

Bringing Back the Palestinian Refugee Question

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Executive Summary

The Palestinian refugee question, like the refugees themselves, has been politically marginalised and demoted on the diplomatic agenda. Yet, whenever the diplomatic process comes out of its current hiatus, the Palestinian leadership will be able to negotiate and sell a deal only if it wins the support or at least acquiescence of refugees – because if it does not, it will not bring along the rest of the Palestinian population. Refugees currently feel alienated from the Palestinian Authority (PA), which they regard with suspicion; doubt the intentions of Palestinian negotiators, whom they do not believe represent their interests; and, as one of the more impoverished Palestinian groups, resent the class structure that the PA and its economic policies have produced. As a result of their isolation, refugees in the West Bank and Gaza are making demands for services and representation that are reinforcing emerging divisions within Palestinian society and politics. There arguably are ways to address refugee needs, both diplomatic and practical, that are not mutually exclusive with core Israeli interests. This report examines what could be done on the Palestinian side to mitigate the risk that the Palestinian refugee question derails a future negotiation.

The Palestinian refugee question, since its emergence in the late 1940s, has first and foremost been a national question. Because the establishment of Israel – in what Palestinians call the Nakba (catastrophe) – transformed the vast majority of Palestinians into refugees, the contemporary Palestinian national movement is largely a product of their desire to reverse their dispossession. The issue retained its salience after the Palestine Liberation Organisation (PLO) formally endorsed two states in 1988 as well as after the Oslo agreements starting in 1993, because its fair resolution was considered crucial to legitimate any two-state settlement. Today, the reduced international visibility of refugee affairs notwithstanding, the issue retains its place in Palestinian national consciousness. For Palestinian leaders to do anything that smacks of abandoning refugees, and especially of renouncing their claims, is to cross a redline that touches at the core of national identity.

Though Palestinians disagree on whether the refugee question can be resolved within a two-state framework, the failure of negotiations has rendered this debate largely theoretical. For a time after the beginning of the Oslo process, it seemed to Palestinian elites that a basic trade was in the making: in exchange for a full Israeli withdrawal to the 1967 borders, including from settlements and Arab East Jerusalem, Palestinians would sacrifice unrestricted return to their former homes – the traditional Palestinian conception of the right to return; instead, it seemed, they would accept a compromise, “just solution” based on UN General Assembly Resolution 194, permitting the return to Israel of only a small portion of the overall refugee population.

Twenty years later, this formula has unravelled, and with it, in the eyes of many Palestinians, the premise of the two-state framework. In the 1990s, the refugee question was a lightning rod in Israel largely because it was thought to threaten the Jewish majority; today, Israel’s final status positions have hardened, its objections to refugee return as much principled as statistical. When coupled with the Israeli demand for recognition as the nation-state of the Jewish people, Palestinians believe that, instead of being offered a just solution, they are being asked to renounce what they see as an inalienable right in exchange for less than their irreducible minimum on other final

status issues. When compared to the deal the PLO originally foresaw in 1993, they are being asked to concede more on refugees in exchange for less on everything else.

Many factors lie behind this shift. The second intifada, inter alia, shifted mainstream Israeli political thinking toward the right, which puts greater emphasis on the Jewish narrative. On the Palestinian side, the national movement's centre of gravity moved, after Oslo, from the diaspora to the Occupied Territories, and more recently has been circumscribed to the West Bank. While refugees continued to be well represented in the power structure – indeed, PA President Mahmoud Abbas himself is one – refugee affairs are less prominent. With the Palestinian people increasingly fragmented, both politically and geographically, each of its constituent groupings has become relatively isolated and ever more consumed by its own problems.

For the Palestinian leadership, the main priority must be to reclaim representation of the majority of refugees, for without their acquiescence it will be exceedingly difficult to implement any comprehensive agreement with Israel; this therefore should be a concern of all who seek one. The growing chasm between the political elites and the refugees also portends greater instability, particularly should refugees or their advocates, despairing of the diplomatic process, seize the political initiative. But stability in and of itself is no answer: the marginalisation of refugees within their host societies has left them with little choice other than to fantasise about returning to their former homes in Israel.

This will be a significant challenge, especially since an ever-dwindling number of Palestinians – refugees or not – support the leadership's political agenda. Nevertheless, much can and should be done:

- ❑ Calcified refugee camp leadership committees ought to be renewed, whether by election or selection. While their predicament is largely a reflection of the dysfunction of the overall political system, the relative isolation of the camps could facilitate a more representative local leadership. Particularly given the limited resources of the UN Relief and Works Agency (UNRWA) and the PLO/PA, credible local leadership is needed. While some, particularly in Israel and among entrenched Palestinian elites, might see empowered local leadership as a threat, the risks of instability absent such structures are far greater.
- ❑ Donors should continue to fund UNRWA. Its support cannot solve the refugee predicament, but the precipitous decline of services could exacerbate it and provoke regional instability.
- ❑ The Palestinian political elites could undertake measures to improve daily life for refugees and ensure that ongoing economic reforms in the Occupied Territories benefit rather than further marginalise them. Development done properly, in consultation and coordination with camp leaders, can overcome suspicions among refugees that its purpose is, as often charged, the “liquidation of the refugee question”.
- ❑ Palestinian elites, in the camps and beyond, and particularly in the West Bank, should combat the notion that refugee political claims can be maintained only through the relative isolation of camps from the broader social fabric. Refugees increasingly have come to realise that socio-economic deprivation is not the only way to maintain identity; reinvigorating the political structures to nurture it and further their aspirations would be more effective and humane.

- The current suspension of negotiations should be used as an opportunity to reconstruct the Palestinian national movement on a genuinely inclusive and representative basis. Crucial for reaching a two-state agreement, it is particularly important for the refugee question: individual refugees, in any foreseeable reality, will not all be afforded the unrestricted possibility to return to their original homes and villages. But they can be afforded a voice in their movement's positions on the refugee question. With significant contradictions between the traditional Palestinian approach to the refugee question and the two-state paradigm, this is perhaps the only mechanism for identifying a compromise approach. Given the gap between private PLO negotiating positions and popular opinion, concessions on the refugee question, without bringing the public along, could prove fatal to the leadership's weakened credibility.

These palliative and preparatory steps focus on the Palestinian side, not Israel, despite the fundamental role that it would play in any resolution of the refugee question. Like the report as a whole, they address what the Palestinian leadership and international community can do now, not only to improve the lives of refugees but also to prepare for eventual final status negotiations. Many of these measures cannot be undertaken without Israeli acquiescence, so Israelis seeking to advance a resolution of the refugee question – some options for which are touched upon in the report, but which of course will require refinement once talks begin – should seriously consider the steps proposed herein.

This report is one in a series by Crisis Group arguing that the peace process requires a fundamental re-conceptualisation, one that would begin with each of the two sides, as well as the mediator, re-evaluating and altering its own approach before resuming talks. Necessary steps include involving and addressing the needs of neglected constituencies; building a more effective Palestinian strategy, in which refugee agendas would play a clear role; and promoting a more diverse and capable mediation architecture. It behoves the three main sets of stakeholders – the Palestinian leadership, the Israeli government and the international community – to understand that their current approach, especially to the refugee question, is a recipe not only for failure and strife, but for undermining the two-state solution.

Jerusalem/Ramallah/Gaza City/Brussels, 9 October 2014

Bringing Back the Palestinian Refugee Question

I. Introduction

The Palestinian refugee question is a constant reminder that Israeli-Palestinian peace cannot be achieved solely by dealing with the consequences, primarily territorial, of the June 1967 Arab-Israeli War.¹ Its persistence has led many Palestinians – and in a different way, Israelis – to question whether the refugee question can be adequately addressed within the two-state paradigm. If and when serious negotiations on a comprehensive peace are conducted, squaring this circle will be among the most significant challenges. Failing to do so could result in an agreement that, from the outset, is seen as illegitimate.

Meanwhile, Palestinian refugee communities confront increasing socio-economic marginalisation, political alienation, and in some cases outright discrimination that limit their rights and opportunities, particularly for those who reside in dozens of refugee camps – or used to, until driven out by violence – across the Levant. Continued neglect of their humanitarian and developmental needs will produce further challenges to governance, security and stability in the societies in which they reside.

The Palestinian refugee crisis, today the longest-standing of such crises in the world, originated as a result of the establishment of the State of Israel in the late 1940s. During this period, which Palestinians term the Nakba (catastrophe), approximately 750,000 Palestinians, comprising the vast majority of the Arab population of territory over which Israel exercised sovereignty at the conclusion of the first Arab-Israeli War, were rendered stateless refugees. The once fierce debate surrounding the circumstances of their departure has largely given way to consensus among historians that their dispossession, in the vast majority of cases, resulted from a combination of flight from actual or imminent armed conflict, threats made to promote their evacuation, and forcible expulsion. No less important, the Israeli government after the war enacted legislation to prevent the refugees from returning, confiscated their assets and property, and razed the majority of their villages.

After the UN in effect assumed custodianship in 1947 of the Palestine question at the request of then-mandatory power Great Britain – and, in November of that year, passed UN General Assembly Resolution 181, endorsing the partition of Palestine into Jewish and Arab states – the international community took a special interest in

¹ For background, see Crisis Group Middle East Report N°22, *Palestinian Refugees and the Politics of Peacemaking*, 5 February 2004. On the need to include neglected constituencies, including inter alia Palestinian refugees, in peacemaking, see Crisis Group Middle East Report N°122, *The Emperor Has No Clothes: Palestinians and the End of the Peace Process*, 7 May 2012. On including Israel's religious Zionist community, see Crisis Group Middle East Report N°147, *Leap of Faith: Israel's National Religious and the Israeli-Palestinian Conflict*, 21 November 2013; on including Israel's Palestinian citizens, see Crisis Group Middle East Report N°119, *Back to Basics: Israel's Arab Minority and the Israeli-Palestinian Conflict*, 14 March 2012.

the refugee question. There were two key measures in this respect. First, UN General Assembly Resolution 194 of December 1948, which, *inter alia*:

Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return ...

It is chiefly but not exclusively to this resolution that Palestinians refer when they speak of their “right of return” – a legal and political interpretation contested by Israel and others.² And, in December 1949, UN General Assembly Resolution 302 established the UN Relief and Works Agency for Palestine Refugees in the Middle East (UNRWA) to provide humanitarian relief and development assistance to those displaced by the conflict. The largest UN agency today, UNRWA is a service provider to Palestinian refugees, though it neither represents them officially nor administers refugee camps.

A second but smaller wave of Palestinian refugees resulted from the 1967 Arab-Israeli War and subsequent occupation of the West Bank and Gaza. Often termed “displaced persons” to distinguish them from 1948 refugees, they encompass those deprived of residency in these territories by the Israeli authorities after 1967.³

On account of inconsistent criteria and incomplete data, it is hard to precisely assess the number and location of Palestinian refugees. The standard definition, applied by the UN, considers those displaced in 1948, as well as the descendants of male refugees, to be refugees. UNRWA – which counts only those registered with the agency and operates only in the Occupied Territories, Jordan, Lebanon and Syria – provides a figure of 4.9 million.⁴ Of this number, which comprises a majority of all Palestinian refugees worldwide, approximately one-third live in 58 recognised refugee camps.⁵ In the West Bank and Gaza, UNRWA-registered refugees make up 45 per cent of the population.⁶

² This report uses the expression “right of return” in a political sense – to denote Palestinian understandings of the term, of which there are several – and not in a legal sense to endorse any particular conception of what Palestinians may or may not be entitled to.

³ A significant proportion of 1967 displaced persons were 1948 refugees who had been residing in the West Bank and Gaza Strip.

