

CONCEPT PAPER: THE PALESTINIAN REFUGEE PROBLEM AND THE RIGHT OF RETURN

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INTRODUCTION

The problem of the refugees and the right of return presents formidable obstacles to the achievement of a lasting, peaceful resolution of the Israeli-Palestinian conflict. It is one of the issues that the Declaration of Principles in the Oslo accord, signed by the State of Israel and the Palestine Liberation Organization in September 1993, deferred to the final-status negotiations, on the assumption that by that time mutual trust would have developed sufficiently to enable the parties to resolve it. Unfortunately, mutual trust has eroded in the intervening years. If final-status negotiations are initiated in the current political climate, the parties are likely to find it especially difficult to arrive at mutually satisfactory solutions of the refugee problem and other sensitive issues.

Under these circumstances, it is particularly important to develop new approaches to these issues and creative ideas for resolving them that can enrich the public discussion and contribute to constructive negotiations. This is precisely the purpose of the present concept paper on *The Palestinian Refugee Problem and the Right of Return*, prepared by the Joint Working Group on Israeli-Palestinian Relations.

The Joint Working Group

The Joint Working Group is a project of the Program on International Conflict Analysis and Resolution (PICAR), which is based at Harvard University's Weatherhead Center for International Affairs. The Working Group was established early in 1994, and is co-chaired by Herbert C. Kelman and Nadim N. Rouhana. It consists of influential Palestinians and Israelis, who have been meeting periodically for private, unofficial discussions, and for the drafting and review of joint concept papers.

The Working Group is the latest project in a longstanding, unofficial third-party effort to promote resolution of the Israeli-Palestinian conflict, based on an approach called *interactive problem solving*.¹ Using this approach, we have over many years brought together politically

¹ For recent descriptions of the approach, see H.C. Kelman (1992), *Informal mediation by the "scholar/practitioner,"* in J. Bercovitch and J. Rubin (Eds.), *Mediation in International Relations* (New York: St. Martin's Press), pp. 64-96; N.N. Rouhana and H.C. Kelman (1994), "Promoting joint thinking in international conflicts: An Israeli-Palestinian continuing workshop," *Journal of Social Issues*, 50(1), 157-

engaged and, in some cases, highly influential Palestinians and Israelis for private, confidential discussions, facilitated by a panel of social scientists who are knowledgeable about international and intercommunal conflict, group process, and the Middle East. These discussions take place in intensive workshops designed to enable the parties to explore each other's perspective and understand each other's concerns, needs, fears, priorities, and constraints. On the basis of this analysis, participants are encouraged to engage in a process of creative, joint problem solving in order to generate new ideas for solutions to their conflicts that are responsive to both sets of needs and fears. The ultimate goal is to transfer the insights and ideas gained from these interactions into the public debate and decision-making processes in the two communities.

The plan for the current Working Group was developed in the aftermath of the Oslo agreement, after extensive consultations within the two communities. It was decided that, at this new stage in the Israeli-Palestinian conflict, one of the most valuable contributions of an unofficial group of influential Palestinians and Israelis would be the drafting of joint concept papers on some of the difficult political issues – such as settlements, refugees, and Jerusalem – that the Oslo accord left to be resolved in the final-status negotiations. The framework within which the Working Group was asked to address these issues is the long-term relationship between the parties once a final agreement has been signed. Thus, for each final-status issue, the question is how this issue must be resolved if the final agreement is to provide the basis for a stable peace and a cooperative, mutually enhancing relationship between the two parties.

The present paper on the Palestinian refugee problem is the first concept paper that has emerged from the group's deliberations. It is our hope that it will contribute to the discussion of this sensitive issue among decision makers, scholars, and the general public, and help to frame the issue in ways that will make it more amenable to productive negotiation.

Working Procedures

The issue of Palestinian refugees was considered by the Working Group over the course of five plenary meetings between 1995 and 1997. The process by which the present concept paper was produced alternated between discussion by the full group and drafting by a subcommittee of two participants, one Palestinian and one Israeli (the two principal authors of the paper).

At a plenary meeting in 1995, participants began discussing the issue of refugees by exploring its meanings and ramifications for each side's vital interests and national narrative. Following interactive problem-solving methodology, each side then proceeded to present the central concerns, needs, and fears that would have to be addressed if a solution of the refugee problem was to be acceptable to it. Discussion also focused on the political and psychological constraints that would stand in the way of various options for resolving the problem. The group's deliberations generated a lengthy list of the concerns on each side that would have to be considered in shaping a mutually acceptable solution.

The subcommittee was then appointed to begin drafting a concept paper on the Palestinian refugee problem and the right of return that would reflect the group's discussion. Specifically, the drafting committee was assigned the task of identifying options for resolving the refugee problem and evaluating each option in terms of the two sets of concerns that had been raised at the plenary meeting. In other words, the question was how well a given option satisfied the fundamental

178; H.C. Kelman (1996), "Negotiation as interactive problem solving," *International Negotiation*, 1, 99-123; and H.C. Kelman (1996), "The interactive problem-solving approach," in C. Crocker and F. Hampson (Eds.), *Managing Global Chaos* (Washington: U.S. Institute of Peace), pp. 501-519.

needs of each side, addressed the pervasive fears of each side, and was politically feasible within each community. The subcommittee also had at its disposal a set of *General Principles for the Final Israeli-Palestinian Agreement*, which had been developed by the Working Group in 1994-95. These principles provided another set of criteria for evaluating the various options.

The subcommittee began its work by drafting a detailed outline for a concept paper, which was presented to the third party at a subcommittee meeting in February 1996 and to the entire group at a plenary meeting in June of that year. After extensive discussion of the outline by the entire group, the subcommittee prepared a first draft of the paper, which it brought to the next plenary meeting. The paper went through three drafts, each of which was discussed at a plenary meeting in considerable detail. The third draft was discussed and final revisions were proposed at a plenary meeting in July 1997. By the end of that meeting, the group adopted the paper, subject only to a review of the final text incorporating the revisions agreed upon in principle at the meeting. That final text has since been prepared, reviewed, and approved, and is presented here.

Though the paper was drafted and redrafted by the two principal authors, it is a product of the entire Working Group. The members of the group played a very active role, over a series of meetings, in developing the ideas presented in the paper and in shaping the actual language that is used. The principal authors made conscientious efforts to reflect the thinking of the group members. It is, of course, extremely difficult to find language that will fully satisfy ten individuals, particularly when these individuals represent two communities that have been engaged in a long and bitter conflict, and are writing about some of the most sensitive issues in the conflict. Thus, although all of the members of the group support the general thrust of the paper, their willingness to sign on to the paper should not be taken to mean that they necessarily agree with every word in the document or the precise formulation of every point. It should also be noted that the members of the Working Group have participated in this project as individuals, rather than as representatives of their respective organizations or governments.

Nature and Uniqueness of the Paper

The paper lays out four options for dealing with the issue of Palestinian refugees and the right of return and evaluates each of them in terms of its responsiveness to the concerns and needs of each side and its conformity with the general principles. The first two options are the preferred options of the Palestinian and Israeli side, respectively. These options are responsive to the needs and concerns of one side, but do not adequately address those of the other side. The third and fourth options represent compromise solutions, from a Palestinian and an Israeli point of view, respectively. Each represents a serious attempt to address the concerns and needs of the other side and each goes a long way toward narrowing the gap between the two sides. The paper does not present a fifth option – a compromise of the compromises, as it were – that both sides could comfortably endorse. It highlights the degree of consensus that is already reflected in the two compromise options. It identifies the remaining gaps in the views of the two sides within the group and the steps required to bridge these gaps.

