. While there was general agreement that Arab Jews are also owed compensation for past dispossession, there was widespread doubt about the wisdom of linking this to Palestinian refugee compensation, with many suggesting Israel should pursue this issue bilaterally with the appropriate Arab states. One participant's suggestion, strongly endorsed by many others, was that the Palestinian state could set a positive moral example by offering to compensate the relatively small number of Jews who had been displaced from Arab-controlled areas of Palestine in 1948. However, there was considerable concern that, if Jewish refugees were to be compensated from the same fund, it would further overstretch what is already inadequate funding.

FURTHER READING

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ABOUT THE MENA PROGRAMME

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APPENDIX: COMPENSATION MODELS AND EVALUATIONS

Participants in the workshop were divided into three working groups, each of which was tasked with sketching out a detailed model for refugee compensation. These were then discussed, evaluated and scored by the entire group. Scores for most categories ranged from 1 to 5, with 5 representing the highest/best possible score.

Working Group 1: Model	
Key considerations and assumptions	<ul style="list-style-type: none"> • Any compensation mechanism does not replace right of return. • Acknowledgment of suffering of individual refugees is key. • Resources are limited (preferable not to mention total amount in agreement except for fast-track compensation disbursement for refugeehood/displacement/lost opportunities). • Total amount of funding is not a bilateral issue. However, Israel should be responsible for compensation for lost property. • Lump sum/finite fund announced by Israel. • Fast-track benefits should be felt within a year. • Outreach and communication with refugees is essential, should be done latest upon signing a deal. • Amount for displacement/refugeehood compensation should be a minimum of \$2,000 per refugee (i.e. \$10 billion if 5 million refugees). • Prioritize first generation refugees. Give them double the amount. • Loss of livelihood and user rights will be excluded from the fast-track for property loss. Refugeehood payment will cover this category of loss. • Jewish refugees from Arab countries: there must be an acknowledgment of their suffering in an agreement and that they need to be compensated for lost property. Clarity that mechanism for compensating them is separate from Palestinian compensation claims and that amount is not to be deducted from compensation to Palestinian refugees. Compensation should be commensurate with compensation to Palestinian refugees. • The package is important and may allow for trade-offs. • Essential to separate compensation funding mechanisms from other mechanisms in an implementation mechanism.
Types of losses to	<ul style="list-style-type: none"> • Displacement (fast track).

be compensated	<ul style="list-style-type: none"> • Real property/ownership (slow track). • Determination of compensation for ownership claim should be made for the property rather than the owner(s). • Unresolved issue: who should claim (all owners or representatives)? Criteria: fairness and equity and speed in process to fast-track most claims, <u>and leave it to mechanism.</u>
Eligibility for compensation	<ul style="list-style-type: none"> • Who is a refugee: any person displaced as a result of 1948 war and prevented from returning? • Categories of refugees: UNRWA registered – about 5million + c2 million not registered with UNRWA. • Refugeehood fund applies to all, but can/should be disbursed quickly to UNRWA-registered refugees. Eligibility of others will be determined by the implementation mechanism. • Compensation to descendants for lost property (German Forced Labour Compensation model) is a self-contained regime based on categories of descendants. The higher layer excludes those below it and is to be distributed equally at that level.
Valuation	<ul style="list-style-type: none"> • Not covered in discussions.
Payments/type of benefits	<ul style="list-style-type: none"> • Cash directly to beneficiaries. • Not fully discussed.
Funding	<ul style="list-style-type: none"> • Operational costs for compensation: specify that minimum amount is needed for operational start-up costs of the secretariat (estimated to be \$20 million in year one). • Subsequent annual estimated administrative budget for the implementation mechanism for the first three years is \$20 million, for the last two years is \$10 million+ annually. • Make part of the compensation fund available within year one to allow fast-track option (refugeehood). • Resources: minimum of paid-up funding should be \$10 billion. Expectations of commitments flowing in function of progress of implementation to be another \$20 billion+ development Funds (amount and method of disbursement <u>to be determined later</u>), could be managed by World Bank or UN or the mechanism. • Development costs include host-country compensation for infrastructure, refugee camp upgrading, housing, services etc.
Organizational structure of	<ul style="list-style-type: none"> • The structure and the major functions and membership and voting procedure to be included in an agreement.