⁴ As of July 2013. See “UNRWA in Figures”, 2013, tinyurl.com/qev45ke. According to UN figures from December 1949, between December 1947 and the conclusion of the war in 1949, 726,000 Palestinian residents fled or were expelled from their homes in present-day Israel. See “Final Report of the United Nations Economic Survey Mission for the Middle East”, UN Conciliation Commission for Palestine, 28 December 1949, p. 22, tinyurl.com/nf6ydn7. UNRWA defines Palestine refugees as “persons whose normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948, and who lost both home and means of livelihood as a result of the 1948 conflict. Palestine Refugees, and descendants of Palestine refugee males, including legally adopted children, are eligible to register for UNRWA services”. The Israeli government has objected to the granting of refugee status to descendants of 1948 refugees, claiming that this practice is unique to Palestinian refugees and is not applied by the UN High Commission for Refugees (UNHCR) to other refugees. See “UNRWA: Israel statement to UN Fourth Committee”, Israel Ministry of Foreign Affairs, 7 November 2013, tinyurl.com/ngndj5f. UNRWA counters that this is inaccurate: “Exploding the Myths: UNRWA, UNHCR and the Palestine Refugees”, UNRWA website, 27 June 2011, tinyurl.com/pyfgkpc. Israel also objects to UNRWA granting refugee status to refugees who have acquired citizenship in another country, as is the case for some 2 million Palestinian refugees in Jordan.

⁵ UNRWA operates 58 official camps. In addition, roughly 200,000 Palestinian refugees live in seventeen unofficial camps in UNRWA’s five areas of operation. “Survey of Palestinian Refugees and

The camps themselves have over the years acquired the character of poor urban neighbourhoods, with wealthy or professionally successful refugees residing in adjoining towns and cities. Jordan, with over 2 million refugees, hosts the highest number, while the Gaza Strip, with 1.2 million refugees out of a total population of some 1.8 million, has the highest proportion.⁷ In addition to remaining stateless,⁸ the majority of the total Palestinian population today are also refugees. The legal status and socio-economic position of Palestinian refugees differs between various host states and territories, though, with few exceptions, they tend to face some combination of legal, socio-economic and security restrictions to which other permanent residents or citizens are not subject.

With the establishment of Israel and the Palestinian Nakba entailing loss of both home and country, dispossession and statelessness for Palestinians traditionally have been inextricably intertwined. Consequently, the refugee question from its outset was a national and even existential concern central to any resolution of the Israeli-Palestinian conflict, as opposed to the challenge of a specific constituency or interest group.

Indeed, when the contemporary Palestinian national movement first emerged in the 1950s and 1960s, it made no distinction between the national agenda and refugee rights; implementing the right of return *was* the national agenda.⁹ In the aftermath of 1967, the struggle for refugee return, rather than for an end to occupation, remained the primary rallying cry of Fatah and the other guerrilla movements that assumed leadership of the Palestine Liberation Organisation (PLO).

So long as eliminating Israel as a state and establishing Arab sovereignty throughout mandatory Palestine remained the PLO's strategic objective, there was no need for Palestinians to consider a resolution of the refugee question as such; the secular democratic state promoted by Palestinian leaders during this era, officially from 1969, was predicated on the unconditional and unrestricted return of Palestinian refugees – most of whom had been born in what became Israel – to the sites of their original homes. And with the PLO based primarily in the refugee camps of the Arab world – camps that produced most of its leaders and cadres and were its most committed constituents and the main beneficiaries of its rise to prominence – the disconnect between the political elites and the refugees was minimal.

Although the PLO did not formally endorse a two-state settlement until 1988, the move in that direction began in the aftermath of the 1973 Arab-Israeli War. During the same period, and partially as a result of the slow if steady policy shift, the relationship between the Palestinian leadership and core camp constituencies became progressively less organic. In some cases it took on the sense of a ruler (a group that included refugee leaders) and ruled; in others, travel restrictions prevented the lead-

Internally Displaced Persons, Vol VII 2010-2012”, BADIL Resource Center for Palestinian Residency & Refugee Rights, 2012, p. 9.

⁶ “UNRWA in Figures”, 1 July 2013.

⁷ Ibid. Using mid-2013 data from UNRWA and the Palestinian Central Bureau of Statistics, the share of registered refugees in Gaza is 72 per cent (1.22 out of 1.7 million) and in the West Bank is 28 per cent (750,000 out of 2.71 million). The share of registered refugees for the West Bank and Gaza combined is 45 per cent (1.97 out of 4.42 million).

⁸ Though the State of Palestine was in November 2012 recognised by the UN General Assembly as a non-member observer state, it lacks the ability to provide Palestinians with the protections traditionally associated with statehood.

⁹ This history is covered magisterially by Yezid Sayigh, *Armed Struggle and the Search for State: The Palestinian National Movement, 1949-1993* (Oxford, 1998).

ership from meeting those it represented. Together these developments laid the basis for the growing challenges the refugee question and refugee constituencies pose for the Palestinian leadership, and therefore for peacemaking, today.

II. The Palestinian Refugee Question and the Two-state Solution

The question of Palestine underwent a major transformation in the years after the 1967 War. Until the emergence of the PLO and its subsequent recognition as the sole legitimate representative of the Palestinian people by the UN and Arab League in 1974, the international community dealt with the Palestinian issue as a subsidiary dimension of the Arab-Israeli conflict, and almost exclusively as a refugee question with primarily humanitarian consequences.

Typical of this approach was UN Security Council Resolution 242 of 1967. To this day the touchstone for the international community's approach to Middle East peace, its sole reference to Palestinians does not mention statehood, self-determination or other elements that since have come to be commonly associated with a comprehensive resolution of the conflict. Rather than any direct reference to either the Palestinians or a specifically Israeli-Palestinian conflict, it instead advocates the necessity of a "just resolution of the refugee problem" in order to achieve peace between belligerent member states.

The refugee question itself figured prominently on the international agenda during this era, as reflected in expanded support for UNRWA, annual reaffirmations of UN General Assembly Resolution 194 and, as noted, Resolution 242's explicit reference to the matter. Newly established Palestinian guerrilla organisations vociferously denounced this and similar resolutions for reducing their struggle to a humanitarian appendage of the Arab-Israeli conflict; their primary goal in these years was to transform it into a quest for decolonisation and self-determination. Speaking in the aftermath of the March 1968 Battle of Karameh – in which Palestinian guerrillas, backed by Jordanian forces, repelled an Israeli raid – Yasser Arafat proclaimed:

What we have done, is to make the world ... realize that the Palestinian is no longer refugee number so and so, but the member of a people who hold the reins of their own destiny.¹⁰

To the extent the international community came to embrace this notion during the 1970s, it stands as the Palestinian national movement's signal achievement.

By making the Palestine question the central political issue of the Arab-Israeli conflict – one that could not be resolved without the direct participation of Palestinians as represented by the PLO – Arafat and the national leadership after the 1973 War in effect replaced the international community, as well as the Arab states, as the political custodian of the refugee question. This would have major implications as the two-state paradigm became the established framework for Israeli-Palestinian peace, eventually endorsed also by the Palestinians.

A. *Palestinian Perspectives: Before Oslo*

Traditionally, the PLO leadership has maintained there is no inherent contradiction between a two-state settlement and the unrestricted return of refugees to their original or ancestral homes. Prior to endorsing the two-state paradigm in 1988, the organisation and its constituent factions defined an unconditional right of return as

¹⁰ Spencer C. Tucker and Priscilla Roberts (eds), *The Encyclopedia of the Arab-Israeli Conflict: A Political, Social and Military History*, p. 569.

the very essence of Palestinian self-determination. After endorsement, they insisted that unrestricted return was not only consistent with Resolution 194 and therefore an integral part of the international consensus they were being urged to accept, but would furthermore “prove crucial to legitimising a settlement in which the PLO would recognize Israeli sovereignty over more than three-quarters of the territory it previously claimed as its own”.¹¹

This formed the core, from the Palestinian perspective, of a “historic compromise” with Israel. For the PLO, its key concession was Palestinian recognition of Israel’s sovereignty within its pre-1967 boundaries, some 78 per cent of Mandatory Palestine. Until final status negotiations commenced in 2000, a comprehensive Israeli withdrawal to these boundaries, and just resolution of the refugee question based on Resolution 194, was considered the irreducible minimum, not the starting point, of further talks. Thus, initially at least, the PLO accepted negotiations as a mechanism to achieve this outcome rather than a process in which Israel might present additional claims or seek to restrict Palestinian ones.¹²

When the PLO formally adopted the two-state settlement as a paradigm for the resolution of the conflict in 1988, the refugee question did not figure particularly prominently in its internal discussions. Its main purpose was to capitalise on the popular uprising then raging throughout the Occupied Territories and garner international support for a Palestinian state in the West Bank and Gaza Strip. The initiative thus aimed primarily at resolving the challenge of statelessness through an end to occupation rather than addressing refugee dispossession as such. While Palestinian detractors of the two-state strategy insisted it inevitably would lead to restrictions on the right of return, Arafat and his supporters countered with the argument that the Algiers Declaration, with its reference to UN resolutions, confirmed rather than conceded refugee rights.¹³

Moreover, it was for the Palestinian leadership at the time unclear whether or not the U.S. would respond with a major peace initiative. Under such circumstances, it made little sense for Palestinian leaders to court controversy with their people by delving into the detailed implications of a two-state paradigm for the refugee question. At the time, the idea that Palestinian negotiators would discuss with their Israeli counterparts which refugees would or would not be permitted to return would have seemed, for most Palestinians, as alien and objectionable as the idea that the two-state settlement would also involve discussions of permanent Israeli sovereignty over any of its settlements or anything less than Palestinian sovereignty in all of East Jerusalem – ideas that since have become mainstream.

Palestinian leaders during this period often were criticised by foreign observers for not engaging their constituents on the meaning of a two-state settlement and specifically its incompatibility with an unrestricted return of refugees to sovereign Israeli territory.¹⁴ Yet, they had virtually no incentive to engage in discussions that

¹¹ Crisis Group interview, Palestinian analyst, Amman, June 2014.

¹² “Report from a Palestine Center Briefing with Hanan Ashrawi”, The Jerusalem Fund, 16 March 2000, tinyurl.com/nuxe393.

¹³ Crisis Group interview, Palestinian analyst and specialist on Palestinian national movement, Beirut, July 2014.

¹⁴ See for example Jacob Tovy, “Negotiating the Palestinian Refugees”, *Middle East Quarterly* (Spring 2003): “Not only did they not prepare Palestinian public opinion for the possibility of a concession on the ‘right of return’, they declared time and again that the issue was non-negotiable”. tinyurl.com/o8clbj.

would have been highly divisive internally and strained relations with key Arab states, which do not want to see Palestinian refugees remain permanently within their boundaries. Perhaps more importantly, many Palestinian proponents of a two-state settlement also questioned the validity of the foreign assumption that the right of return could not be integrated into a two-state framework.¹⁵

The above notwithstanding, the process through which the PLO eventually came to endorse the two-state paradigm had begun as early as the aftermath of the 1973 War, when key Palestinian leaders came to conclude that a military resolution of the conflict was beyond their reach and they therefore should pursue a political settlement.¹⁶ If the Palestinians were incapable of replacing Israel at the UN, their next best option would be to establish an independent state in the Occupied Territories that would be an equal member of the world body. Those developing the Palestinians' two-state strategy understood not only that it would never achieve popular legitimacy among their own constituency in the absence of a just resolution of the refugee question, but also that an insistence on unrestricted refugee return would ensure its categorical rejection by Israel and limit international political support – particularly from the U.S. and Europe, the most influential with Israel. Typical in this regard was the 1990 statement of veteran Fatah leader and top PLO official Salah Khalaf (Abu Iyad):

We accept that a total return is not possible We recognize that Israel would not want to accept large numbers of Palestinian returnees who would tip the demographic balance against the Jewish population. Nonetheless, we believe it is essential that Israel accept the principle of the right of return or compensation with the details of such a return to be left open for negotiation We shall for our part remain flexible regarding its implementation.¹⁷

The bilateral Israeli-Palestinian talks, one track of the Madrid peace process that commenced in 1991, aimed to establish interim self-governing arrangements for Palestinians in the West Bank and Gaza. The refugee question by contrast was relegated to a multilateral working group that dealt only with technical matters, such as family reunification, and excluded the political question of its resolution.¹⁸ Thus the Madrid talks treated the refugee issue only in the framework of inter-state conflict between Israel and its Arab neighbours, as had been the case before 1967.

¹⁵ Palestinian officials during this period habitually spoke of a Palestinian state and the right of return – which they interpreted as unrestricted refugee return to their original or ancestral homes, rather than to the territory of the anticipated Palestinian state.

¹⁶ Wendy Pearlman, *Violence, Nonviolence, and the Palestinian National Movement* (Cambridge, 2011), pp. 80-84.