No doubt a consensus option, endorsed by all of the members of the Working Group, would have represented a more dramatic outcome of the group's deliberations. The usefulness of the concept paper, however, does not depend on such a consensus. Identifying the range of options, ruling out those that are clearly unacceptable to one side or the other, developing options that narrow the gap between the sides even if they do not entirely close it, and specifying where these options fall short from the point of view of one side or the other, are themselves significant contributions to the negotiation process, made possible by the joint thinking that can take place in an unofficial context. The very attempt to formulate options that address the concerns of both

sides, and the new approaches to the problem represented by these formulations, help to advance the thinking of decision makers, political analysts, and the general public. The new options provide a useful starting point for reframing the issues in ways that make them more amenable to negotiation.

Official negotiators are likely to be more productive in finding a mutually satisfactory solution when they seek to compromise options 3 and 4 as described in this paper, rather than options 1 and 2. In seeking a compromise, the official negotiators have the advantage of working on an overall package, rather than a single issue. This provides the opportunity for trade-offs between different issues, enabling them, for example, to balance one side's concessions on the refugee problem with the other side's concessions on another issue.

The paper is uniquely valuable for several reasons. Many papers have been written on the final-status issues, including the problem of Palestinian refugees, by Palestinians, by Israelis, and by third parties. This concept paper is rather unique, however, in that it was written *jointly* by teams of Israelis and Palestinians, working together on the paper over a period of more than two years. The participants in the project are all politically and intellectually influential members of the mainstream of their respective communities. They know their communities intimately and are fully aware of the expectations, priorities, and constraints that pervade their bodies politic. They personally share their societies' historical memories, existential fears, and hopes for the future. Thus, if the members of this group are able to move toward a consensus, it creates the hope that a consensus may indeed be achievable between the two societies, at the level of the leaderships as well as the publics.

Although this paper does not present a joint option for resolving the refugee problem on which the two sides reached a consensus, it shows significant movement in that direction. Options 3 and 4 go well beyond the Palestinian and Israeli opening positions as reflected in options 1 and 2. Consensus on this issue will not be easy to reach because it goes to the heart of the clashing national narratives of the two sides. But the Working Group, proceeding from a set of general principles for a final agreement and a readiness to be responsive to each other's fundamental concerns, succeeded in narrowing the gap between the two sides to a considerable degree. In so doing, it not only gives reason to believe that a mutually acceptable solution of the refugee problem is possible, but it also - by way of the ideas and options developed in this paper - provides a promising starting point for formulating and negotiating such a solution. Starting with options that overlap and try to be responsive to the other side, it becomes possible to explore more deeply what it would take to close the remaining gap, and - around the negotiating table - to identify concessions that one or both sides may be able to make on the refugee issue in return for reciprocal concessions on another issue.

Premises

From the beginning, the Joint Working Group intended to think about the final-status issues in terms of the future relationship between the parties, once an agreement has been signed. Thus, the task that the group set for itself was to develop an approach to resolving the refugee issue, among others, that would be conducive to a long-term, stable peace and a cooperative, mutually enhancing relationship between the parties. In its first session, the group decided to develop a set of principles for a final agreement (mentioned above) that could provide the basis for the desired relationship. These principles formed part of the premises under which the present paper was written.

A key element of the final agreement will be the nature of the Palestinian polity and its relationship to the State of Israel. The Declaration of Principles in the Oslo accord left this issue

open, to be determined in the final-status negotiations. The Working Group soon found, however, that it was impossible to come up with ideas for resolving the refugee problem or other final-status issues – particularly with an eye to the future relationship between the two societies – without a common understanding about the nature of the Palestinian polity that will emerge from the final agreement.

Accordingly, the group agreed on a two-state solution as the desired endpoint for the final-status negotiations and wrote the present paper on the basis of that premise. It was the sense of the group that anything less than an independent Palestinian state would fail to resolve the conflict for Palestinians inside and outside of the territories and would not allow them to accept its termination with finality. A two-state solution as a just and final basis for ending the conflict implies a commitment to the sovereignty, security, and viability of each state. Only this kind of solution can provide the framework for long-term peace and for a cooperative, mutually enhancing relationship in economic, security, cultural, and other spheres. The principles of political equality and true reciprocity that underlie a genuine two-state solution shaped the Working Group's analysis of the refugee problem, as reflected in the present paper.

Acknowledgments

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We also appreciate the dedicated work of the other members of our third-party team. Kate Rouhana, as researcher, editor, and coordinator for the project, has been actively involved in providing notes, summaries, text revisions, and background materials essential to the drafting and redrafting of the present paper; she also wrote the first draft of this introduction. Donna Hicks has administered the project, raised funds for it, and co-facilitated the Working Group meetings. Eileen Babbitt performed the same functions in 1994-95. Rose Kelman has taken notes, provided logistical support, and looked after everyone's welfare.

Finally, we express our appreciation to Nabeel Kassis, who was an active member of the Working Group for more than two years and made significant contributions to this paper, as well as to other projects of the group. Just as this paper was about to go to press, he was appointed as a minister in the Palestinian authority and he feels that, in his current official position, it would be inappropriate for him to sign on to this paper as a member of the group. We wish him well and thank him for his valued participation.

EXECUTIVE SUMMARY

In discussing final status issues, Palestinians and Israelis approach the question of the refugees and the right of return from radically different perspectives. The Palestinian narrative maintains that the Zionists forcibly expelled the Arab refugees in 1948. The Palestinians insist on the right of the refugees to return to their homes or, for those who choose not to do so, to accept compensation. And they demand that Israel unilaterally acknowledge its complete moral responsibility for the injustice of the refugees' expulsion.

In contrast, the Israeli narrative rejects the refugees' right of return. Israel argues that it was the Arabs who caused the Palestinian refugee problem, by rejecting the creation of the State of Israel and declaring war upon it – a war which, like most wars, created refugee problems, including a Jewish one. Israel sees the return of Palestinian refugees as an existential threat, insofar as it would undermine the Jewish character and the viability of the state.

The two sides' traditional solutions make no attempt to reconcile these opposing narratives. Yet such an attempt is vital if the issue is to be engaged. Hence the Joint Working Group on Israeli-Palestinian Relations developed two compromise solutions. They narrow the gap between the positions, but do not fully reconcile them.

The compromise solution espoused by the Palestinian members of the Joint Working Group would insist that Israel acknowledge both its responsibility for creating the refugee problem and the individual moral right of Palestinian refugees to return. But it recognizes that, in view of the changed situation of the refugees over 50 years, and taking into account Israel's constraints, the return of only a limited number would be feasible. Israel would pay both individual and collective compensation. The Palestinians' case for an Israeli withdrawal to the 1967 borders would be strengthened as a result of their willingness to absorb the refugees in the Palestinian state.

Under the compromise solution proposed by the Israeli members of the Joint Working Group, Israel would acknowledge that it shares, with the other parties to the 1948 war, practical, but not moral, responsibility for the suffering of the refugees, and that rectification of their plight is a central goal of the peace process. Israel would accept repatriation of tens of thousands of refugees under its family reunification program. Israel would pay collective compensation to the Palestinian state, paralleled by Arab State compensation for Jewish refugees from 1948.