<p>property claims mechanism</p>	<ul style="list-style-type: none"> • Policy Board supervises decision-making bodies and makes policies not spelled out in agreement <ul style="list-style-type: none"> ◦ Membership of Policy Board: Israel (?), Palestine, major donors including EU and US, Arab donors(?), Arab League, World Bank, UN, Jordan, Lebanon, Syria • Voting procedure in policy board: absolute majority • Decision-making bodies: fast-track (displacement) and slower-track (property) commissions. • To shorten preparation/start-up for implementation, it is preferable to harmonize data among existing databases (Israeli, Palestinian and UNRWA) – although difficult to implement. • Secretariat /operational units with regional presence. Secretary-General to be appointed by the policy board. • The mechanism has to be self-sufficient, independent and based outside the region.
<p>Timeframe and closure</p>	<ul style="list-style-type: none"> • Three fast-track commissions with three members each for three years. • Three slower-track commissions for five years with three members each. • There are different aspects to closure: moral and political. • Include language in the agreement to note that it is exclusive. • Waiver to be signed by each recipient of compensation.
<p>Risks and vulnerabilities</p>	<ul style="list-style-type: none"> • Small amount of compensation may be insulting and rejected by refugees. • Realize that this cannot stop individual claims outside the agreement (although refugees may lack any effective forum for advancing such claims). Until full implementation, no real end of claims. • Money does not flow. • High expectations that are unmet in terms of amount and time it takes.
<p>Mitigation strategies</p>	<ul style="list-style-type: none"> • Realistic outreach combined with fast delivery of fast-track payments

Working Group 1: Evaluation
<p><i>How complete is the proposed mechanism?</i></p> <p>Group evaluation: 3.2 (partly)</p>
<p><i>How likely is the proposed mechanism to encounter serious problems of technical implementation?</i></p> <p>3.2 (possibly)</p> <p>Among those indicating particular expertise on technical issues: 3.4 (possibly/unlikely)</p>
<p><i>How vulnerable would the proposed international mechanism be to political deadlock among its members?</i></p> <p>Group evaluation: 2.75 (possibly)</p>
<p><i>How would the proposed mechanism cope with different funding levels?</i></p> <ul style="list-style-type: none"> • \$3–5 billion: 2.3 (poorly) • \$20 billion: 3.1 (uncertain) • \$10–50 billion: 3.2 (uncertain) • Unlimited: 3.7 (well)
<p><i>How long do you estimate it would take before the proposed mechanism delivered significant benefits to refugees?</i></p> <p>Average: 3.8 years</p>
<p><i>How long do you estimate it would take before the proposed compensation agreement would be completely implemented?</i></p> <p>Average: 8 years</p>
<p><i>To what degree does the proposed mechanism require host-country cooperation?</i></p> <p>Group evaluation: 3.6 (possibly/important)</p>
<p><i>How do you think the proposed mechanism would be viewed among Palestinians?</i></p> <p>Group evaluation: 2.1 (negative)</p> <p>Among those indicating particular expertise on Palestinian views: 2.0 (negative)</p>
<p><i>How do you think the proposed mechanism would be viewed among Israelis?</i></p> <p>Group evaluation: 2.9 (neutral)</p> <p>Among those indicating particular expertise on Israeli views: 2.0 (negative)</p>
<p><i>How do you think the proposed mechanism would be viewed among host countries?</i></p> <p>Group evaluation: 3.0 (neutral)</p> <p>Among those indicating particular expertise on host country views: 3.0 (neutral)</p>
<p><i>How do you think the proposed mechanism would be viewed among donors?</i></p> <p>Group evaluation: 3.9 (positive)</p> <p>Among those indicating particular expertise on donor views: 3.0 (neutral)</p>
<p><i>Overall rating?</i></p> <p>Group evaluation: 3.4 (average/good)</p>
<p><i>Selected comments.</i></p>

- The fast timeframe is ambitious but would be a major selling point for the Israelis, donors and possibly Palestinians. Also positive that the (semi-) clear financial commitments are outlined upfront – this helps for fundraising purposes.
- Addresses donor expectations, but not the political expectations of the parties involved.
- The dignity of the Palestinians has to be taken into consideration while drawing up the proposal. Stability, justice, rights have to be the underlying bases for all proposals.
- Amount of compensation per refugee (approximately \$2,000) may be viewed as inadequate or insulting by refugees.