¹⁷ Salah Khalaf, "Lowering the Sword", *Foreign Policy* (Spring 1990), pp. 92-112.

¹⁸ Rex Brynen, "Past as Prelude? Negotiating the Refugee Issue", Chatham House Briefing Paper MEP/BR 08/01 (June 2008), pp. 1-2. Per the Israeli foreign ministry, "While the bilateral track is meant to solve the conflicts of the past, the multilateral track focuses on the future shape of the Middle East, addressing problems on a regional level ... to promote long-term regional development and security". tinyurl.com/kre5hvw.

B. *Palestinian Perspectives: After Oslo*

When the Declaration of Principles, the first of the Oslo agreements, was signed in 1993, most Palestinians initially believed that a negotiated two-state settlement was a done deal, its implementation only a matter of time.¹⁹ The practical consequences for the refugee question therefore came to be widely discussed and debated. As a Palestinian analyst put it: “During this time, Palestinians across the political spectrum came to believe what their leadership had come to understand: the peace process would not result in unrestricted refugee return to Israel”.²⁰ This was as true for those who supported Oslo as for those who opposed it – and for the latter, in many cases for that very reason.

By the time Palestinian and Israeli negotiators assembled under U.S. auspices at Camp David in 2000, Palestinian perceptions of the meaning and substance of a two-state settlement had changed in fundamental respects. Prior to Oslo, many understood it as a straightforward trade: conceding sovereignty over most of historic Palestine in exchange for the return of refugees to their ancestral lands. But by 2000, the equation seemed to have been largely reversed. Henceforth conceding the principle of unrestricted refugee return was seen as the painful price to be paid in exchange for a comprehensive Israeli withdrawal to the 1967 boundaries.²¹

By 2000, most Palestinians had come to understand what Abu Iyad had a decade earlier: that a two-state settlement that transformed Israel’s demographic realities could not be achieved through negotiations. Crucially, however, the perception that Palestinians would need to negotiate with Israel on the scope of refugee return, and that the outcome of such talks would need to be largely consistent with Israel’s demographic realities, never translated into a Palestinian preparedness to renounce or otherwise abandon the right of return as a national principle.²²

These shifts reflected broader changes in the Palestinian national movement and strategic agenda. Perhaps most importantly, the locus of power and decision-making within the Palestinian political system had since the PLO’s expulsion from Lebanon in 1982, and particularly on account of the 1987-1993 uprising, gradually shifted from the diaspora to the Occupied Territories. This was formalised with the establishment of the Palestinian Authority in 1994 and the subsequent relocation of Arafat and the Palestinian leadership to the West Bank and Gaza. Although the PA was formally a

¹⁹ Pearlman, *op. cit.*, p. 127.

²⁰ Crisis Group interview, Palestinian analyst, Amman, June 2014.

²¹ Thus, for example, Khalil Nijem, an official at what was then the PA planning and international cooperation ministry, described PLO preparations for final status negotiations in 2000: “The PNA [Palestinian National Authority, which is how the PA refers to itself] is anticipating that negotiations will include a discussion of Israeli responsibility for the creation of the refugee issue; recognition of the principle of the refugees’ right of return; and *mutual agreement* on how the refugee issue will be resolved”. “Planning in Support of Negotiations”, in Rex Brynen and Roula el-Rifa’i (eds), *Palestinian Refugees: Challenges of Repatriation and Development* (London, I.B. Tauris, 2007), p. 121 (emphasis added).

²² This was paralleled in the territorial realm. As negotiators pored over maps of East Jerusalem and Israeli settlements to consider how these might be apportioned between Israel and the Palestinians, and land swaps became standard within the negotiating lexicon, Palestinian public opinion remained committed to the concept of a comprehensive Israeli withdrawal to the 1967 boundaries. Even today, figures such as Fatah Central Committee member Marwan Barghouti give voice to this sentiment: “No one is entitled to amend borders or swap land; the Palestinian people insist on Israel’s full withdrawal to the 1967 borders, in addition to removing the settlements”. *Al-Monitor*, 28 May 2013.

PLO subsidiary, the parent organisation in practice became subordinate to its offspring; this was in no small part because of the support the PA received from the international community, whereas both politically and financially, the PLO entered the 1990s bereft.

During the same period and in part on account of these dynamics, the Palestinian diaspora, which previously had been the engine of the national movement, became increasingly fragmented and marginalised. While it would be too simplistic to claim that Palestinians in the diaspora are primarily concerned with return while those, including refugees, in the Occupied Territories are more focused on occupation and statehood, the experiences of different Palestinian groupings did help shape their political preoccupations.²³ Perhaps more to the point, since the establishment of the PA as a quasi-governmental body, refugees and refugee camps, including those in the Occupied Territories, no longer form the indispensable constituency for the national movement – including for Hamas and Islamic Jihad.²⁴

Finally, the PLO's custodianship of the Palestine question, including the refugee question, was never seriously challenged so long as Yasser Arafat was alive. Even as he lost popularity during the Oslo years and the rise of Hamas challenged Fatah's leadership of the national movement, Arafat remained an unassailable icon of the Palestinian struggle and embodiment of his people's aspirations. The majority of Palestinians, including many who were bitterly critical of his stewardship, retained the view that he was their legitimate leader and would protect the national interest. The failure of the Camp David summit and subsequent blame heaped on Arafat by the U.S. and much of the international community, the second intifada, and the circumstances of his 2004 demise – among Palestinians, it is widely believed he was poisoned – only confirmed this perception.

Such sentiment was also shared by Arafat himself, who at the height of the second intifada in 2002 felt sufficiently secure to pen the following statement in *The New York Times*, which even if written in English and primarily intended for foreign consumption, quickly made its way back to the Middle East:

[W]e seek a fair and just solution to the plight of Palestinian refugees who for 54 years have not been permitted to return to their homes. We understand Israel's demographic concerns and understand that the right of return of Palestinian refugees, a right guaranteed under international law and United Nations Resolution 194, must be implemented in a way that takes into account such concerns. However, just as we Palestinians must be realistic with respect to Israel's demographic desires, Israelis too must be realistic in understanding that there can be no solution to the Israeli-Palestinian conflict if the legitimate rights of these innocent civilians continue to be ignored. Left unresolved, the refugee issue has the potential to undermine any permanent peace agreement between Palestinians and Israelis.²⁵

²³ Numerous refugee leaders in Gaza and the West Bank asserted that their own flexibility regarding the implementation of refugee return in a final settlement was likely somewhere between non-refugees in the West Bank and Gaza, whom they thought more flexible, and refugees in the diaspora, whom they thought less flexible. Crisis Group interviews, camp committee leaders, Bethlehem, Gaza City, Nablus, Ramallah, October 2013-January 2014.

²⁴ This despite the fact that Hamas has gained popularity at the expense of PLO factions in the Palestinian diaspora and should therefore be more attendant to the desires of refugees.

²⁵ Yasser Arafat, "The Palestinian Vision of Peace", *The New York Times*, 3 February 2002.

Nevertheless, by the time Mahmoud Abbas succeeded Arafat as PA president and PLO chief, the marginalisation of the refugee question in the peace process – and of refugee communities within PA governance and socio-economic policy – had become institutionalised. Refugees and their advocates agitated ever more intensely for greater inclusion of their claims in the peace process if not abandonment of negotiations altogether, as well as their more immediate socio-economic interests. As increasing numbers of Palestinians came to believe, over the next decade, that the peace process was a charade serving the narrow interests of the Palestinian elites, not their own, the promotion of refugee affairs writ large came to challenge the PLO's status as the sole legitimate representative of the Palestinian people, its custodianship of the Palestine question – not least its refugee file – and indeed the PA's entire model of governance.²⁶

These challenges have been both broader and deeper than the campaign by Hamas to wrest leadership of the national movement from Fatah. While Hamas leaders have taken a largely opportunistic approach to the refugee question, using it as a stick to beat Fatah while doing little to formulate a more credible option,²⁷ disaffection among refugee communities has spread across the political spectrum to include core Fatah constituencies such as the refugee camps, and, as attested by the 2006 Palestinian Legislative Council elections, most other socio-economic constituencies as well.²⁸ Given unprecedented Palestinian division, Abbas's growing legitimacy deficit and his predilection to remain in a negotiating process in which most Palestinians have long since lost faith, he has found it more difficult to overcome these challenges than his predecessor.

C. *The Refugee Question in Negotiations*

1. Official Palestinian positions

Of the major issues to be resolved in a comprehensive Israeli-Palestinian settlement, the refugee question is the topic on which PLO positions – and even those of individual leaders – are most discrepant and, as a result, unclear.

From a Palestinian perspective, there has been little incentive to clarify their positions on the refugee issue, as doing so would exact tremendous political costs. Expressing a maximalist position would be costly with the international community; anything less would be costly domestically and regionally. Palestinian and international policymakers seemingly therefore prefer to delay concessions on such a volatile issue in the absence of similarly weighty concessions by Israel.²⁹ Gaps have remained sufficiently wide on other issues – Jerusalem, borders, security – that policymakers have thought it prudent to postpone what seems most difficult, in the hope that

²⁶ Laleh Khalili, *Heroes and Martyrs of Palestine: The Politics of National Commemoration* (Cambridge, 2009).

²⁷ On Hamas's popularity among refugee communities, see Jamil Hilal, "Hamas' Rise as Charter in the Polls, 1994-2005", *Journal of Palestine Studies*, vol. 35, no. 3 (Spring 2006), pp. 6-19.

²⁸ Hamas won 76 of 132 seats in the 2006 elections.

²⁹ An adviser to President Abbas maintained that, as Abbas has said in numerous recent speeches, even with large concessions from Israel, Palestinians will not accept an agreement that does not provide refugees with the choice of where to relocate, including to Israel. Crisis Group interview, Ramallah, November 2013. Though this position is at odds with the assumptions of nearly all participants involved in the peace process over the past two decades, it is consistent with public Palestinian statements and position papers, about which more below.

momentum from resolving other issues might make the most challenging gaps more surmountable.³⁰

Given that Palestinian negotiators have been more explicit about their positions on other issues, but with little to show for their flexibility, it is difficult to argue that, from their perspective, providing more clarity about the refugee issue would improve the odds of successful negotiations.³¹

That said, officially and formally at least, the PLO has been very clear. That clarity, with good reason, often has not been taken at face value. At Camp David, Palestinian negotiators insisted on “the right of every Palestinian refugee to return home in accordance to UN Resolution 194”,³² yet President Clinton’s advisers, former Palestinian negotiator Akram Hanieh writes, “had maintained that progress could be achieved on the basis of compensation, resettlement in the host countries, and a liberal immigration policy to some Western countries” – that is, on the basis of options that did not include return to Israel.³³

Several months later, Clinton put forward his 23 December 2000 parameters for a comprehensive settlement, which stated that the return of refugees to Israel would be left to Israel’s sovereign discretion while Palestinians would be offered the choice between two forms of acknowledgment of the right of return: “Both sides recognize the right of Palestinian refugees to return to historic Palestine” or “Both sides recognize the right of Palestinian refugees to return to their homeland”.³⁴ In its formal response, the Palestinian team wrote that it could not accept a proposal that would “force Palestinians to surrender the right of return of Palestinian refugees”.³⁵ While the tone of its response was largely conciliatory, welcomed the continuation of U.S. mediation and stressed how far the parties had come, the official Palestinian position remained that each refugee must be permitted to determine his or her fate:

The United States proposal reflects a wholesale adoption of the Israeli position that the implementation of the right of return be subject entirely to Israel’s discretion. It is important to recall that Resolution 194, long regarded as the basis for a just settlement of the refugee problem, calls for the return of Palestinian

³⁰ This reflects the incremental logic that has characterised most Israeli-Palestinian negotiations since 1991.

³¹ A former member of the Palestinian negotiating team at Annapolis argued that Palestinians had been too explicit about their willingness to trade compromises on refugee return for Israeli concessions on other issues: “Purely from a tactical perspective, what our negotiators did in Annapolis was terrible. We essentially went into the room saying, ‘We all know there won’t be a real right of return to Israel. So what are you going to give us on Jerusalem?’ Even if that’s your final position, it is incredibly poor strategy to reveal it upfront”. Crisis Group interview, Ramallah, September 2013.

³² Ibid.