In seeking to further reconcile these two compromise solutions, we note that they reflect a large measure of agreement between Palestinians and Israelis: that Israel had a historic role in the events that created the refugee issue; that a massive exercise of the right of return is unrealizable, and "return"/family reunification will be limited; that a larger number of Palestinians will "return" to the Palestinian state; that some resettlement will take place in host states, primarily Jordan; that Israel will pay some form of compensation; and that closing the file on the refugee issue means the dismantling of the entire international apparatus that has sustained the refugees – camps, UNRWA, etc.

But there remain significant gaps between the two sides' compromise proposals as well. These concern the nature of Israeli acknowledgment of Palestinian suffering and the responsibility for it; the nature and number of "return"/family reunification; the nature and size of compensation, and its linkage to compensation for Jewish refugees from 1948; and the size of "return" to the Palestinian state.

In order to negotiate an agreed solution that bridges these remaining gaps, Israelis and Palestinians will have to develop the mutual trust required to further accommodate each other's narratives. They will also, inevitably, have to factor the refugee/right of return issue into the broader fabric of tradeoffs and compromises that will characterize a comprehensive solution to the conflict. This will involve additional parties – primarily the refugee host countries – as well as related substantive issues, such as borders.

THE PALESTINIAN REFUGEE PROBLEM AND THE RIGHT OF RETURN

I. The Nature of the Problem

The historical backdrop, demographic reality, and international legal status of the Palestinian refugees of 1948 have been documented in great detail in numerous sources (see Bibliography). Israelis and Palestinians disagree over all three of these aspects of the refugee/right of return issue

and offer contradictory figures and assessments that reflect the depth and breadth of the Israeli-Palestinian conflict as a whole. This article does not attempt to deal with these contradictions; rather, it seeks to discuss possible solutions within the context of the political realities of the peace process.

Source material on the refugee issue contains a wide spectrum of figures for the Palestinian refugee population. These figures refer to persons who were displaced from their homes in Palestine in 1948 and subsequently registered as refugees with UNRWA, and their descendants. Refugees are all those made homeless and stateless as a result of the 1948 war and not only camp residents. Those who left in 1967 from the West Bank or Gaza are considered displaced persons; the Oslo agreement established a procedure for deciding the modalities for admission of such persons. The solutions we are discussing would apply to the approximately 80 percent of these displaced persons who are also refugees according to the above definition.

The Palestinian narrative maintains that the Arab refugees were forcibly expelled by Jewish forces or left in a panic flight to escape massacre and that they were helped on their way by occasional massacres, committed by Jewish forces, to keep them running. Palestinians cite the UNRWA figure of 3,469,109 refugees (January 1998) as the minimum number, including 1,308,438 in the territories (548,874 in the West Bank and 759,564 in Gaza); some Palestinian sources argue that the total figure is as high as 4,900,000. Palestinians insist on the right of the refugees to return to their homes and properties or – for those who choose not to return – to accept compensation, a demand anchored in UNGA Resolution 194. Essential for an honorable resolution of this issue is that the Israeli state unilaterally acknowledge its complete moral responsibility to the Palestinian refugees. The resettlement and absorption of Palestinian refugees in a Palestinian state in the West Bank and Gaza Strip is seen by Palestinians not as an exercise of the right of return but as an option, provided for by UNGA 194, which must be accompanied by compensation.

The Palestinians view the refugee issue as basically political and national and not just humanitarian. Therefore, any solution to it must confront the question of their displacement and statelessness. That solution must also be just and fair and should be based on existing U.N. resolutions. Indeed, Security Council Resolution 242 speaks of a just solution to the Palestinian refugee problem as a basis for making peace between Israel and its Arab neighbors. Palestinians see justice in the implementation of U.N. General Assembly Resolution 194, which recognizes the right of the Palestinian refugees to return to their homes inside Israel or receive compensation if they choose not to exercise that right. Thus, in the Palestinian view, the "right of return" has achieved international consensus in U.N. resolutions, setting the moral and legal standards accepted by the international community, with Israel being the only state rejecting them.

In Palestinian eyes, Israel can insist on its position only because it relies on brute force and coercion. Palestinians insist that in such a case no lasting solution should be expected, and that no true reconciliation with the existence of the Jewish state can be expected until it addresses justly the problem that has been caused by its creation. For Palestinians, indeed for Arabs everywhere, this is a fundamental issue in any peace process with Israel. Israel is responsible for the creation of the Palestinian refugee problem. Palestinians believe that it was the Jews who used the tragedy of the Jewish displaced persons to justify mass immigration of Jews into Palestine after World War II, even if at the very same time they were deliberately causing a mass exodus of Palestinians. By denying the right of return, Israelis would be doing to the Palestinians what the Jews were asking the world to denounce when it was done to them.

In contrast to this Palestinian narrative, the Israeli narrative rejects the right of return of refugees to their homes in Israel; a significant current in Israeli opinion rejects the right of return

to the West Bank as well. Israel argues that it did not cause the Palestinian refugee problem. Rather, the Arabs did, by rejecting the U.N. decision of 1947 to create a Jewish and an Arab state in historic Palestine, and by declaring war on Israel and attacking it in 1948. That war, like most wars, created refugee problems – a Jewish as well as a Palestinian refugee problem. Israel has dealt with its refugees, and it expects the Arabs to deal with theirs. Israelis unequivocally reject UNGA Resolution 194 as an expression of Arab political war against Israel. Israelis also argue that the UNRWA statistics on refugees are grossly exaggerated, frequently reflecting a systematic policy at the local level of avoiding the removal of deceased persons from the lists. The true number of refugees will only become known when the bureaucratic machinery of an agreed solution is put into place.

Israelis believe that for Israel to agree to the return of Palestinian refugees is to create an existential threat. The return, by reintroducing a large Arab population, would undermine the Jewish character and the viability and stability of the Jewish state. "Return" to Israel would lay the foundations for a new stage of Palestinian irredentism. It would also call into question ownership of homes, villages, and other properties; and would thus be profoundly disruptive. Virtually all the villages left behind by the refugees in 1948 were destroyed; homes and properties have long been occupied by Israelis. In this regard, the Israeli narrative maintains that Israel will continue to exercise complete control and sovereignty over its territory and its population – Jewish, Arab, and other – regardless of the solution adopted for the refugee issue.

Israelis also fear the abuse, whether deliberate or unanticipated, of any mass "return" to a neighboring Palestinian state, in the sense that this could create a geopolitical threat to Israel itself. The indiscriminate massing of hundreds of thousands of refugees inside a Palestinian state, without regard for socioeconomic considerations of absorption, could take place due to popular Palestinian pressure, regardless of the position of a Palestinian government. It could present Israelis with the specter of a "Green March" threat, whereby masses of Palestinian refugees would gather inside the Palestinian state, along its border with Israel, and attempt to cross and return to "their" homes and properties long since destroyed or transferred to Jewish ownership. Alternatively, it could create pressures on the Palestinian economy and the regional ecobalance that might prove highly destabilizing.

Notably, from the early 1950s until 1967, Israel maintained a family reunification program under which it claims that around 40-50,000 refugees returned to Israel; several additional thousands returned between 1967 and 1994. And since the beginning of the Oslo process, Israel has collaborated in the de facto "return" to the Palestinian authority of thousands of 1948 refugees: PLO political figures and security forces, and their families. If return is defined as applying to "mandatory Palestine," this may enable both Palestinians and Israelis to take satisfaction in the exercise of a return to the eventual Palestinian state alone. But in general, Israel, in keeping with its narrative, has preferred to avoid taking political initiatives in the refugee issue.