Working Group 2: Model	
Key considerations and assumptions	<ul style="list-style-type: none"> • The right of return will not be affected by the agreed solution on compensation. • Residency choices are separate from compensation mechanism (resettlement to third countries, local integration or repatriation). • Degree of moral acknowledgment by Israel affects acceptability and the level of compensation. • Compensation has to be recognized as a merely symbolic gesture and not as true reparation for the suffering. • Host-country claims will be recognized, but dealt with through a different mechanism. • It is the choice of every Palestinian refugee to choose whether to participate in the compensation regime or not. • Public education campaigns must address refugee expectations. • Restitution/evaluation dealt with by Implementation Mechanism relates to private property of individual claimants, not former public property. • Compensation is an issue that will require international involvement and solution. • Compensation fund will include an agreed level of Israeli liability and resources. • Existing records (including from host countries and Israel) will be available to the implementation mechanism.
Elements to be decided post-agreement	<ul style="list-style-type: none"> • Detailed rules of entitlement for descendants with regard to property compensation claims. • Priorities in processing of claims (original owners first, elderly, neediness criteria). • Rules of procedure addressing due process, etc.
Types of losses to be compensated	<ul style="list-style-type: none"> • Real property rights. <ul style="list-style-type: none"> ○ Ownership rights to land, houses and apartments. ○ Not covered: other personal property (this will covered by refugeehood compensation). • Refugeehood. This would be a standardized amount to address: <ul style="list-style-type: none"> ○ Loss of livelihood. ○ Lost opportunities including employment, education and

	<p>social benefits.</p> <ul style="list-style-type: none"> ○ Loss of earnings and earning potential. ○ Moral damages for the suffering resulting from the displacement as well as other material losses. ○ Loss of other personal property given the lack of material evidence to evaluate the above.
Eligibility for compensation	<ul style="list-style-type: none"> • Compensation for loss of real property rights: <ul style="list-style-type: none"> ○ Original owner or his/her descendants. • Compensation for refugeehood: <ul style="list-style-type: none"> ○ Palestinian refugees of 1948 and descendants. ○ Displaced of 1967 and descendants. ○ Palestinian Jews in mandatory Palestine.
Valuation	<ul style="list-style-type: none"> • Not covered in discussions.
Payments/Type of benefits	<ul style="list-style-type: none"> • Property compensation: Cash payments. • Refugeehood: refugees would be given a choice: <ul style="list-style-type: none"> ○ Lump-sum cash payment, or ○ Reduced lump-sum payment + educational, training benefits.
Funding	<ul style="list-style-type: none"> • Working Group could not agree on a specific sum, but settled on a distribution of available resources: 80% for refugeehood and 20% for property. • Discussion centred around searching for a rational rather than an arbitrary figure. Two approaches were used to come to a potential figure: <ul style="list-style-type: none"> ○ Approach 1: \$5,000 lump-sum payment for refugeehood (\$27 billion), plus \$5.4 billion for property ownership compensation. ○ Approach 2: property compensation based on current value: \$26 billion, plus \$104 billion for refugeehood (\$20,000 in lump-sum payments per person). ○ Approach 3 (not 80/20 ratio): \$50,000 per person for refugeehood compensation, totalling \$270 billion. • Israel is to make a lump-sum contribution: \$26 billion, which roughly represents 1% of Israel's GDP over ten years. • Israel's contribution should be used entirely for compensation, not administration.