³³ “The Camp David Papers”, op. cit., p. 95.

³⁴ Clinton stated: “I believe that we need to adopt a formulation on the right of return that will make clear that there is no specific right of return to Israel itself but that does not negate the aspiration of the Palestinian people to return to the area ... resettlement in third countries and absorption into Israel will depend upon the policies of those countries”. President Clinton recited his proposal to Israeli and Palestinian negotiators, but no written copy was distributed. The above quotes come from a widely cited version of Clinton’s comments on refugees, derived from a published version in *Haaretz* and a longer version published by the Jerusalem Media and Communication Center. See “Clinton Proposal on Israeli-Palestinian Peace”, 23 December 2000, www.peacelobby.org/clinton_parameters.htm and reprinted in Appendix C.

³⁵ “Remarks and Questions from the Palestinian Negotiating Team Regarding the United States Proposal”, 1 January 2001, naip-documents.blogspot.co.il/2009/10/document-98.html.

refugees to “their homes”, wherever located – not to their “homeland” or to “historic Palestine”. The essence of the right of return is choice: Palestinians should be given the option to choose where they wish to settle, including return to the homes from which they were driven. There is no historical precedent for a people abandoning their fundamental right to return to their homes whether they were forced to leave or fled in fear. We will not be the first people to do so. Recognition of the right of return and the provision of choice to refugees is a pre-requisite for the closure of the conflict.³⁶

This, of course, flatly contradicts the Israeli position since Israel will not grant each refugee “the option to choose where they wish to settle” for a variety of reasons, particularly that it would upend the country’s demographics by diluting the Jewish majority. In this, Israel enjoys the support of the U.S. and Europe.

Since Camp David, it has become common for Palestinian negotiators to endorse precisely the kind of approach, even if not in its specifics, that Clinton put forward: an acknowledgement of a Palestinian right that would be subjected to Israeli discretion, or, put differently, ensuring that the resolution of the refugee question be anchored in a reference to rights, if not in their full implementation. Yet just as the Palestinian position on the refugee question has evolved, so too has Israel’s. Since 2000, the Israeli position on the refugee question has hardened, refusing not only the physical return of refugees,³⁷ but any mention of a “right”.³⁸ In tandem, Israel tabled two new claims for rights that, in Palestinian eyes, would erode or eliminate refugee rights: Palestinian recognition of Israel as the nation-state of the Jewish people³⁹ and a demand for financial compensation for Jewish refugees from Arab countries.⁴⁰

³⁶ Ibid.

³⁷ In the 2001 Taba talks Israeli negotiators went further than they have gone since, proposing the return of 50,000 refugees during the first year after an agreement and potentially a similar number annually during the six following years depending on circumstances. Crisis Group interview, former Israeli negotiator, Tel Aviv, April 2012. At the 2008 Annapolis talks, then-Prime Minister Ehud Olmert’s most generous proposal was to allow 5,000 refugees to return over a period of five years on humanitarian grounds.

³⁸ “Forget about it. If it has the word right, we won’t sign”. Crisis Group interview, strategic affairs ministry official, Jerusalem, November 2012. A senior Israeli official in the prime minister’s bureau stated: “Unless the Palestinians give up on the right of return, there can be no deal. They need to stop treating this conflict like it’s a court case over the crimes of 1948. They need to get out of the mentality of justice and injustice. Without this, any talks will wither on the vine. And then we will have to move to stop a bi-national state on our own”. Crisis Group interview, Jerusalem, June 2013.

³⁹ The demand was raised during the 2008 Annapolis negotiations by then Foreign Minister Tzipi Livni. Prime Minister Netanyahu has since made such recognition a sine qua non for a final Israeli-Palestinian agreement.

⁴⁰ An inter-ministerial effort on this subject has accelerated since 2009. Israel argues that since the amount of compensation owed by Jewish refugees is greater than that owed by Palestinian refugees, Israel would be ready either to offset the compensation due by Palestinian refugees against what Arab countries owe Jewish refugees, or for both refugee communities to be compensated out of an international fund to which Israel would be a minor donor. Crisis Group interview, senior official, Jerusalem, 7 April 2014. Jewish refugees from Arab countries tend to reject offsetting compensation, because they feel it would make them and their personal suffering part of a geopolitical game; they themselves want to receive compensation directly. Crisis Group interview, Levana Zamir, Head of World Egyptian Jewry Organization, Tel Aviv, 29 September 2013. Palestinians oppose treating the two refugees issues together: “Israel should take up its claims with the Arabs, not with us”. Crisis Group interview, Palestinian negotiator, Jerusalem, June 2013.

The Palestinian leadership – today no less than in 2000 – expresses frustration that their official statements are not taken seriously. No small number of diplomats, and particularly U.S. officials, seem to believe that Palestinian positions on refugees amount to little more than talking points. Hanieh’s account of Camp David continues:

Every time the Palestinians told the Americans that it was a terrible mistake to assume that Yasir Arafat would sign an agreement that did not satisfy minimum national Palestinian rights, the response was skepticism and knowing smiles. And when they were told that the Palestinian revolution had risen from the refugee camps of the diaspora, and that any agreement that did not include a just solution for the refugee problem would engender an even stronger revolution, the response was a silence that brooked no argument.⁴¹

As recently as the latest round of negotiations, despite numerous public statements to the contrary – including a speech in which President Abbas insisted that the “right of return is a personal decision”⁴² – mediators remain convinced that it is a bargaining chip to be traded away.⁴³ A State Department official expressed precisely this view: “By far the *easiest* final status issue is refugees. Everyone knows they’re not returning to Israel”.⁴⁴

Yet, these “knowing smiles”, as Hanieh put it, are not without reason. First and foremost, Palestinian officials privately have conveyed this message to Israeli, U.S. and other Palestinian officials.⁴⁵ In public, Abbas similarly has indicated willingness to compromise on the issue, saying that he is “not looking to drown Israel with millions of refugees to change its nature”.⁴⁶ More prominently, Abbas, himself a refu-

⁴¹ “The Camp David Papers”, op. cit., pp. 76-77.

⁴² “Let me put it simply: the right of return is a personal decision. What does this mean? That neither the PA, nor the state, nor the PLO, nor Abu Mazen [Abbas], nor any Palestinian or Arab leader has the right to deprive someone from his right to return ... the right of return is a personal right. Even a father cannot forgo his children’s right”. “Abbas hardens his stance on Palestinian ‘right of return’”, *The Times of Israel*, 13 January 2014. Though this statement received a good deal of attention in the Israeli press, it is commonplace for Abbas to say it, and he has repeated it numerous times since, as he did, for example, on 6 March 2014. See fn. 21. That said, a refugee expert suggested that Abbas could be preparing a different option: by stating that refugee return is an individual right that no one has the authority to give up, he might be preparing Palestinian public opinion for the PLO’s relinquishment of any responsibility for resolving the refugee problem, leaving its resolution to individual claimants. Crisis Group telephone interview, May 2014.

⁴³ Crisis Group interviews, U.S. officials, Jerusalem, Washington DC, September 2013-January 2014.

⁴⁴ Crisis Group interview, Washington DC, May 2013. There are, of course, other State Department officials who do not share this view. Crisis Group interviews, Washington DC, June 2014.

⁴⁵ Crisis Group interviews, U.S. officials, Washington DC, January 2014. See fn. 31 above. Leaked minutes of a February 2009 conversation between PLO negotiator Saeb Erekat and U.S. Envoy George Mitchell record Erekat asserting that a deal entailing a limit on return to Israel was feasible. Erekat is recorded as stating to Mitchell: “Last time we met, I gave you a matrix detailing the progress on the permanent status negotiations. If you look at it carefully, you’ll see that the negotiations have exhausted themselves. What is left are the needed tradeoffs On refugees, there were discussions on numbers that will return to Israel over a number of years. The deal is there”. See “Palestinians agreed only 10,000 refugees could return to Israel”, *The Guardian*, 24 January 2011, and “Meeting Minutes US Consulate General, Jerusalem”, 27 February 2009, transparency.aljazeera.net/en/projects/the-palestinepapers/20121820551731893.html.

⁴⁶ “Abbas admits to pessimism about framework agreement”, *Haaretz*, 3 March 2014. According to Knesset Member Zahava Gal-On, chairperson of the Meretz party, Abbas said to her, “I don’t want to destroy Israel and no refugee will return to Israel without Israel’s consent But I expect Israel

gee, said to an Israeli TV interviewer in 2012: “I want to see Safed. It’s my right to see it, but not to live there”.⁴⁷

In negotiations, Palestinians have entertained formulations that would impose strict limitations on refugee return. Even the maximalist interpretation of refugee return in the Palestinian response to the Clinton parameters was accompanied by a clear if not definitive indication of willingness to compromise:

The Palestinians are prepared to think flexibly and creatively about the mechanisms for implementing the right of return. In many discussions with Israel, mechanisms for implementing this right in such a way so as to end the refugee status and refugee problem, as well as to otherwise accommodate Israeli concerns, have been identified and elaborated in some detail.⁴⁸

More explicitly, during the 2001 Taba and 2007-2008 Annapolis talks, Palestinian negotiators discussed, albeit inconclusively, with their Israeli interlocutors about specific numbers of refugees that would be permitted to return to Israel.⁴⁹ During the Annapolis negotiations, Abbas proposed the admission of 150,000 refugees to Israel over ten years, with the possibility of renewal with the agreement of both parties, an offer that would seem to directly contradict the previous Palestinian insistence that every refugee be given the choice of where to settle or return, including to Israel.⁵⁰

Perhaps most important in this respect is that the Palestinians, since the 1991 Madrid talks, have agreed that the refugee question would be resolved by means of negotiations with Israel rather than simply through the unconditional application of Resolution 194.⁵¹ This formula was also expressed in the Arab League peace initiative, endorsed by the PLO, which calls for a “just solution to the Palestinian refugee problem to be agreed upon in accordance with UN General Assembly Resolution 194”. Though maintaining Resolution 194 as the framework for a settlement remains

to provide a quota of refugees it will absorb each year”. Ibid. At a February 2014 meeting with a delegation of Israeli students, Abbas said: “We want to put the problem on the table and find a creative solution ... you will be satisfied and we will be satisfied”. “Abbas signals flexibility on Palestinian refugees”, Associated Press, 16 February 2014.

⁴⁷ “Abbas hints has no ‘right of return’ to home in Israel”, Reuters, 1 November 2012. After protests in refugee camps and elsewhere, Abbas retracted his statement in an interview to Egyptian TV channel al-Hayat: “My statements about Safed [Abbas’s birthplace, within Israel’s pre-1967 borders] were my private opinion, and do not mean giving up the right of return. Nobody can give up the right of return. All the international documents and all the resolutions of the Arab and Muslim countries speak of a just and agreed-upon solution to the refugee problem ‘Agreed-upon’ refers to an agreement with the Israeli side ... the refugee issue [will be dealt with] in accordance with Resolution 194. The solution will be put to a referendum, and will either be accepted or rejected. Resolution 194 speaks of the right of return, or compensation for those who do not wish to return – so return is the basic [principle] The issue of the refugees is sacred”. Video available at: www.memritv.org/clip/en/3634.htm.

⁴⁸ “Remarks and Questions from the Palestinian Negotiating Team”, op. cit.

⁴⁹ For details of the Annapolis talks, see Crisis Group Middle East Report N°95, *Tipping Point? Palestinians and the Search for a New Strategy*, 26 April 2010.

⁵⁰ On the Palestinian proposal at Annapolis, see the document published by the PLO Negotiations Affairs Department, “The Political Situation in Light of Developments with the U.S. Administration and Israeli Government and Hamas’s Continued Coup d’Etat”, December 2009. prn.mcgill.ca/research/papers/erekat.pdf.

⁵¹ Naseer Aruri, *The Obstruction of Peace: The U.S., Israel and the Palestinians* (Monroe, Maine, 1995), pp. 177-182.

essentially non-negotiable for the Palestinian leadership, its implementation has been subordinated to attaining a negotiated two-state solution.

This, of course, does not mean that there is now a solution to the refugee problem that is mutually acceptable to Israeli and Palestinian negotiators.⁵² And even should one be found, there are no less weighty and difficult questions to be addressed: whether the Palestinian public would follow and what might come after an agreement.