The principal known Israeli initiative took place in the summer of 1949. Under pressure from the United States, and in view of Arab refusal (at the Lausanne Conference) to discuss agreed borders until the refugee issue had been resolved, the Ben Gurion government agreed to absorb 100,000 refugees. This number would have included some 35,000 refugees whose return had already been negotiated and was underway. Israel's decision was made conditional upon Arab agreement, at Lausanne, to a comprehensive peace, including resettlement of the remaining refugees in Arab countries. Discussion within the Israeli government at the time also touched upon the possibility of absorbing a larger number of refugees, on condition that the Gaza Strip (with some of its refugee population) would be transferred from Egyptian to Israeli control,

thereby improving Israel's military security situation vis-à-vis Egypt. Ultimately the Arabs rejected the Israeli offer, after which Israel retracted it.

In three Arab countries bordering on Israel, the Palestinian refugee situation is of particular note. In Syria, some 300,000, and in Lebanon, 350,000, refugees are stateless. In Lebanon, in view of the delicate demographic/political balance, their status is particularly sensitive from a political and socioeconomic standpoint, and the government is likely to insist that a solution to the refugee question involve their total removal.

In Jordan there are about one million refugees, alongside a large non-refugee Palestinian population; together, these two groups of Palestinians constitute the majority of the population.

Spokespersons for the Jordanian government have indicated that Jordan (rather than, say, the PLO) will seek to negotiate with Israel regarding compensation for the assets that Palestinians now resident in Jordan were forced to abandon in Israel in 1948. Considerations regarding "demographic security" are also likely to move Jordan to encourage relocation of a significant portion of its refugee population to the West Bank within the framework of a settlement. In their peace treaty, Israel and Jordan agreed to a Jordanian role in final status negotiations on the refugee question. The Lebanese and Jordanian positions are likely to constitute complicating factors in Israeli-PLO negotiations on the issue.

Failure to resolve the refugee problem - in the sense of creating a process whereby Palestinians themselves will cease to consider themselves refugees - will prevent or seriously sabotage the resolution of the Palestinian-Israeli conflict. Consequently, the entire Arab-Israeli conflict will remain unresolved at a number of significant levels. Both sides agree that any peace settlement can be seen as final only if it entails a solution to this problem.

The issue of refugees can be broken down into six basic clusters of questions:

- Do Palestinian refugees indeed have the inalienable right to return in any absolute sense? What takes priority: UNGA Resolution 194, coupled with the Palestinians' and other Arabs' requirement for justice as they define it, or the historical and political circumstances as reflected in the Israeli narrative? Are there ways for both sides to recognize the "right" - without the return - in a manner deemed satisfactory by both? And to what extent do the refugees wish to exercise that right?
- Resolution 194 distinguishes between return and compensation. Is compensation - for those refugees who either do not wish to return, or are constrained from doing so - to be given to specific refugee families, or to the Palestinian government, i.e., is it individual or collective, or both? How is it to be calculated? Should rehabilitation and/or resettlement outside historical Palestine be on the agenda?
- If an exercise of the right of return is to take place, should it be a return to homes inside Israel, or to the Palestinian state, or both?
- In what numbers, categories, and time frame should the return take place? What would be the legal-political status of returnees and non-returnees? If they were returning to a Palestinian state, what citizenship would they have?
- Assuming return limited to a Palestinian state, should Israel have the right - based on demographic/security, economic, and environmental considerations - to monitor or control this inflow? How does this square with the sovereign status of the Palestinian state? Can Palestinians demand reciprocity, i.e., seek to impose constraints upon the flow of immigration to Israel?
- Who, besides Israel and the PLO, should negotiate these problems? Should the issue of Jewish refugees from Arab countries be linked to the Palestinian issue and be discussed in this context? A possible role for additional Arab states is suggested by a number of issues: they are host countries of refugees; they may retain a rehabilitated refugee population after the settlement; and

they may be required to pay compensation to Jewish refugees. Will additional Arab involvement be a help or a hindrance to negotiations? Should negotiations be multilateral or bilateral? If multilateral, does the existing Madrid working group suffice? Would a multilateral framework give other Arab countries obstructive veto power over the Palestinian-Israeli agreement? What, if any, linkage should be established between compensation costs that Israel may owe Palestinians, and those that Arab countries may owe Jewish refugees, whether Israelis or not?

II. Basic Needs

Any viable solution to the refugee problem must be based on an assessment of Palestinian and Israeli basic needs. This section addresses the needs of the two sides as members of the Joint Working Group defined them.

Palestinian Needs

The continued existence of the refugee problem symbolizes for the Palestinians the nature of their plight and the historical injustice done to them. For the Palestinian leadership, the resolution of the problem in a way that provides justice and ensures widespread acceptance is a true challenge. In order to ensure that, the first Palestinian need is to obtain an Israeli acknowledgment of responsibility and guilt for the plight of the refugees. Such an acknowledgment would not only address the moral and symbolic aspect of the refugee negotiations, but would also provide a basis for legal claims for compensation and reparation.

Secondly, an Israeli acknowledgment of the refugees' political and moral "right of return" to Israel proper is at the heart of the justice of the Palestinian cause. The essence of the refugee issue has never been a matter of living conditions, residency rights, family unification, or resettlement in and absorption by host countries. Also it is not a humanitarian issue alone; rather, first and foremost, it is a political issue.

In addition to such acknowledgments, however, a solution to the refugee issue must also provide some material satisfaction to the individual refugee: a home to own, or at least a reasonable hope of obtaining the physical means to significantly better his or her lot.

Fourth, since any compromise solution to the refugee problem may impose a great burden on the Palestinian state, which will be asked to absorb and integrate the refugees, the Palestinians are likely to be correspondingly inflexible on the other subjects of permanent settlement. In particular, a compromise solution on refugees would reduce the expectation of any Palestinian territorial concessions and impel Palestinians to safeguard the territorial integrity of the West Bank and Gaza.

Finally, it goes without saying that only the acknowledged representative of the Palestinians, i.e., the PLO, is entitled to speak for the refugees and represent their interests. While Arab host countries have an interest in this matter and should participate in any discussions pertaining to the future of refugees on their soil, only the PLO can sign a binding agreement settling this issue permanently.

Israeli Needs

In Israeli eyes, the refugee problem is first and foremost an existential security issue. In this respect Israel seeks to maintain the existence and stability of the state and its Jewish character. Israel insists on preserving the integrity of its narrative, particularly with regard to Arab responsibility for the refugee problem. It sees the Palestinian attempt to force Israel to admit responsibility for the refugee problem as an attempt to raise doubts about its legitimacy. It therefore refuses to accept the Palestinian narrative of an Israeli "original sin," and denies

responsibility or moral culpability in creating the problem.

For the most part, in accordance with its rejection of the Arab version of culpability, Israel has avoided initiating political measures to deal with the refugee problem. At present, in the light of evolving realities, Israel seeks to close the file on the refugee problem as part of any permanent agreement with the Palestinians. Unresolved refugee issues could be a catalyst for conflict in the future. Therefore, non-resolution of the problem represents a security threat to Israel. By the same token, in giving up territory within the framework of the Israeli-Palestinian peace process, one of Israel's objectives is to ensure the ongoing Jewish and democratic character of the state; any refugee solution must therefore avoid significantly enlarging the non-Jewish demographic component of Israel. Similarly, Israel seeks to avoid a solution that creates threats and instability in the Palestinian state as these might spill over to Palestinian-Israeli relations and threaten the political stability of their agreements.