<p>International mechanism</p>	<ul style="list-style-type: none"> • Functions: <ul style="list-style-type: none"> ○ Valuation. ○ Adjudication. ○ Appeals. ○ Other (non-compensation) functions. • Possible prioritization of claims (small claims/uncontested claims/elderly/original 1948 refugees)? • Evidentiary standards – for property rights claims: different standards depending on size and value of land?
<p>Host countries</p>	<ul style="list-style-type: none"> • Host countries will be expected to share data and archives and facilitate data collection. • Host countries have expectations that need to be addressed. • Host countries' cooperation is essential for any implementation mechanism. • Host countries will feel responsible for individuals living in their territory and will wish to represent their interests (could become relevant in e.g. prioritizing claims). • Host countries expect compensation for hosting refugees. • Citizens of host countries will need to be included in rehabilitation measures in order to avoid backlash.
<p>Risks and vulnerabilities</p>	<ul style="list-style-type: none"> • Rejection of package by Palestinian refugees. • Failure to successfully address inevitable backlash • Funding not delivered. • Safeguarding the integrity of process. • Lack of cooperation by responsible countries.
<p>Mitigation strategies</p>	<ul style="list-style-type: none"> • Clear and comprehensible process. • Involving refugee communities, not just governments.
<p>Social implications</p>	<ul style="list-style-type: none"> • Gender aspects, especially when it comes to 'inheritance' rules. • Any intervention of this magnitude will disrupt existing power structures. • Contingent on other elements of rehabilitation and implementation of permanent residency option.

Working Group 2: Evaluation
<p><i>How complete is the proposed mechanism?</i></p> <p>Group evaluation: 1.6 (incomplete)</p>
<p><i>How likely is the proposed mechanism to encounter serious problems of technical implementation?</i></p> <p>2.2 (likely) Among those indicating particular expertise on technical issues: 2.1 (likely)</p>
<p><i>How vulnerable would the proposed international mechanism be to political deadlock among its members?</i></p> <p>Group evaluation: 1.2 (very vulnerable)</p>
<p><i>How would the proposed mechanism cope with different funding levels?</i></p> <ul style="list-style-type: none"> • \$3–5 billion: 1.1 (very poorly) • \$20 billion: 1.1 (very poorly) • \$10–50 billion: 1.9 (poorly) • Unlimited: 3.3 (uncertain)
<p><i>How long do you estimate it would take before the proposed mechanism delivered significant benefits to refugees?</i></p> <p>Average: 6 years</p>
<p><i>How long do you estimate it would take before the proposed compensation agreement would be completely implemented?</i></p> <p>Average: 9.5 years</p>
<p><i>To what degree does the proposed mechanism require host country cooperation?</i></p> <p>Group evaluation: 3.9 (important)</p>
<p><i>How do you think the proposed mechanism would be viewed among Palestinians?</i></p> <p>Group evaluation: 3.1 (neutral) Among those indicating particular expertise on Palestinian views: 2.7 (neutral)</p>
<p><i>How do you think the proposed mechanism would be viewed among Israelis?</i></p> <p>Group evaluation: 1.8 (negative) Among those indicating particular expertise on Israeli views: 1.7 (negative)</p>
<p><i>How do you think the proposed mechanism would be viewed among host countries?</i></p> <p>Group evaluation: 2.3 (negative) Among those indicating particular expertise on host country views: 4.0 (positive)</p>
<p><i>How do you think the proposed mechanism would be viewed among donors?</i></p> <p>Group evaluation: 2.0 (negative) Among those indicating particular expertise on donor views: 3.3 (neutral)</p>
<p><i>Overall rating?</i></p> <p>Group evaluation: 3.1 (average)</p>
<p><i>Selected comments.</i></p> <ul style="list-style-type: none"> • Balanced in terms of interests and limitation but a high risk of political deadlock. • Cognizant of context and limitations; more amenable to comprehensive agreement on permanent status type of agreement – in other words, longer-term solution and closure.