2. The chasm: leadership, people and refugees

It is hard to overstate – even for the West Bank and Gaza, where the bulk of research for this report was conducted and where views on the right of return appear to be more flexible than in the diaspora – how common place it is for Palestinians outside the political and intellectual elites to say that no Palestinian leader could garner popular support for an agreement that does not give each refugee the choice of where to settle, including, without limitation, in Israel.⁵³ No small number predicted violence should the leadership concede on this point.⁵⁴ Most also said that they would abide by the outcome of a referendum, if the vote were perceived as legitimate and included, as President Abbas has vowed it will, all Palestinians.⁵⁵ That said, opinion polls, to the extent they are reliable,⁵⁶ suggest that the scope of opposition to an agreement along the lines of the Clinton Parameters would be considerable.⁵⁷

⁵² For a particularly strong version of the sceptical view, see Asher Susser, *Israel, Jordan, and Palestine: The Two-state Imperative* (Brandeis, 2012).

⁵³ A wide variety of ordinary refugees, residents of camps or cities, and refugee leaders of all political stripes, including members of the Fatah Revolutionary Council, said that they would launch a revolt against the Palestinian leaders who signed a deal entailing less than full choice for all refugees and would do everything in their power to thwart its implementation. Crisis Group interviews, Bethlehem, Gaza City, Hebron, Jabalya, Jerusalem, Khan Younis, Nablus, Ramallah, September 2013–February 2014. “Abu Mazen won’t be able to set foot in Palestine after signing a deal like the Clinton Parameters. Even if he flees to Amman he will be murdered there. The only way Palestinians could accept such a deal”, a youth leader in the Qalandiya refugee camp said, “is if it were sanctified in a new Quran that fell from the heavens”. Crisis Group interview, Qalandiya, January 2014.

⁵⁴ “I will be throwing Molotovs at [Palestinian headquarters in Ramallah] the day they sign that deal”. Crisis Group interview, Qalandiya camp committee member, Ramallah, December 2013. A significant proportion said they would support the assassination of the Palestinian political leadership. A camp committee member said, “I personally will kill any leader that signs the deal. And if he runs off to Amman, I will find him and kill him there”. Crisis Group interview, camp committee member, January 2014. Nearly all vowed to orchestrate or participate in large demonstrations demanding the downfall of the Palestinian Authority and the president. “You’ll see this entire camp marching toward [headquarters], and the security forces won’t dare stand in our way”. Crisis Group interview, Qalandiya camp youth leader, Ramallah, February 2014. Predictions of a “third intifada against the Palestinian Authority” came up regularly. Crisis Group interviews, camp committee members, Bethlehem, Nablus, Ramallah, October 2013–March 2014.

⁵⁵ Crisis Group interviews, camp committee members, Bethlehem, Gaza City, Ramallah, October 2013–January 2014. Abbas repeated that a referendum would be held everywhere in the diaspora in March 2014: “Every Palestinian, from Canada to Japan – that includes the Palestinians living abroad as well – will have to agree on the proposal. They will vote in favor or against. If they say ‘no’, the proposal will not pass”. Wafa News Agency, 6 March 2014. Available at: wafa.ps/arabic/index.php?action=detail&id=169691.

⁵⁶ As the refugee expert Rex Brynen has written, poll results on the refugee question may be misleading for a contradictory set of reasons: “On the one hand, surveys may *overestimate* the degree of support for [the refugee component of an agreement like the Clinton Parameters or the Geneva Initiative] since they typically do not attach [ie, include in their questions] a specific number of refugees who might return to Israel, and thus may imply much easier return than would be the case.

Leading figures are well aware of – and indeed, some profess to agree with – popular sentiment. “The problem is not the [senior] political leadership”, a Fatah Central Committee member said. “The political leadership is desperate for the sort of solution the international community envisions. The problem is the people. The leadership knows it cannot get away with signing that sort of deal”.⁵⁸ Similarly a former PA minister said that with the passing of time the inability of the leadership to sign such an agreement has increased: “Arafat could not accept the refugee clauses of the Clinton Parameters and he had one thousand times more legitimacy than Abu Mazen [Mahmoud Abbas], or, for that matter, any of his potential successors. Does anyone believe Abu Mazen can accept what Arafat could not?”⁵⁹

The bravado of such statements gives ample reason for scepticism. Refugees by their own admission are poorly organised; those who have opposed Oslo for two decades and the national movement’s broader shift toward acceptance of a two-state solution have failed to impose their agenda on the political system; and while Palestinians have for over two decades suspected that the PLO leadership has been negotiating precisely the sort of deal many say would cause them to revolt,⁶⁰ refugee leaders have come far short of demanding a change in PLO leadership or even negotiating positions.

Yet even if violence does not come to pass, it is clear that there is substantial opposition to the sorts of concessions the PLO has contemplated. Having consistently failed to achieve results and thus seeming to many Palestinians to serve little function other than filling the political vacuum, negotiations have been increasingly discredited; and with them, so has anything that the leadership could advance on the refugee file.

Popular opposition could have serious consequences should the U.S. put out parameters covering all major issues, including refugees, and push for Israeli and Pales-

Surveys might also *underestimate* acceptance of such a deal on the refugee issue, since they are asked in the absence of any concrete realization of Palestinian statehood”. Rex Brynen, “Return, Repatriation, Residency, and Resettlement”, in Rex Brynen and Roula El-Rifai (eds), *The Palestinian Refugee Problem: The Search for Resolution* (London, 2013), p. 81.

⁵⁷ Polling can also be misleading since among both Israelis and Palestinians, acceptance of the overall deal is always higher than acceptance of its least popular component. A December 2003 poll found that 39 per cent supported and 58 per cent opposed the Geneva Initiative (an unofficial peace treaty agreed to by former Israeli and Palestinian negotiators and launched in 2003), with 25 per cent supporting and 72 per cent opposing the refugee provisions specifically. A December 2013 poll found that 46 per cent support and 53 per cent oppose an agreement along the lines of the Clinton Parameters or the Geneva Initiative, with similar numbers opposing and supporting the refugee component specifically. “Public Opinion Poll #10, December 2003”; “Public Opinion Poll #50, December 2013”, Palestinian Center for Population and Survey Research. The levels of opposition are quite similar among refugees and non-refugees, indicating that the refugee question is a national rather than sectoral issue.

⁵⁸ Crisis Group interview, Ramallah, March 2013.

⁵⁹ Crisis Group interview, Ramallah, October 2013. A member of the Hamas political bureau echoed this view: “Abu Mazen can’t sign anything like Clinton or Geneva. No Palestinian leader can get away with giving up the right of return. Arafat couldn’t have gotten away with signing the Clinton Parameters. Abu Mazen certainly can’t”. Crisis Group interview, 7 January 2014.

⁶⁰ Nevertheless, a significant share of refugee leaders said that though such discussions have taken place, they believed that at the end of the day the PLO would not agree to significant limitations on refugee return. Crisis Group interviews, camp committee leaders, Bethlehem, Gaza City, Ramallah, September-December 2013.

tinian acceptance.⁶¹ A framework agreement that significantly limits refugee return to Israel would present Palestinian leaders with an acute dilemma: on the one hand, they could publicly reject the sorts of concessions that they have signalled to Western and Israeli officials they are prepared to make, thereby undermining negotiations and possibly threatening financial and political support to the PA; on the other, by formally accepting limitations on refugee choice, they would pay a heavy political price, opening themselves to attack by domestic opponents, facing the potential of mass protests and perhaps violence, and weakening their bargaining position in negotiations. These negatives would come in the service of enhancing the chances of brokering a final agreement that, certainly with the current Israeli government, few Palestinians believe can be reached.

The risks of this sort of failure are qualitatively different from those of the failure of Camp David, Annapolis, or any other round of talks; there is no precedent for a failure that stems from a sitting Palestinian leader acquiescing in final status compromises that a large share of the population deems unacceptable. This is true of all final status issues, of course, but it is especially acute in the case of refugees, where the gaps between private PLO negotiating positions and public opinion seem to be the greatest. A failure stemming from a rift between the Palestinian public and its leadership, or even, in the event that the leadership is able to plausibly distance itself from the compromises it has made, from a rift between the Palestinian public and the international community, could dramatically alter the nature of the conflict and future solutions proposed for resolving it.

The taboos that limit discussion of the refugee issue, as well as the gap between private and public Palestinian positions on refugees, have made it difficult to hold open dialogue on the issue and have entrenched the divide between Palestinians and the policymakers negotiating their fate. The refugee community has become still more excluded from decision-making, which lessens the chance that any agreement would win its support, either in the West Bank and Gaza or in the diaspora. While the senior ranks of the PA and PLO are staffed with refugees, including Abbas and much of the PLO Executive Committee and Fatah Central Committee, they have largely lost the organic connection with refugees and camps in particular that used to be the national movement's mainstay.

The goal of mediators ought to extend beyond getting the PLO chairman to sign an agreement with Israel to making that agreement as sustainable as possible. The best way of doing so is to closely consult refugees and particularly their local leaders on the agreement's terms in order to minimise opposition, maximise support, delegitimise efforts at obstruction and facilitate implementation.

Negotiations conducted in secret and without consulting one of the largest, most essential, and in all likelihood most disappointed stakeholders are unlikely to bear fruit in the long run. The legitimacy of the process of arriving at an agreement has bearing not only on its likelihood of winning acceptance but also on its sustainability. In the words of a leading Palestinian pollster and analyst, Khalil Shikaki: "An agree-

⁶¹ U.S. officials maintained that during the nine months of talks that ended in April 2014, U.S. Secretary of State John Kerry initially sought full acceptance of a framework agreement covering all final status issues, with any reservations falling "within but not outside" the framework. A close Abbas adviser said that by the time of Abbas's March 2014 White House meeting with President Obama, the U.S. said it was prepared to have each side make significant reservations that, together with the framework itself, would remain private. Crisis Group interviews, U.S. officials, Abbas adviser, January, April, June 2014.

ment that lacks legitimacy in the eyes of the majority of Palestinians, most of whom are refugees, will make the state illegitimate in the eyes of its citizens".⁶²

For this reason, a prolonged hiatus in negotiations might not be bad. It would give the Palestinian national movement a chance to reconstruct itself, and, more specifically, a way for Palestinians of all sorts, and particularly refugee communities, to influence negotiating positions. There is no foreseeable reality in which each refugee will be able to exercise individual choice in returning to what is or used to be his or her familial home, but it is imaginable that refugees have voice in shaping the national movement's position on the issue. Refugees are more likely to be brought on board through an open process in which they are consulted as opposed to an opaque one from which they are excluded. This would not guarantee, of course, that they would support any position acceptable to Israel, but such a process would give the Palestinian leadership a much better sense of the compromises to which its people, however reluctantly, could acquiesce – that is, a much better sense of what it could sell at home, which is to say, its bottom line.

⁶² Khalil Shikaki, "Managing Refugee Expectations", in Brynen and El-Rifai (eds), *op. cit.*, pp. 228-229.

III. Palestinian Refugees: Perspectives and Concerns

Diplomats may tend to be overly optimistic about whether a resolution that satisfies core Palestinian and Israeli needs can be achieved, but the proposition is unlikely to be tested anytime soon. With the peace process on hiatus, and the parties so far apart on ostensibly simpler issues, the question of whether the gap can be bridged is likely to remain theoretical for the foreseeable future.

In the meantime, refugees, particularly those in camps, have pressing material concerns. While poverty is not exclusive to refugees, the camps have long been among the poorest of neighbourhoods, both in the Occupied Territories and beyond. They present unique challenges of governance, in terms of service provision, economic development and political representation. As sociologist Sari Hanafi argues, camp residents have sought to maintain a distinct identity in order to preserve their political claims, though with the camps having deteriorated into slum-like conditions, often separated from their surroundings, many refugees also would like to see an improvement of governance.⁶³ This is not only a humanitarian concern: particularly with the consolidation of new social classes since Oslo, the political marginalisation and social alienation of the camps has grown into a potential threat to PA stability and the viability of a putative two-state agreement, if and when it should come.