Finally, while it does not deny the right of Palestinian refugees to fair compensation, Israel would like to link this issue to Jewish refugees' compensation claims on Arab countries. For this, and other reasons, Israel would like to bring into the negotiations other Arab countries, e.g., host countries, and to resolve the issue on the basis of collective, rather than individual compensation.

III. Principles

It goes without saying that any solution to the refugee problem must be perceived as reasonably just and fair by both sides. Each side must see it as addressing its needs, rights, and concerns. The solution should transcend the balance of military power and accommodate the other side's sense of justice and fairness. Neither side should see the outcome as giving an unfair or unwarranted advantage to the other.

While there can be no genuine "finality" to a solution on the personal level for refugees who have suffered for 50 years, the solution should nevertheless strive to "close the file" on the issue of refugees. It must therefore address the needs of Palestinian refugees everywhere and not only in the West Bank and Gaza. It should attempt to resolve all aspects of the problem. Both sides must agree not to make any further claims in the future. Arrangements and institutions associated with the refugee problem, such as refugee camps, refugees' legal-political status, refugee ID cards, and the United Nations Relief and Works Agency (UNRWA) must cease to exist as part of the implementation of the agreement.

The agreement should be conducive to the stability of the Palestinian-Israeli and Arab-Israeli settlement. It should therefore be based on trust, equality, and reciprocity and should promote better relations. For example, it must not lead to the forced de-Palestinization of refugees in host countries. Nor should it impose a heavy burden on those countries; in particular, the agreement should make clear that the refugee solution would not be at Jordan's expense.

The solution should be consistent with international law and relevant UN resolutions.

IV. Possible Solutions

We now turn to a presentation and analysis of four possible solutions to the Palestinian refugee/right of return issue. The four formulations offered here cover a broad range. Solutions 1 and 2 are essentially unilateral proposals that reflect the traditional absolutist positions—or, conceivably, opening negotiating positions—of the two parties. Solutions 3 and 4 reflect attempts at compromise from the Palestinian and Israeli standpoints respectively. Here each party attempts to deal with what it perceives to be the worst fears or objections of the other, without foregoing its own vital interests.

We may state at the outset our assessment that an agreed resolution of the issue will likely fall

somewhere between solutions 3 and 4. Nevertheless, for the sake of comparison, we present all four solutions in sequence and, from the standpoint of analytical structure, in symmetry.

1. The Traditional Palestinian Solution

Based on UN resolution 194, this solution affirms the refugees' moral/political right of return to their homes in Israel proper and the actual implementation of that right. Israel would be responsible for reparations and for raising the funds necessary to pay individual compensation to those who chose not to return to their homes and properties inside Israel, and collective compensation to the Palestinian state to help in resettlement and absorption. Estimates of the cost of individual compensation range as high as \$15 to \$20 billion. In this solution, while recognition of the right of return is absolute, its exercise is optional: some refugees may indeed seek to return to their homes when offered the option, but many others might opt for compensation. Once a Palestinian state is established, many of those refugees opting for compensation may seek to return to their own state.

Advantages

This solution puts an end to the entire issue of refugees by allowing the return of a large number to their homes inside Israel. From a Palestinian perspective, this solution provides redress for a monumental injustice done to the Palestinian refugees. It also helps ease the burden of absorption on the Palestinian state. It is likely to meet widespread Palestinian acceptance.

Disadvantages

From an Israeli perspective, this solution does not provide a realistic answer to the refugee problem as it fails to take into consideration most, if not all, Israeli needs: It does not provide justice, as it seeks to resolve the Palestinian refugee problem by creating a Jewish one, since the returning refugees will be displacing existing Jewish residents. Indeed, it places upon Israel the onus of guilt for creating the refugee problem. Furthermore, if Israel absorbs a large number of Palestinian refugees, the country's demographic makeup will change, and this would pose an existential threat to the state and its Jewish character. Finally, the cost of compensation tends to be high, it is both individual and collective, and is not linked to compensation of Jews from the Arab countries, thus imposing a heavy financial burden that Israel may not be able to shoulder alone.

2. The Traditional Israeli Solution

This solution advocates resettlement of refugees inside the Palestinian state and/or in Arab countries. The solution denies the classic right of return (to Israel) and the actual exercise of return to all refugees. It calls for compensation, rehabilitation, and resettlement outside of Israel – in one variation, mainly inside a Palestinian state; in another variation, largely or entirely in other Arab states or beyond the Middle East. In either case, Israel retains a measure of control over the inflow of refugees to the new Palestinian state. Compensation is collective, and is linked to the concept of reciprocity between Palestinian refugees and Jewish refugees from Arab countries. Israel makes no acknowledgment of responsibility for the refugee issue, or of the suffering of the Palestinian refugees.

Advantages

The principal advantage of this solution is that it poses no existential threat or demographic problem for Israel. Moreover, from an Israeli perspective, it closes the file on the refugee

problem. Resettlement of at least some of the refugees beyond the borders of Palestine would ease the socioeconomic burden of absorption on the nascent Palestinian state. Israeli control over the inflow of refugees to the new state would ease Israel's fears concerning a "Green March" situation. On the other hand, Israeli noninterference in the resettlement of at least some of the refugees inside the new Palestinian state would reinforce Israeli recognition of the sovereignty of that state, and a successful resettlement program would reinforce Israeli perceptions that good peace relations are worthwhile.

Disadvantages

The solution's principal disadvantage is that, insofar as it avoids extracting from Israel some acknowledgment of the injustice inflicted upon the refugees, it lacks justice from a Palestinian perspective – if not juridically, then in a psychological and historical sense. Hence it is destabilizing, and may lead to the reopening of the issue in the future.

Moreover, discussion of resettlement of refugees within other Arab states – an Israeli demand according to one variation on this solution – and/or linkage between Israeli compensation to Palestinian refugees and Arab compensation to Jewish refugees, are liable to give those Arab states a veto power of sorts, and hence to complicate the negotiations. One can easily conceive of a situation in which the refusal or reluctance of, say, Egypt, Iraq, Syria, and Yemen to compensate Jews who fled those countries to Israel from 1948 on would prompt Israel to refuse to compensate Palestinian refugees, thereby sabotaging the entire process at the expense principally of the Palestinian refugees.

Notably, too, large-scale resettlement inside the new Palestinian state would constitute a heavy and potentially destabilizing absorption burden. On the other hand, settlement of significant numbers of Palestinians outside the new state would risk the de-Palestinization of some or all of them. In any case, Palestinians would see Israeli control over the inflow of refugees as an objectionable interference in their internal affairs. At the same time, from the Israeli standpoint, such immigration control within another country would be extremely difficult to enforce (e.g., distinguishing tourists from immigrants, etc.), and hence would be a source of constant friction.