- Shows need to be careful to give the implementation mechanism a robust set-up to take forward lack of agreement among the negotiators.
- Still needs consultation with Palestinian refugees on compensation and overall package for resolution of refugee package.
- The vast sums of money referenced in approaches 2 and 3 are likely to spark backlash from donors, Israelis and even the host countries that may not like such vast sums going to refugees without taking their slice. Without this funding available, much of the proposal falls apart.
- Demonstrates difficulties in getting to space where important technical aspects can be agreed.
- Liked the idea of compensation for Jews forcibly displaced from Arab-controlled areas of Palestine in 1948.

Working Group 3: Model	
Key considerations and assumptions	<ul style="list-style-type: none"> • It is important to consider a variety of forms of compensation. • Moral acknowledgment will be an important element – an offer of financial compensation without an acknowledgment of harm done could backfire, especially if the amount offered is simply a token. • A comprehensive refugee agreement should provide for intergenerational and gender equity. • As the majority of Palestinian refugees reside outside the Palestinian territories, host-government cooperation and involvement in a compensation scheme will have to be taken into account. • There is more than one way to confer benefits, including different forms of development assistance. • An effective expectations management strategy will be essential to avoid rejection of any likely offer by the refugees. • It is important to position compensation as a small part of the larger refugee settlement (including reparations, acknowledgment and residential options). Also, the acceptability of the overall refugee package will be judged as an element of the comprehensive peace agreement. • Jewish refugees should be dealt with through bilateral arrangements with the countries that expelled them. • Host governments are not likely to receive compensation but should be provided with transitional assistance and possibly enhanced developmental assistance.
Elements to be decided in an agreement	<ul style="list-style-type: none"> • Eligibility for compensation: Palestinian refugees displaced as a result of the 1948 war, including those registered with UNRWA as well as those who can substantiate displacement but who are not registered with UNRWA, and those displaced in 1967, and the descendants of all three groups. • Identification of compensation categories. • Timeframe to register for compensation and other elements of the refugee settlement: for example, an initial period of 10 years, plus 2 x five-year renegotiable periods. • Implementation Mechanism (IM): structure and membership of IM; location and jurisdiction of the IM. • Israeli contribution
Elements to be decided post-	<ul style="list-style-type: none"> • Fast- and slow-track criteria (agreed by IM) • Inheritance: rules on which inheritance regime is based.

agreement	<ul style="list-style-type: none"> Valuation
Models	<p>The group outlined two possible compensation models.</p> <ul style="list-style-type: none"> MODEL 1: A two-track model <ul style="list-style-type: none"> This model involves two mutually exclusive options, A and B, with refugees opting for one or the other. Option A provides compensation for lost opportunity, plus a fixed sum for (small) property claims. This amount is standardized and can be paid out rapidly to those who opt for it. Option B provides for larger evidence-based claims. This option is likely to be slower, and the proportion of claims paid may be constrained by remaining resources. MODEL 2: A three-track model <ul style="list-style-type: none"> This model involves a system of per capita payments for lost opportunity, plus two mutually exclusive tracks for property claims. Track A provides compensation for lost opportunity. Track B provides relatively fast-tracked and standardized compensation for smaller property losses. Track C provides for larger claims. It will require more extensive evidence, and is likely to be slower. Moral acknowledgment needs to be part of refugee agreement.
Types of losses to be compensated	<ul style="list-style-type: none"> Real property, including land. Businesses; loss of profits. Loss of opportunities/income
Eligibility for compensation	<ul style="list-style-type: none"> Everyone displaced from Mandatory Palestine. Want to be as inclusive as possible in the agreement, but narrowed down in actual allocation of payments. There was no agreement on whether 'lost opportunity' payments should be made to original refugees (and families), or to all individuals: Families – claimant is the originally displaced person, or heirs. Individual – per capita basis might be easier as based on international records (provided UNRWA and other records are good enough). A minimum one-year timeframe for registration, with