A. *Camp Governance*

Refugees in camps tend to have larger families and come from the poorest sectors of pre-1948 Palestine.⁶⁴ Many camp residents suffer from poverty, unemployment, infrastructural decay and overcrowding.⁶⁵ The wealthier tend to leave, as do the professionally successful, given the lack of economic opportunities. While the lack of urban planning creates a sense of disorder, the social map is often legible: since the majority of 1948 refugees settled in the same country and often the same area as their neighbours, many camps are divided into quarters based on the place of origin of its residents. Typical is the unofficial Yarmouk camp of Damascus; quarters are named after the villages of al-Tira, Lubyah, Balad al-Sheik and Ayn Ghazal.⁶⁶

Rights for refugees vary considerably from one country to another: in Jordan, most Palestinian refugees are Jordanian citizens with equal social and civil rights,⁶⁷ with camp residents entitled to vote in local and national elections; in Syria, Palestinians cannot vote or hold the highest political office, though they are granted the

⁶³ Sari Hanafi, "Governing Palestinian Refugee Camps in the Arab East: Governmentalities in Search of Legitimacy", Policy and Governance in Palestinian Refugee Camps, Working Paper Series no. 1, Issam Fares Institute for Public Policy and International Affairs, American University of Beirut, October 2010.

⁶⁴ Rex Brynen, "Refugee Absorption and Development", in Brynen and El-Rifai (eds), *op. cit.*, p. 181.

⁶⁵ "Volume I: Socio-economic Situation of Palestinian Refugees in Jordan, Lebanon, Syria and the West Bank and Gaza Strip", in Laurie Blome Jacobsen (ed.), "Finding Means: UNRWA's Financial Crisis and Refugee Living Conditions", Fafo Report 427, Volume I, 2003, fafo.no/pub/rapp/427/427-vol1.pdf.

⁶⁶ "Survey of Palestinian Refugees and Internally Displaced Persons, Vol VII 2010-2012", BADIL Resource Center for Palestinian Residency & Refugee Rights, 2012, p. 9.

⁶⁷ In practice, however, Jordanian districts are gerrymandered such that Palestinians are under-represented in parliament, and there are limitations on the employment of refugees. On the latter point, see Willy Egset, "The Labour Market", in Laurie Blome Jacobsen (ed.), *op. cit.*, p. 111.

same civil rights and services as citizens, and can also join the civil service,⁶⁸ in Lebanon, conditions for Palestinian refugees are more difficult than in any other Arab host country, with restrictions on mobility, property ownership, access to government services, and a prohibition on working in over thirty professions.⁶⁹

Governance in the camps varies a great deal. In Syria (at least until the current conflict) and Jordan, the state exercises strong control over the camps through Syria's General Administration for Palestine Arab Refugees and Jordan's Department of Palestinian Affairs, both of which assign an officer who oversees camp planning and political activity.⁷⁰ In Lebanon, camps are weakly controlled by unelected popular committees, and some have rival committees that are responsible for providing municipal services, coordinating with UNRWA and managing local security.⁷¹ In Gaza, most of whose inhabitants are refugees, camps are largely integrated with the rest of the territory: they are regulated by nine- to fifteen-person neighbourhood committees comprised of local notables and a representative from each faction; camps and their governance structures are either connected to surrounding municipalities or have municipal councils of their own; and residents may participate (unlike in the West Bank) in municipal elections.⁷²

In the West Bank, camps are highly unregulated, with some falling fully under Israeli jurisdiction (in the Jerusalem municipality or in Area C, that part of the West Bank under Israeli security and civil control) and some under Palestinian jurisdiction (in Area A, where Palestinians theoretically but not practically have security and civil control). Authority within the camps devolves to unelected committees, made up of roughly thirteen prominent camp figures and operating as a quasi-municipal body tasked with dispute resolution, coordination with external authorities, and ensuring the latter continue to provide electricity, water and garbage collection.⁷³

In the West Bank and Gaza, outside the camps, refugees and non-refugees live in similar socio-economic conditions. But camps, where 39 per cent of West Bank and Gaza refugees live, are considerably more crowded and impoverished, their residents

⁶⁸ However, Palestinians are prohibited from owning more than one house and owning land for agriculture or trade, though there are many exceptions to this rule. See Dr Hamad Said al-Mawed, "The Palestinian Refugees In Syria Their Past, Present and Future", paper prepared for the Expert and Advisory Services Fund International Development Research Centre, 1999, prn.mcgill.ca/research/papers/al-mawed.pdf.

⁶⁹ "Socio-Economic Survey of Palestinian Refugees in Lebanon", Report published by the American University of Beirut and UNRWA, 31 December 2010. See also, Crisis Group Middle East Report N°84, *Nurturing Instability: Lebanon's Palestinian Refugee Camps*, 19 February 2009.

⁷⁰ Jordan's camps are under heavy surveillance by the state. The DPA appoints members of the camp committees. Syria's camps are controlled by the state and the ruling Ba'ath party. See Crisis Group Middle East Report N°22, *Palestinian Refugees and the Politics of Peacemaking*, 5 February 2004; and Hanafi, *op. cit.*

⁷¹ See Crisis Group Middle East Report N°84, *Nurturing Instability: Lebanon's Palestinian Refugee Camps*, 19 February 2009.

⁷² Jamal Abu Habel, a Fatah member and the head of the popular committees in Gaza, said that in Gaza the main work of the popular committees was to mediate between UNRWA and camp residents. After Hamas took over Gaza, Hamas and Islamic Jihad withdrew their representatives from the popular committees, in which, he said, Hamas had not played a significant part prior to the takeover. Today Hamas has its own committees organised around Gaza's five governorates, rather than around its eight camps. "Camps in the West Bank, for the most part, are separate from cities. Here in Gaza, Beach camp is the center of Gaza City. Municipal services and UNRWA services are interlinked". Crisis Group interview, Gaza City, December 2013.

⁷³ Hanafi, *op. cit.*

in many cases dwelling in densely populated and poorly constructed homes, with lower levels of employment, labour force participation and income.⁷⁴ This despite the equal level of literacy, higher level of school enrolment and greater level of secondary and higher education among West Bank and Gaza refugees.⁷⁵

Donor contributions to UNRWA have not kept pace with the rapid swelling of the refugee population, causing a steady decline of annual spending per refugee, from about \$200 in 1975 to around \$110 today.⁷⁶ The resultant decline in UNRWA services has resulted in refugee protests and strikes by refugees employed by the agency, but with little effect on the overall trend.⁷⁷

UNRWA has been highly constrained in responding to these challenges. Its programming flexibility is limited by a variety of factors, among the most significant of which is its staffing structure. Jobs with the agency are jealously guarded, as public administration and service provision is by far the largest sector in the Occupied Territories, with compensation – when factoring in benefits and job stability – substantially greater than any other; this is especially true of UNRWA, whose employees in the West Bank are paid over 21 per cent more than their PA counterparts.⁷⁸ UNRWA employs some 30,000 people, of whom 20,000 are teachers and 95 per cent are Palestinian. Nearly 77 per cent of UNRWA's estimated 2014 general core budget goes to paying staff costs,⁷⁹ which limits the agency's ability to restructure without provoking social dislocation and protest. It also has created strong trade unions used to getting what they want.

The size and spread of the staff means that when strikes occur, the consequences are potentially destabilising. In 2010, when the staff went on strike, the union pre-

⁷⁴ Ibid.

⁷⁵ Laurie Blome Jacobsen, "Education and Human Capital", in Laurie Blome Jacobsen (ed.), op. cit., pp. 79-109. Historically, Palestinian refugees have had higher test results than public school students in all five areas of UNRWA operations. Liana Brooks-Rubin, "Whither UNRWA?", in Rex Brynen and Roula El-Rifai (eds), op. cit., p. 62. UNRWA-provided health and educational services are often superior to those provided by the Palestinian Authority.

⁷⁶ "Frequently Asked Questions", UNRWA.org, accessed March 2014. Available at: www.unrwa.org/who-we-are/frequently-asked-questions. In 2011, UNRWA estimated that the number of registered refugees would double in the West Bank in 31 years and in Gaza in 27 years. "UNRWA Statistics-2010", UNRWA, November 2011. Available at: www.unrwa.org/userfiles/2011120434013.pdf. UNRWA's mandate, which is renewed every three years, is to provide refugees with shelter, primary health and education. In later years it has expanded to offer vocational training, job creation, micro-finance, psycho-social trauma treatment and micro-lending. UNRWA officials and donors are desperately seeking ways to reduce spending without causing political instability, which is of great concern to host governments. Crisis Group interviews, officials of UNRWA and UNRWA donor governments, Jerusalem, September 2013, June 2014.

⁷⁷ A consultant to UNRWA involved in developing its next medium-term plan stated: "In recent years UNRWA has pulled back funding for school supplies and uniforms; cut down its job creation program; ended cash assistance in Gaza; stopped doing summer camps; eliminated fixed contracts for employees. After each of these decisions, you have riots, but the cuts continue". Crisis Group interview, Jerusalem, 13 September 2013.

⁷⁸ Higher payment to UNRWA than to PA employees is true in most fields, the exceptions being medical officers and some technical instructors at training centres. "Letter to Palestine Refugees from Director of UNRWA West Bank Operations", UNRWA, 2 January 2014, available at: unrwa-wb-affairs.org/index.php/en/unrwa-management-statements/messages-from-the-commissioner-general-2/79-2-1-2014-letter-to-palestine-refugees. After cataloguing job frustrations, a manager at UNRWA rejected the notion of leaving his position on account of the future pension benefits. Crisis Group interview, Ramallah, June 2014.

⁷⁹ "UNRWA Programme Budget 2014-2015", Table 4, p. 14.

ailed. Host countries are highly sensitive to potential unrest, leading officials from those countries to describe the agency's labour problems in national security terms. When UNRWA staff went on strike in 2012, with the Muslim Brotherhood on the rise and protests around the region, a host government, at a very senior level, pressed the agency's leadership to quickly resolve the dispute to the workers' satisfaction.⁸⁰

Further complicating the issue is that UNRWA as an agency is knitted into the fabric of the refugee communities it serves. As a UN official explained, "the staff and the community can't be delinked. The staff sees themselves as representing the community; the community sees employment as a benefit".⁸¹ Beyond the economic needs, there are freighted symbolic issues. The UN official continued:

[Palestinians] attribute unnatural, almost supernatural significance to UNRWA as the embodiment of the promise of international justice. It's not just or even mainly about classrooms and desks. It is seen as a proxy for the refugee issue itself. So even small changes are seen as the thin end of the wedge [of liquidating the refugee issue].⁸²

The relative balance of power within the agency may be changing. In a rare occurrence, a recent 65-day strike by West Bank UNRWA employees demanding increased salaries came to an end with the refugees' primary demands unmet,⁸³ after donors pressed UNRWA's leadership to keep wage costs down and the PA pressured the unions to return to work.⁸⁴ Though the West Bank union is known as particularly activist – due to the relative security and stability in comparison with UNRWA's other fields, as well as its relatively permissive government – camp committees seem to have got the message that with the various crises in the region, the union has lost leverage.⁸⁵

Camp committees are a vital link between UNRWA and the refugees. The recent strike prompted UNRWA to strengthen its relationships with the camp leadership,⁸⁶ but the bodies, after years of stasis mirroring the general Palestinian predicament, do not make for empowered interlocutors. Today's refugee leaders have – like most other political actors, only more so – been excluded from the decision-making pro-

⁸⁰ Crisis Group interview, Arab foreign ministry official, March 2014.

⁸¹ Crisis Group interview, senior UN official, January 2014.

⁸² Ibid.

⁸³ West Bank staff sought an increase in compensation to match that of Gaza on the grounds that the cost of living in the West Bank is higher. The strike ended with the establishment of a committee to review compensation, but is widely considered a failure given that the union did not win any increase and was unable to prevent the loss of annual leave time, from which the number of strike days will be deducted.

⁸⁴ Crisis Group interviews, UN officials, Jerusalem and Amman, February and June 2014. One of the officials claimed that Abbas, who had kept a distance from getting involved in the politically delicate situation, finally intervened when he assessed that a leading Fatah dissident, recently dismissed from the movement, was using the strike for political gains.

⁸⁵ Crisis Group interview, members of Qalandiya camp committee, Ramallah, November 2013. A UN official put the weight elsewhere: on donor refusal to countenance further salary increases and recognition that past flexibility had only fuelled demand. "It's a new era. It was a mistake to give in in the past and UNRWA won't do it again. It's not like it would have problems with recruiting if it had to fill open spots". Crisis Group interview, UN official, June 2014.