3. A Palestinian Compromise Solution

This compromise seeks to provide an acceptable, honorable – though not necessarily just – resolution of the refugee issue while accommodating the realities on the ground and Israeli security concerns. No return *en masse* of the Palestinian refugees is envisaged, but the individual moral right of Palestinian refugees to return to their homes and property in Palestine is fully acknowledged by Israel. In this sense, Israel accepts the responsibility for creating the refugee problem. The actual exercise of the right of return, however, is a different matter. Here a return of only a limited number is seen as feasible. This reflects the changed situation of individual refugees and of the property that they had to abandon a half century ago, when the problem of the refugees was created. Many individual refugees – having in fact resettled and made their homes elsewhere – will opt for compensation. Further, Israel will want to have a say as to the number of refugees allowed to return.

Those not returning to Israel proper would be allowed to return to the Palestinian state if they so wished. The absorptive capacity of the Palestinian state, not Israel's position, would determine the number of those returning to the state. In this final settlement, the Palestinians make a strategic tradeoff. They demand a return to the 1967 border, in order to absorb the largest possible number of refugees, in return for forgoing the full exercise of the right of return. Refugees who wish to remain in host countries may be resettled there if the host countries agree.

Those not exercising the right of return would receive individual compensation. Collective compensation would be paid to the Palestinian state and used for rehabilitation and absorption projects. Israel would carry the sole responsibility for finding and providing the two types of compensation, possibly under an international umbrella. The resettlement in host countries would probably require separate negotiations with them as well as the participation of international donors. Finally, to ensure the permanent nature of this agreement, refugee camps would be dismantled and UNRWA dissolved.

Advantages

This solution appears to give Israel what it wants most: It diminishes existential threats and demographic problems by removing the most threatening element in the Palestinian negotiating position. In return, the Palestinians get what they want most from Israel. The final settlement provides the Palestinians with the largest territorial assets for resettlement and strengthens the Palestinian demand for the 1967 borders, or equivalent tradeoffs. In the absence of absolute justice, this solution provides realistic and reasonable justice by granting a moral/political right while acknowledging realities on the ground. It also provides a sense of finality at the psychological level, and makes it politically feasible that it will receive widespread Palestinian and possibly Israeli support.

Disadvantages

From an Israeli perspective, this solution has several disadvantages. The attribution of moral responsibility to the Arabs, rather than to itself, is central to the Israeli narrative. Hence this solution, which requires that Israel acknowledge actual guilt and moral responsibility on its own part, would be seen by it as a potential political threat and dangerous precedent. The determination that a limited number of refugees return to Israel proper might also be seen as a violation of Israel's sovereign control over its borders and population, hence a precedent. In other words, Israelis might fear that this solution merely opens the file on the Palestinian refugee issue, rather than closing it.

Moreover, Israel may see a demographic problem in the return of a large number of refugees to mandated Palestine even if the return is confined only to the state of Palestine. And Israel will not wish to pay both individual and collective compensation, particularly insofar as the issue is not linked to compensation for Jewish refugees from Arab countries.

Israel may also be reluctant to accept the return of a large number of refugees to the Palestinian state as that might bring about political instability there. Indeed, the economic and social burden on the Palestinian state might be very heavy due to its limited absorptive capacity and fragile economy. Therefore, fears of social and political disorder cannot be entirely discounted.

The solution requires cooperation of host countries, particularly Jordan, Lebanon, and Syria, which may be asked to absorb a large number of refugees. While Jordan signed a peace treaty with Israel and has granted citizenship to its Palestinian refugees, and therefore may show willingness to cooperate, Lebanon and Syria may choose not to do so. Moreover, those refugees who stay in some host countries may face the threat of de-Palestinization.

Finally, Palestinians might be concerned that the return of a "limited" number of refugees to Israel proper would not be sufficient from the standpoint of Palestinians' psychological and/or material needs, hence would lack justice and finality.

4. An Israeli Compromise Solution

In this compromise, Israel acknowledges that, at least to some extent, it shares practical (but not moral) responsibility, together with the other parties to the process that culminated in the 1948 war, for the plight and suffering of the refugees, and that rectification of that plight by all parties is a central goal of the Arab-Israeli peace process. Israel also accepts the right of return to the Palestinian state, but not to Israel proper. Israel also may accept repatriation of "tens of thousands" of Palestinian refugees as part of its family reunification program.

Israel compensates refugees for lost property on a collective basis. The relevant Arab countries create a similar mechanism for Arab collective compensation of Jewish refugees (based on Arab states' acknowledgment of their obligations in this regard). Both programs fall within the framework of the multilateral working group on refugees, but they are not linked operationally. Israel may also accept an international role in the actual negotiation over compensation.

Israel and the Palestinians reach an understanding intended to harmonize the inflow of refugees with Palestinian absorptive capabilities. Israel drops its demand for direct physical control over the inflow of refugees to the Palestinian state, in view of enforcement difficulties. The Palestinian state commits itself to limit the flow in consideration of its assessment of its absorptive capabilities. This gives Israel a mechanism for reciprocity: if the pledge is blatantly violated, Israel can curtail some obligation of its own, such as financial compensation. On the other hand, Israel will encourage the expansion of Palestinian absorptive capabilities.

A key component of this proposal is the Israeli "statement of acknowledgment." While this is recognized to be of great psychological-historical importance to Palestinians, it is also so to Israelis, whose historical narrative holds that the Arabs bear culpability and responsibility. The following is a possible formulation:

- Israel recognizes that the historical process culminating in the 1948 war generated a refugee problem that caused great suffering to the Palestinian people. As Israel, the Arab countries, and the Palestinians all participated in this historical process, all parties share, at least to some extent, the responsibility for the injustices of the past and for the plight of the Palestinians. Rectification of that plight by all the parties is a central goal of the Arab-Israeli peace process.
- The Palestinians, having received financial compensation within the context of a settlement of Israeli and Palestinian refugee claims, consider that this satisfies their grievance and renounce any claim to exercise the Right of Return to the State of Israel.
- Israel will continue its unilateral program of family reunification of Palestinians.
- The Palestinian state undertakes, with Arab and international aid, the rehabilitation of the 1948 refugees, with the aim of resolving the refugee problem on Arab territory, as a condition for a stable Israeli-Palestinian peace.
- The Arab host countries where Palestinian refugees reside recognize the right of those refugees to remain in the country, without forfeiting Palestinian citizenship.
- This series of acts and understandings on the part of Israel and Palestine are part and parcel of the overall Arab-Israeli peace process.

Advantages

This solution, too, enjoys the advantage of closing the file on the entire refugee question, including the ending of refugee status, dissolution of refugee camps and UNRWA, etc. It poses no existential or demographic threat to Israel, from whose perspective the settlement is both final and consistent with its self-image.

From the Israeli perspective, compensation funds will be paid out collectively only, and Jewish refugees from Arab countries will be compensated. An international role in the

compensation issue suggests the possibility that Israel could more easily recruit funds for this undertaking, link it to international aid efforts for the Palestinians, etc.

From the Palestinian standpoint, the inflow of refugees to the new state is a function solely of local considerations. This solution also operationally delinks the Palestinian and Jewish refugee issues, thereby denying the Arab states leverage over the Palestinian issue.

Disadvantages

The key disadvantage of this solution for the Palestinians is that it still denies the moral "right of return." Many Palestinians would not consider Israeli recognition that "the historical process culminating in the 1948 war . . . caused great suffering" to be an achievement that justifies concessions. Hence, correspondingly, acknowledging that suffering might not be worth the risk for an Israeli leader. This solution could also, at one and the same time, put pressure on the absorptive capacity of the Palestinian state, and de-Palestinize those refugees who choose or are constrained to remain in other Arab states.