	UNRWA likely to assume a major role.
Valuation	<ul style="list-style-type: none"> • Valuation might be simplified by use of a points system for different types of assets, rather than separately valuing all property in detail. • Compensation for smaller claims might be a standardized amount. • Valuation will be in the aggregate, based on present-day values, and factored against equity and resource availability.
Payments/Type of benefits	<ul style="list-style-type: none"> • Processing of payments: Track A – phased payment, start in refugee camps; then refugee settlements, then wider. Priority might be accorded to surviving personally displaced refugees. • There was some discussion of whether screening might be necessary to exclude certain classes of claimants (criminals, terrorists). Some argued that donors might insist on this. Others suggested that it would be unacceptable to Palestinians. • Need to manage cash payments in a way that assures financial due diligence, reduces risks and limits administrative overhead costs. • Payments – reception/collection centre based in region, prioritizing areas where those most in need are concentrated
Funding	<ul style="list-style-type: none"> • Israeli contribution: contribution to both A track and B track. Primary responsibility for compensating B/BC track. There was discussion of whether the Israeli contribution should be a capped total amount, or percentage of claims. Israel would like defined lump-sum contribution, rather than open-ended obligation. Privatization of lands held by Israel Land Authority (and even Jewish National Fund) could be used to help generate financial resources. • International community donors: most of the momentum towards contributing to the implementation mechanism will be at the beginning, and willingness to contribute will diminish with the passage of time. • There needs to be appropriate attention paid to the risk of a substantial shortfall in available resources, and how this would be dealt with.
International mechanism:	<ul style="list-style-type: none"> • The international mechanism will derive authority from the UN General Assembly and United Nations Security Council Resolution

<p>membership</p>	<p>(UNSCR), which are likely to endorse the peace agreement.</p> <ul style="list-style-type: none"> • The IM policy board will have 15 members: <ul style="list-style-type: none"> ○ Israel, Palestine, EU, US, UN, Russia; 5 slots for different Arab and ? countries; 5 slots for interested parties (recruited for capacity as donors). • Member countries to nominate commissioners for claims board. • Voting to be based on United Nations Compensation Commission (UNCC) model: consensus where possible, otherwise super-majority (9/15). • The main evaluation, decision-making and claims process facility should be 'offshore' (out of region), but operations (receipt of claims, investigations) should be 'on shore' (in region).
<p>International mechanism: functions and procedures</p>	<ul style="list-style-type: none"> • Compensation: <ul style="list-style-type: none"> ○ Determine fast and slow track criteria. ○ Determine inheritance rules for heirs. ○ Receiving claims, valuation, adjudication and pay-out. ○ Appeals (but possibly only on clerical errors). ○ Outreach and communications (managing expectations, explaining choices). • Secretariat function: • Oversight of broader agreement on refugees, monitoring of refugee return, resettlement, and repatriation.
<p>Host countries</p>	<ul style="list-style-type: none"> • Host-country compensation is NOT included in the agreement. However: <ul style="list-style-type: none"> ○ Reparations/compensation will benefit host countries. ○ Host countries should be provided with transitional funds and will take over UNRWA infrastructure. ○ Bilateral development assistance in longer term. ○ Membership of policy board IM. • Continuous consultation.
<p>Time frame and closure</p>	<ul style="list-style-type: none"> • Loss of opportunity – three years; • Simple property claims – five years; • Complex property claims – 10–15 years; • Coordination of return, local integration and resettlement -- 15 years • 20 years total – 10 years; 2x renegotiable five-year periods, with