⁸⁶ Crisis Group interview, UNRWA official, June 2014. He said: "The reason the strike ended as it did wasn't just because Abu Mazen picked up the phone. That was certainly a huge factor, but it happened in a context. We had been working hard with the committees, dealing with their concerns one by one".

cess and therefore have no stake in defending it. Their own legitimacy has been weakened by their powerlessness over the fate of their constituents and by the lack of elections to the camp committees. They have little faith that they will be integrated in Palestinian society after a two-state deal has been made, and this only increases their incentive to hold out for the dream of a better future.⁸⁷ Ruham Nimri, a political analyst and refugee expert, commented:

Without making refugees feel part of the society in which they live, which does not mean harming their national aspirations as refugees, they have no hope of any future except in returning to Israel. Look at Lebanon as a case in point. Precisely because the Lebanese government has treated the Palestinian refugees so badly and foreclosed any possibility of their long-term integration, all policymakers – Israeli and Palestinian alike – accept that the refugees in Lebanon will have to be given priority in whatever return to Israel is permitted.⁸⁸

These complications notwithstanding, UNRWA's services remain vital, which confronts the agency, the region and the donor community with a dilemma. While some in Israel and elsewhere have pushed to revise UNRWA's mandate and operating procedures,⁸⁹ host countries, the Israeli security establishment and donor countries are unanimous that its continued functioning is vital on both humanitarian and security grounds.⁹⁰ But with limited resources, faltering services, a growing refugee population and a rigid labour structure, it is unclear, most of all to those running the agency's operations, how it will continue providing the basic services it is mandated to supply.

B. *Political and Social Marginalisation*

As the PA was gradually transformed from a temporary and transitional body in anticipation of statehood to a quasi-permanent fixture sustained by vested interests and external benefactors, camp refugees, even more than the general population, have

⁸⁷ Crisis Group interview, Qalandiya camp youth activist, Qalandiya camp leader, Ramallah, February 2014.

⁸⁸ Crisis Group interview, Jerusalem, January 2014.

⁸⁹ In an attempt to reduce the number defined as Palestinian refugees, Israeli officials recently have begun challenging UNRWA's definition of refugees as descendants of the original 1948 refugees, advocating instead a definition based on being a recipient of UNRWA's services. Crisis Group interview, former Knesset Member Einat Wilf, campaign initiator, Jerusalem, 20 January 2014. So far the campaign has gained traction only in some parts of the U.S. A Congressional amendment demanding such a redefinition failed in 2011. Another attempt is planned. See also James Lindsay, "Fixing UNRWA: Repairing the UN's Troubled System of Aid to Palestinian Refugees", Washington Institute for Near East Policy Focus 91, January 2009.

⁹⁰ Crisis Group interview, Israeli defence official, Tel Aviv, 5 November 2013; UNRWA donors, Jerusalem, 12 June 2014. Asked about proposed changes, an UNRWA official replied, "For the international community, the question of Palestinian refugees is unresolved. The international community, together with the region, decided to prevent normal assimilation. This means that Palestinians in many places are status-less. In Lebanon for instance, if you were to say that descendants are not refugees, then what would their status be? This is impossible to contemplate for Lebanon. Even Jordan, where they are citizens, the host country would not accept. You are talking about dumping hundreds of thousands into each of these countries' health and education systems. Third country resettlement would be durable only as part of a political settlement. Lebanon won't swallow 250,000 Palestinians. In Syria, there's a good chance that whatever disposition emerges will not be friendly to the 560,000 Palestinians who were there. If the hosts won't accept a solution, it's not durable. You would only be planting seeds for future conflict". Crisis Group interview, January 2014.

grown increasingly distant not only from the Palestinian political leadership, but also from its governance structures.

Refugees in the Occupied Territories, despite having regular and in some cases preferential access to PA employment, have been politically marginalised by both the PA and PLO leadership and local camp leaders.⁹¹ To an extent, this was to serve a political goal: maintaining the camps' exceptional status to ensure that they do not lose their identity as symbols of the demand for return. Camp committees in the West Bank do little more than regulate relations with UNRWA and administer the more technical aspects of camp life, in contrast with the more political role they played in the 1990s, when they sought to protect refugee rights in the face of what seemed their neglect by the Oslo Accords.⁹² Camp committee leaders have jealously guarded this limited authority, preventing the intrusion of the PA and paying little heed to the desire of camp residents for elections of a new, accountable set of leaders.⁹³

The PA, happy to have the international community bear the financial burden of the camps and reluctant to provoke refugee hostility, has excluded West Bank camps from its master plans,⁹⁴ leaving them to sprout hundreds of unregulated, overcrowded buildings. It has prevented the West Bank camps from integrating into their surroundings, coordinating with local governments and participating in municipal elections. This has subjected refugees to the confusion of rule by clashing unpredictable, and in many cases unaccountable authorities – from local camp committees and their umbrella group, the Executive Office of Refugees, to the rival (and weaker) PLO Department of Refugee Affairs,⁹⁵ large families, political factions, religious leaders, NGOs, UNRWA, popular organisations and community rehabilitation centres.

⁹¹ Sociologist Jamil Hilal explained that the committee members have three kinds of capital: cultural, social and political. Given the importance of the Israeli occupation and aspirations for the right to return, political capital – as reflected by a position of responsibility in a political movement, a role organising against the occupation or time in Israeli jails – is the most important of the three. The importance of a specific kind of political background explains why, as the Palestinian political movements, and especially Fatah, calcified and the divide with Hamas crystallised, the camp committees suffered. Jamil Hilal, "On the making of local leadership in refugee camps", unpublished paper, 2007, p. 32.

⁹² "Youth Activity Centers (YAC) ... were once created by UNRWA, alongside women's centers and community rehabilitation centers, as social relief centers. However, they came to play a very clear political role during the early years of the peace process, especially after Oslo (1993) when they challenged the PLO's ability to defend their rights. They adopted the role of a pressure group, to the point where they demanded in 1996 the presence of a group specifically representing the refugees at the negotiating table alongside the PLO to ensure the protection of the refugee rights. To date, the YAC still plays an advocacy and social role. The committees play a more technical role in the general maintenance of the camp facilities and cooperate with UNRWA in these matters". Hanafi, *op. cit.*, p. 10.

⁹³ This, however, may change. Plans have been made for elections in several West Bank camps, with discussion of additional ones to follow. Crisis Group interviews, West Bank camp committee leaders, members of the Executive Office of Refugees, Ramallah, November-December 2013. Polls have found that a majority of West Bank refugees want to participate in municipal elections and that a majority of refugees in Lebanon wish to elect their camp committees. Hanafi, *op. cit.*

⁹⁴ This is as opposed to Gaza, where camps are supposed to fall under the authority of the PA ministry of local government. In practice, the situation is more complicated. Some Gaza camps have their own municipality, while others (Beach Camp, Jabalya, Khan Younis and Rafah) are included within larger municipalities for the camp and the surrounding city. In the latter case, representatives of camps sitting on Gaza City councils have complained that the municipality plays little to no part in planning. Crisis Group interview, former city council member, Gaza City, 29 September 2014.

⁹⁵ The PLO's Department of Refugee Affairs (DoRA) was created in 1996. Because host governments have restricted PLO activity in their countries, DoRA's influence has been limited primarily

The PA lacks legitimacy throughout the West Bank, but resentment is especially great in the camps.⁹⁶ PA security forces, including the civil police, rarely exercise authority in the camps and sometimes encounter fierce resistance when they do.⁹⁷ Gunfire and Molotov cocktails are aimed at PA security forces with increasing frequency when they enter the camps to arrest a resident, as happened at the al-Fara'a camp near Hebron on 6 March 2014.⁹⁸ Hostility toward the PA security forces sometimes approaches that toward Israeli ones, and both operate similarly in the camps, entering rapidly and often retreating under a hail of stones.⁹⁹ Camp residents themselves are the first to complain of lawlessness and insecurity, yet many are as reluctant as the camp committee leaders to permit the PA to enter.¹⁰⁰ A Fatah employee relayed a telling anecdote about a senior Fatah official from Nablus who requested that his red, official PA license plate be replaced with an ordinary green one so that his car would no longer be pelted with stones as he drove past the Balata refugee camp on his way to and from work each day.¹⁰¹

The rift between the PA and West Bank camps is partly a reflection of geographic schisms, as significant social gaps exist between non-refugees and refugees, particularly camp residents. Camps tend to be stigmatised and scorned as dangerous places of criminality, drug-use, poverty and weapons trafficking. In major West Bank cities,

to the West Bank and Gaza, where its primary role is in coordinating with UNRWA. In the West Bank, some camps are considered to be closer to DoRA, though most are considered closer to the Executive Office of Refugees, an umbrella body of camp committee leaders, and some are split. Members of the Executive Office of Refugees receive funding through the PLO (which in turn receives funding through the PA), but insist they are totally independent of it. Jamal Abu Habel, a Fatah member and head of the popular committees in Gaza, said: "We started working under the umbrella of the PLO only because we didn't want to clash with it and come under suspicion for receiving outside funding. In fact we were founded in opposition to moves by the PA and PLO to have the PA take over for UNRWA in the mid-1990s". Crisis Group interview, Gaza City, December 2013. Privately, DoRA officials will complain about the encroachment of the Executive Office of Refugees, which is particularly strong in the central West Bank, as well as in some northern camps like Balata and some southern camps like Arroub. The fact is that many camp residents do not even know the identity of the head of DoRA and see it as an irrelevant body. Crisis Group interviews, PLO official, Executive Office of Refugees members, camp residents, Bethlehem, Nablus, Ramallah, November-December 2013.

⁹⁶ PA officials and camp leaders alike say that hostility toward the PA is greatest in the camps. Crisis Group interviews, Bethlehem, Ramallah, January 2014.

⁹⁷ In January 2013, PA security forces used live fire on a protest in Ramallah's Amari camp. The same month they clashed with refugees in Balata, outside Nablus. Since then, there have been clashes in Askar, Balata, Fara'a, Jalazon and Jenin.

⁹⁸ "Clashes with PA security in Al-Fara'a refugee camp", Safa News Agency, 6 March 2014.

⁹⁹ An Israeli security expert commented, "Today the PA cannot operate within the camps. And when the PA security forces enter, it is like an IDF operation – in and out as quickly as possible, and with a focused objective". Crisis Group interview, Jerusalem, 30 January 2014. Hostility in the camps toward PA forces is not new, though it is markedly greater today than in the 1990s. The second intifada, during which many of the Palestinian militant groups were based in the camps, was a turning point; in the uprising's aftermath, PA activity in the camps waxed and waned, and it has not managed to renew the control it had previously.

¹⁰⁰ Crisis Group interviews, Balata camp residents, Balata, October 2012, January 2014. A refugee activist from Balata said: "People of the camp and the popular committees want the same thing as the PA: to stop the flow of drugs, the spread of weapons, the armed men roaming through the camps. At the same time, we cannot accept the way the PA is dealing with the camps now. Leaders in the camps can't face their own people after the PA has entered". Crisis Group interview, Nablus, January 2014.

¹⁰¹ Crisis Group interview, Fatah official, Ramallah, January 2014.

such as Nablus, refugees have reported that apartment owners will not rent to them for fear of devaluing their properties and scaring away other potential renters.¹⁰² Inter-marriage between refugees and non-refugees is perceived to be rare, particularly between camp residents and non-refugees, and between refugee males and non-refugee females, whose families reportedly fear degradation in status from such a pairing.¹⁰³

These social gaps, or simply the perception thereof, could have important political implications. To the extent that refugees cannot integrate in their local communities, the dream of return may be more attractive. A youth leader in the Qalandiya camp lamented:

Relations between refugees and non-refugees won't change after an agreement with Israel. I don't know how or if reconciliation will occur, or how society will function after it is clear once and for all that refugees aren't leaving. I worry less about our leaders giving up the right of return than I do about what happens to Palestinian society after they do.¹⁰⁴

Camp refugees in the Occupied Territories bear a double burden; in addition to their generally low socio-economic standing, their refugee status – which marks them as outsiders who do not have the backing of entrenched family networks – further disadvantages them. This is particularly true in cities like Nablus and Hebron, where well-established families, central to the power structure, may favour their own extended family over an outsider, even a wealthier one. In a society where access, patronage and networks determine opportunity, and the safety net for those lacking such opportunity is gradually eroding,¹⁰⁵ camp refugees are pushed to the margins of society in greater proportion than other socio-economic groups.