Additional disadvantages from the Palestinian standpoint include the unacceptability of the Israeli program of unilateral family reunification as the sole means of "return" to Israel proper; and the linkage, however generalized, between Arab compensation to Jewish refugees and Israeli compensation to Palestinian refugees. Palestinians would also see a disadvantage from the moral standpoint in the definition of Israeli compensation as collective rather than personal.

From the Israeli standpoint, one disadvantage lies in the removal of operational linkage with Arab state compensation to Jews, or controls over the inflow of refugees – although, given the difficulties of enforcement, this appears to be a calculated risk that Israel must take. At the same time, from the Palestinian standpoint, the residual Israeli sanctions on refugee repatriation to Palestine constitute an undesirable political constraint upon Palestinian sovereignty. The statement of acknowledgment might also be problematic in the eyes of some sectors of the Israeli public. And acceptance of an international role in determining the scope of compensation might invite intolerable pressures on Israel's financial capabilities.

We have presented four possible solutions to the Palestinian refugee/right of return issue. Solutions 1 and 2 generally reflect traditional, absolutist positions of each party. Solutions 3 and 4 offer compromises under which each party attempts to maintain its most vital interests, while dealing with what it perceives as the strongest objections of the other.

We believe that an agreed resolution of the issue should fall somewhere between solutions 3 and 4. In order to facilitate thinking about such a solution, we shall conclude by describing the elements of agreement or commonality achieved, and delineating the areas of disagreement that remain to be bridged. But first it behooves us to recall that an agreed solution to the refugee/right of return issue will almost certainly not be achieved in a vacuum, decoupled from all the other aspects of the Israeli-Palestinian conflict. Hence a brief investigation of the linkages anticipated is in order.

V. Linkages and Interlocks

We may distinguish at the outset between third party linkages and issue area linkages. The former appear to have a disruptive potential from the Palestinian standpoint but to be at least occasionally useful for Israel, whereas the latter bear the positive capacity to generate flexibility for both parties in finding solutions.

Beginning with third party linkages, in the course of this inquiry we have repeatedly encountered the possibility of involvement by actors other than Israelis and Palestinians. This is an inevitable corollary of any attempt to solve an issue as complex as that of the Palestinian refugees, particularly when the solution falls within the overall context of the Israeli-Arab peace process, wherein an entire multilateral working group is devoted to refugee issues.

While both Israel and the PLO agree that any solution should be based first and foremost on an Israeli-Palestinian negotiating framework, Israel tends to look positively upon the prospect of tripartite agreements, e.g., with Lebanon regarding the disposition of its refugees, while the PLO would prefer itself to represent the interests of all Palestinians, wherever they are. Similarly, Israel has already made provision for Jordanian involvement in refugee discussions, within the framework of the Israeli-Jordanian peace treaty, and, in the case of Lebanon and Syria, would presumably wish to see refugee agreements linked to peace treaties with these countries. The PLO, on the other hand, would seek to be the sole negotiator with these Arab countries on refugee issues, to the exclusion of Israel. In either case, it is generally understood that all relevant agreements with Arab third parties must be compatible with Israeli-PLO agreements on the refugee issue.

This suggests that the most obvious and necessary area of inter-Arab linkage is the Arab role in the rehabilitation of refugees who do not return to Palestine. Another area of possible inter-Arab linkage is the juxtaposition of Arab state compensation to Jews who fled Arab countries with Israeli compensation to Palestinian refugees – a demand voiced by many Israelis, and rejected by the Palestinians as counterproductive. As we have noted, both of these spheres offer possibilities for Arab actors to exercise some sort of veto power over the pace and nature of a settlement.

We have already mentioned a demand voiced by Jordanian spokespersons that Jordan represent its resident Palestinians' claims for compensation for property abandoned in Israel. Jordan also expects compensation for having hosted Palestinian refugees since 1948. This, coupled with the Hashemite aspiration that a refugee solution ease Jordan's demographic-political problems, suggests the potential for considerable friction between Jordan and the PLO over refugee issues. Thus Jordan might confront refugees remaining there with the threat of *forced repatriation*, or "political return," by forcing them to choose between cancellation of their Jordanian citizenship – thus constraining their rights within Jordan and implicitly holding out a threat to force their emigration – and the acceptance of Jordanization. The frequently discussed possibility of the establishment of some sort of Jordanian-Palestinian confederation might alternatively complicate or ease disposition of the refugee issue.

Two additional third party linkages apply mainly to Israel. Even assuming that a refugee agreement is clearly defined so as to apply only to Palestinians outside of Israel, resolution of the refugee issue – like other aspects of a Palestinian settlement – will undoubtedly impact upon Israel's own Palestinian Arab population. Specifically, any move by Israel to compensate Palestinian refugees for properties left behind in 1948 might generate parallel demands by Israeli Arabs who also abandoned lands or were removed from them, even though they remained in Israel. This could have far-reaching implications for Jewish-Arab relations within Israel. Hence the Israeli-Palestinian agreement on refugees must, from the Israeli standpoint, clearly define the PLO role as representing only Palestinians outside of Israel, while the government of Israel is responsible for all Israeli citizens, including Arabs.

Secondly, if Israel agrees to offer compensation, and particularly if that compensation is not directly linked to payment by Arab countries to Jewish refugees, it will require large sums of money. At least some of this is likely to be borrowed on the international market and/or raised from the world Jewish community, thereby affecting Israel's economy and international relations.

The possibility of a defined international role in the compensation mechanism has also been mentioned. All of these options imply the possibility that the extent of compensation might be determined at least in part by a third party.

Totally different categories of linkages are those between the refugee/right of return issue on the one hand, and all the other aspects of an Israeli-Palestinian final settlement on the other. After all, final status negotiations will involve a broad range of interlocking issues; in addition to refugees, the Oslo Declaration of Principles alone mentions Jerusalem, borders, Israeli settlements, security arrangements, relations and cooperation with other neighbors, and other issues of common interest. Once final status negotiations are enjoined, the possibilities for linkage among these and additional issues are endless. We have already seen (see Section I., The Nature of the Problem, above) how the Ben Gurion government in 1949 viewed the refugee issue within the context of a comprehensive settlement.

These linkages can work to the benefit of the overall negotiations. For example, Israel might make concessions on refugee issues in return for Palestinian concessions on settlement issues. Conversely, Palestinian willingness to show flexibility in the implementation of the right of return might be made contingent on Israel's flexibility on territorial issues. Or the abandonment of certain Israeli settlements might be linked to the "return" and rehabilitation within those settlements' infrastructure of Palestinian refugees. Or the scope of Palestinian family reunification could be linked to the number of Israeli settlers who remain in the Palestinian state. Certainly it seems doubtful that a solution to the refugee issue will be concluded - as we have ostensibly endeavored to do here - on a "stand alone" basis. It is very likely that one or both parties will see fit to introduce into the refugee negotiations extraneous issues that do not touch directly on the refugees' plight or status. Indeed, it is virtually certain that a comprehensive final settlement of the Israeli-Palestinian conflict will comprise an agreed timetable for the phased execution of agreed solutions to a number of issues - not the least of these borders, Jerusalem, and of course refugees.