	<p>deadlines established:</p> <ul style="list-style-type: none"> ○ Deadlines for filing of claims; ○ Deadlines for processing (each track); ○ Donor deadlines for paying into fund; ○ Deadlines for pay-out. <ul style="list-style-type: none"> ● Bilateral agreements to cover outstanding issues.
<p>Risks and vulnerabilities</p>	<ul style="list-style-type: none"> ● Risk of fraud, unjust enrichment. ● Cash assistance risks – people may spend money too quickly and unwisely. ● Insufficient funding and huge administrative costs. ● May not be seen as legitimate by refugees (and host governments). ● Sequencing. ● Risk that compensation is not linked to broader refugee settlement; compensation takes on primacy; undervalue the normative and reparations aspect of compensation.
<p>Mitigation strategies</p>	<ul style="list-style-type: none"> ● Cash assistance risks – good-practice models need to be assessed for mitigation (World Food Programme UNWRA, International Committee for the Red Cross); develop public–private partnerships and link up with other advisory services. When, where and how you pay can mitigate a lot of risks. ● Legitimacy – participation of refugees to mitigate; consultation during process; communication with refugees and host countries. ● Transitional assistance to host countries.
<p>Social implications</p>	<ul style="list-style-type: none"> ● There may be perceptions of uneven distribution of benefits, particularly in West Bank and Gaza – even if the track system is intended to somewhat offset asset inequalities. ● The provision of billions of dollars in compensation will create economic and social distortions (positive and negative) in both Palestine and host countries.
<p>Difficult and contentious issues</p>	<ul style="list-style-type: none"> ● Inheritance rules for property claims where original property-owner is deceased. ● Insufficient funding and large administrative costs. ● Valuation. ● Eligibility. ● Needs a safe platform, where both parties together can work out

	<p>the numbers to produce convergence – expert process, with Israeli and Palestinian involvement – Track 1.5, all without prejudice.</p> <ul style="list-style-type: none"> • Need to further develop appeals process and the limits placed on this. This could pose a significant administrative and financial burden, unless limited.
Working Group 3: Evaluation	
<p><i>How complete is the proposed mechanism?</i></p>	
<p>Group evaluation: 3.1 (partly)</p>	
<p><i>How likely is the proposed mechanism to encounter serious problems of technical implementation?</i></p>	
<p>2.3 (likely)</p>	
<p>Among those indicating particular expertise on technical issues: 2.1 (likely)</p>	
<p><i>How vulnerable would the proposed international mechanism be to political deadlock among its members?</i></p>	
<p>Group evaluation: 2.4 (vulnerable/possibly)</p>	
<p><i>How would the proposed mechanism cope with different funding levels?</i></p>	
<ul style="list-style-type: none"> • \$3–5 billion: 1.4 (very poorly/poorly) • \$20 billion: 2.0 (poorly) • \$10–50 billion: 2.0 (poorly) • Unlimited: 2.4 (poorly/uncertain) 	
<p><i>How long do you estimate it would take before the proposed mechanism delivered significant benefits to refugees?</i></p>	
<p>Average: 5.2 years</p>	
<p><i>How long do you estimate it would take before the proposed compensation agreement would be completely implemented?</i></p>	
<p>Average: 16.4 years</p>	
<p><i>To what degree does the proposed mechanism require host-country cooperation?</i></p>	
<p>Group evaluation: 3.3 (possibly)</p>	
<p><i>How do you think the proposed mechanism would be viewed among Palestinians?</i></p>	
<p>Group evaluation: 2.9 (neutral)</p>	
<p>Among those indicating particular expertise on Palestinian views: 2.7 (neutral)</p>	
<p><i>How do you think the proposed mechanism would be viewed among Israelis?</i></p>	
<p>Group evaluation: 2.1 (negative)</p>	
<p>Among those indicating particular expertise on Israeli views: 1.7 (negative)</p>	
<p><i>How do you think the proposed mechanism would be viewed among host countries?</i></p>	
<p>Group evaluation: 3.0 (neutral)</p>	
<p>Among those indicating particular expertise on host country views: 4.0 (positive)</p>	
<p><i>How do you think the proposed mechanism would be viewed among donors?</i></p>	

Group evaluation: 3.2 (neutral)
Among those indicating particular expertise on donor views: 3.3 (neutral)
<i>Overall rating?</i>
Group evaluation: 3.2 (average)
<i>Selected comments.</i> <ul style="list-style-type: none">• Needs more work on operating costs in line with deadlines.• No 'end of claims' may make strategy unlikely to be accepted by Israel at the moment.• Lack of numbers made this model less useful than others, although positive in re-examining 'refugeehood' compensation conversation.• Liked the mutually exclusive A/B option.• Dubious that adequate resources would be generated.• Most developed proposal.• Practical implementation not sufficiently spelled out.