VI. Conclusion

While major differences in Palestinian-Israeli positions regarding the refugee issue do exist, and while the legacy of human suffering can never fully be dispelled through political decisions, this issue is nevertheless probably less difficult than other permanent settlement issues. Therefore, an attempt to bridge the gap between the two positions is not a futile exercise. For example, there is acknowledgment among some Palestinians that the exercise of the right of return by all refugees to homes they were forced to abandon in 1948 is unrealizable. Similarly, there is a recognition on the part of some Israelis that Israel's historical role in the events that created the refugee problem is undeniable: it is willing to acknowledge refugees' suffering along with partial responsibility for the injustice of the past. Moreover, there is agreement that collective material compensation for refugees is an essential and vital component of the solution.

Additionally, solutions 3 and 4 concur that, at the practical level, the core of the solution involves four components: a "return," however defined, of a limited number of refugees to Israel proper; return of a larger number to the Palestinian state; permanent absorption in host countries (notably Jordan); and compensation. Both sides agree that a successfully negotiated solution should close the file on the refugee issue. At the practical level, this means dismantling the refugee camps and integrating their residents into the communities in which they live; ending the political-legal status of the refugees both inside the Palestinian state and in host countries; ending all claims and rights to future claims; and dissolving UNRWA and other international bodies created to deal with the Palestinian refugee problem.

Needless to say, closing the file implies the resolution of other Palestinian-Israeli permanent status issues and making progress toward a more comprehensive Arab-Israeli settlement. By the same token, no comprehensive settlement can be called final unless it also solves the refugee question. In this sense, all the issues are linked. Certainly the dismantling of refugee camps in Arab countries and the resettlement of those wishing to remain in those countries can only occur within a comprehensive settlement.

Despite these points of agreement, no solution acceptable to the two sides was found. In order for a compromise approach to bridge between solutions 3 and 4, it must still resolve four clusters of issues.

The nature of Israeli acknowledgment of suffering/responsibility

In solution 3, the Palestinians, in accordance with their narrative, demand that Israel accept the responsibility for the creation of the refugee problem and that the collective moral right of return to Palestine be fully acknowledged by Israel, but without demanding the actual return of all refugees to their homes. In solution 4, Israel acknowledges a share of responsibility for the injustices of the past and the plight of the refugees. But it insists that the Arab states and the Palestinians themselves also bear responsibility. This accords with the Israeli narrative, which holds that the Arab parties started the war of 1948, hence bear the primary responsibility for its consequences.

The Palestinians find this version of "shared" responsibility intolerable, insofar as it implies that they were at least in part responsible for their plight, thereby contradicting their own narrative. They continue to insist that Israel acknowledge "moral" responsibility, particularly by acknowledging the "moral right of return." But this implies Israeli guilt. This, in turn, compromises the Israeli narrative in a way that is intolerable for Israelis. It also, in Israeli eyes, compromises finality: Once moral responsibility and guilt are acknowledged, what historical or ethical argument could stop the Palestinians from demanding – at the present stage or a later one – massive return to Israel proper, thereby negating the Jewish-Zionist nature of the Israeli state? The Palestinians argue that in the absence of Israel's acceptance of UN Resolution 194, it must accept moral and legal responsibility and thus provide a basis for the Palestinian demand for compensation.

The nature and number of "return"/family reunification to Israel proper

This issue is directly linked to the previous one, acknowledgment of responsibility. Once they have achieved a satisfactory Israeli acknowledgment of responsibility, Palestinians are prepared (see solution 3) to forego massive return to Israel itself. They will accept the return of a limited number of refugees. But they reject the concept of "family reunification" and the use of the term "symbolic return" by Israel. They seek a genuine, albeit limited, return of 1948 refugees to Israel (along with unfettered access to the Palestinian state by the large remaining mass of 1948 refugees; see below). Only by acknowledging the validity of return, they argue, will Israelis give genuine expression to their acknowledgment of moral responsibility.

It is precisely for this reason, Israelis argue, that to accept any sort of return is to give the Palestinians a moral foot in the door that undermines the Israeli narrative. Family reunification is a tried-and-true formula, and the difference between "several tens of thousands" and a "limited number" of refugees returning over a period of years may not necessarily be insignificant.

The nature and size of compensation, and linkage to Jewish refugees

We have noted that there are two basic forms of compensation: collective and individual.

There are also two different populations demanding or requiring compensation: Palestinian refugees from 1948, and Jews who fled Arab lands in the aftermath of the creation of Israel. Israel agrees to offer compensation for Palestinian refugees from 1948, but insists that it be collective and not individual. This, in the Israeli view, avoids a prolonged, backward-looking and inevitably frustrating attempt to put a price on every asset abandoned by Palestinians, in favor of a forward-looking approach of compensating the PLO or the Palestinian state with funds that can be dispersed at its own discretion, whether to individuals or for state-building enterprises. Israel is prepared for this approach to be applied by the Arab states to the issue of compensation for Jews who fled Arab lands, but it insists that this parallel effort indeed be made by the Arab states.

The Palestinians insist that compensation be both collective and individual, arguing that this corresponds with historical justice, based on the Palestinian narrative of extreme individual as well as national deprivation. And while the Palestinians do not object in principle to the notion of Arab compensation for Jewish refugees, they reject any kind of linkage or parallelism with their own demand for compensation. Here too, to do otherwise would be to compromise the Palestinian narrative of Israeli moral responsibility in favor of the Israeli narrative of shared Israeli, Palestinian, and Arab state responsibility. It would also give Israel and the Arab states a form of veto power over progress in compensating Palestinian refugees.

Our discussion has not entered into another potential area of controversy regarding compensation. Whether collective, individual, or both, how is compensation to be calculated: on the basis of property left behind, the suffering of the past 50 years, the costs of relocation, or some other set of criteria?

The issues of refugee compensation extend far beyond the borders of Israel/Palestine and involve Arab host countries as well as, almost certainly, the international community. In any negotiations, the PLO will seek to be recognized as the sole negotiator for Palestinian refugees, wherever they are. It will then undertake to turn over collective and/or individual compensation in bilateral talks with the other Arab states, beginning with Jordan. But the latter, for one, has already made clear its desire to negotiate directly with Israel. Israel may be able to exercise some discretion of its own in deciding this and similar issues. In any event, precisely because of the potential for multilaterality, the formulae for bridging the gaps we have outlined are likely to be particularly difficult to achieve.

The size of return to the Palestinian state

Here the gap between options 3 and 4 reflects Israel's practical concerns regarding possible ecological and political effects of an unmonitored or unrestricted massive influx of refugees into the Palestinian state, on the one hand, and Palestinians' demand to fulfill a national obligation and to exercise the same sovereign independence in regulating the influx of new residents that Israel maintains. Yet both sides, along with Jordan, recognize the essential size and resource limitations and ecological fragility of the landmass between the desert and the sea, and the need to monitor population movements with an eye to avoiding irreversible damage. Hence this appears to be partially an issue of trust as well as one of clashing narratives.

These, then, are the principal gaps that remain to be bridged if an agreed solution is to be found to the refugee/right of return issue. The Palestinians in the Joint Working Group endorse solution 3; the Israelis, solution 4. The formula for bridging the gaps between the two solutions lies, we believe, in two realms. The first is the building of trust and confidence that derives from a sincere and prolonged effort at seriously negotiating the issues at hand. This is where narratives

can be modified and adjusted to accommodate the other side. The second is the more pragmatic, indeed political, realm of the inevitable tradeoffs among different, yet interrelated, aspects of the overall Israeli-Palestinian conflict-resolution effort.

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