Many of the resulting daily socio-economic pressures are not – at least not directly – related to the broader political issues on the negotiating agenda. But together they make for a combustible mixture. This is particularly so if, rightly or wrongly, refugees connect the immediate challenges they face in their daily lives with their fate under a permanent settlement.

¹⁰² Crisis Group interviews, Nablus residents, January 2014. A Nablus resident said: “Nablus is surrounded by three refugee camps. Because of them, we feel the city can't expand”.

¹⁰³ A 2003 poll found that 40 per cent of non-camp refugees had at least one relative married to a non-refugee, while only 20 per cent of refugees in camps had such a relative. “PSR Polls on Palestinian Refugees”, Palestinian Center for Policy and Survey Research, 18 July 2003. But refugee youth said their perception was that such intermarriages were very rare. Crisis Group interviews, Aida, Arroub, Jalazon, and Qalandiya youth, Bethlehem, Ramallah, December 2013.

¹⁰⁴ Crisis Group interview, Ramallah, February 2014. A former Israeli General Security Service (Shin Bet) official shared a similar analysis: “The way Palestinian refugees see it, their way to happiness, to having a better status than the West Banker, passes through Israel. Show me one member of Nablus's traditional families who is married to a refugee from Balata camp. Refugees don't integrate into society. They are from the lowlands, not from the mountains. This is why they want 'return'. A future as Palestinian citizens gives them no hope. What life will they have in the West Bank? They are not from there and they cannot become part of society there. It is three generations now. Their hope is in Israel”. Crisis Group interview, Knesset Member Israel Hasson, Jerusalem, 12 February 2014.

¹⁰⁵ Nu'man Kanafani, “As if there is no occupation: The limits of Palestinian Authority strategy”, MERIP Online, 22 September 2011, www.merip.org/mero/mero092211.

C. *Changing Attitudes? From Aid to Development*

Traditionally, Palestinian society writ large has resisted any sort of camp development that could be seen as leading to permanent resettlement. There are some indications that the range of permissible activities may now be expanding, as refugees seek to improve their living conditions. Yet, the fundamental assumption underpinning this question – that socio-economic conditions determine political identity – still remains unquestioned.

Until relatively recently, the smallest suggestions of permanently settling refugees in or near camps have elicited protests throughout UNRWA's areas of operations. Officials from UNRWA and its donor governments are highly reluctant to hold discussions even about as seemingly innocuous a step as maintaining UNRWA subsidy of a given service or transferring its provision to a host government.¹⁰⁶ The idea of having the PA take over for UNRWA in the West Bank and Gaza was floated in the 1990s, then summarily dismissed when refugees protested.¹⁰⁷ Today the subject is hardly broached.¹⁰⁸

Yet there are signs that in some respects refugee attitudes toward camp improvement and strengthening ties with host governments are changing.¹⁰⁹ With the Palestinian loss of faith in the peace process, there has been growing acceptance of improving camp life. Attitudes began to shift after Oslo and particularly after the failure of the Camp David talks in 2000, when refugees say they concluded that the Oslo process would not lead to a settlement in the near to medium term.¹¹⁰ A refugee activist in Aida camp, near Bethlehem, said: "After Camp David, we realised it would be many years if not generations before we return, so we decided we may as well live well while we wait".¹¹¹

A number of developments point to incipient change. Refugees in several West Bank camps, notably ones in which Palestinian non-profits have facilitated strategic

¹⁰⁶ Crisis Group interviews, UK and UNRWA officials, Jerusalem, October 2013.

¹⁰⁷ See Crisis Group Report, *Palestinian Refugees and the Politics of Peacemaking*, op. cit. A UN official said: "In the 1990s, it was thought that the PA would gradually assume the functions of state. Today, that no longer makes sense. In fact that reinforces the point: in the 1990s, in a much more positive atmosphere, when the PA had much more legitimacy than it does now, the idea produced protests that still reverberate, that people still remember, that still serve as a cautionary tale. It's unthinkable today. The donors don't want it either. They don't want to lose their most efficient tool, as hobbled as it may be. They have neither the wits, nor the intestinal fortitude, nor the stick-to-it-ness to make a change". Crisis Group interview, 30 January 2014.

¹⁰⁸ Commenting on the idea, which officials from some UNRWA-donor governments have privately discussed, a UN official said: "Yes, there is always some enthusiastic new guy who thinks, 'Aha, this change will make all the difference'. But governments don't have historical memory and nobody has the interest/power/influence to move something like this through the many systems it would need to be moved through If, today, the PA rode in and said we are taking over, it would be highly politicised. Opposition would be driven first and foremost by the UNRWA employees, who would feel threatened. The move would be seen as acquiescence to Israel. If deftly managed, as part of a just solution, the PA could do more work. But this PA and this president cannot do it". Ibid.

¹⁰⁹ A UN official said: "It used to be that refugees thought that they had to live in a shack under a corrugated tin roof with sewerage running through it to ensure the possibility of going home. We've passed that stage. Infrastructure work is okay. We can build multi-story dwellings. Note: not 'housing' but rather 'dwellings'; the former is still sensitive. So-called luxurious items, like cinemas or what-have-you, nobody would fund, so it's not an issue". Ibid.

¹¹⁰ Crisis Group interviews, refugee researchers and refugees, Amman, Bethlehem, Ramallah, December 2013, January 2014.

¹¹¹ Crisis Group interview, Bethlehem, December 2013.

planning processes, have begun planning for elections for camp committees.¹¹² The heads of several of these committees in the West Bank have for the first time submitted a request to be included in the PA's master development plan.¹¹³ In December 2013, no objections were raised when Abbas announced he had decided to create kindergartens and youth centres in West Bank refugee camps.¹¹⁴ With difficulty, UNRWA managed to persuade camp residents of the benefits of expanding cash assistance, which previously had been condemned as a step toward phasing out aid.¹¹⁵ When the PA and PLO clearly sided with UNRWA's management by privately pressuring the employee union to resolve the two-months-long strike in January and February 2014, refugees ultimately accepted the mediation and consented as the strike ended.¹¹⁶

While many West Bank camp residents continue to state that they would object to anything that hints at normalisation or a PA takeover, others said they could imagine a greater PA role and no longer saw any contradiction between holding onto their right of return and improving their living conditions.¹¹⁷ In camps in the southern West Bank, the UN has initiated beautification projects, creating town squares and building swimming pools in Roman ruins.¹¹⁸ A youth leader in Qalandiya camp went so far as to say that he would have no objection even if such taboo symbols of luxury and permanence as skyscrapers and cinemas were built in his camp.¹¹⁹ Another activist said that violent resistance to thwart such efforts would be controlled by PA security forces; their strength had now grown such that the camps, he said, traditionally off-limits, would not be able to hold out.¹²⁰

Almost all advocates of camp improvement adamantly deny that welcoming improvement reflects greater acceptance of a peace agreement that would preclude substantial return to Israel. They argue, rather, that relaxation of taboos against camp improvement does not indicate that their demand for return has weakened, but rather that refugees realise their demand for return will not be achieved in the near to medium terms.¹²¹ By contrast, opponents of camp improvement for decades

¹¹² Crisis Group interview, Jamal Lafi, head of Qalandiya camp and Executive Office of Refugees in the West Bank, Ramallah, November 2013.

¹¹³ Crisis Group interview, members of Executive Office of Refugees in the West Bank, Ramallah, February 2014.

¹¹⁴ The decision was made in consultation with the Executive Office of Refugees, according to its head in the West Bank. Crisis Group interview, Ramallah, December 2013. Refugee activists said the PA is taking over Islamic charity (*zakat*) committees in the camps that used to be run by the local camp committees. Crisis Group interviews, refugee activists, Nablus, Ramallah, January-February 2014.

¹¹⁵ Crisis Group interview, international aid official, Jerusalem, June 2014. The program was never implemented, as it was deemed too costly.

¹¹⁶ Crisis Group interview, refugee leader, Jalazon camp, February 2014.

¹¹⁷ In Gaza, by contrast, where camps are better connected to surrounding municipalities, camp residents have long welcomed improvements in infrastructure and living conditions. A Hamas official tasked with handling the refugee file said that Hamas welcomed any improvements to the camps in Gaza. Crisis Group interview, Gaza City, September 2013.

¹¹⁸ "A new type of settlement", *The Economist*, 12 October 2013.

¹¹⁹ Crisis Group interview, Ramallah, January 2014.

¹²⁰ "What can we do? Abbas has no legitimacy, but when it comes to security, he is strong. If I opposed him three or four years ago, I could throw a shoe and start a revolution against him. But today he is much stronger, and all the security forces are under his control". Crisis Group interview, youth leader, Qalandiya camp, January 2014.

¹²¹ Crisis Group interviews, camp committee leaders, Hamas refugee affairs department official, Gaza City, Nablus, Ramallah, December 2013.

had maintained that normalising conditions in the camps would make life more tolerable for refugees, accustom them to the possibility of permanently residing in host countries, and lessen their opposition to forfeiting return to Israel.

Framing the question of camp improvement in this singular way assumes that political views and aspirations are determined predominantly by socio-economic conditions. This, at best, is a poor proxy for what refugees say concern them: how to best maintain a distinct identity as the basis for political claims.¹²² Strict insistence on maintaining the status quo in a camp might have been a useful tactic at some point – for instance, in the years after 1948, the refusal to build permanent accommodations might have fortified refugees' will to reclaim what they saw as their rights. But over time, that tactic calcified, and today, consideration of the best way to maintain political identity has withered. It is long past due for Palestinians to stop using camp improvement as a stand-in for that important conversation.

¹²² See Hanafi, *op. cit.*

IV. Conclusion

The developments of the past 25 years have challenged the traditional Palestinian approach to the refugee question. In pursuing a negotiated resolution that would lead to not only a Palestinian state in the Occupied Territories, but recognition of Israeli sovereignty over the territory from which most Palestinian refugees originate, the PLO implicitly recognised that the refugee question would need to be resolved within that framework. After the 1993 Oslo agreement initially led most Palestinians to believe that the process would conclude with the realisation of the two-state settlement, it became increasingly apparent that the unrestricted return of refugees to the state of Israel would be virtually impossible to achieve unless Palestinians abandoned the two-state framework.

Simultaneously, the establishment of the PA in 1994 and its economic choices served to marginalise refugee camps that only shortly before had been the PLO's main bastions of support. While it did not actively discriminate against refugees – indeed, they continued to staff the upper echelons of the PLO – the PA relied primarily upon the powerful urban families of the West Bank and Gaza Strip, thereby marginalising the poor in general – villagers not just refugees, but camps most of all.

In order for the national movement, and by extension Israelis and Palestinians, to address the refugee question, it will need to confront three related challenges.

A. Representation

The Palestinian national movement, and the Palestinian people as a whole, is today divided and fragmented to an unprecedented degree. To the extent that the national movement's only collective political body, the PLO, continues to be considered representative, it is seen as representing the interests of a narrow elite concentrated in the West Bank, rather than of the Palestinian people as a whole. Neither refugees, nor Palestinians more generally, will easily endorse strategic decisions by this leadership on any matter, and on the refugee question perhaps least of all. Only a Palestinian leadership that is perceived as legitimate and genuinely representative by all Palestinians will be considered authorised to negotiate a historic compromise with Israel. This goes beyond reconciliation between Fatah and Hamas, and must include the reintegration of diaspora communities and their concerns into Palestinian national institutions – including a reanimated Palestine National Council.

At the local level, refugee camps should be afforded the opportunity to elect or select credible and authoritative representatives. With the Palestinian leadership weak and divided, these bodies would be most capable of working directly with refugees in the event that a compromise, however difficult, seemed possible. Attending to their concerns is significantly more important than in previous eras, because over the past two decades, they increasingly have emerged as a separate constituency with a separate agenda.

In terms of governance, rejuvenated camp committees could engage with municipalities as well as PA institutions on matters of mutual concern: urban planning, service provision, relations with the security forces – in particular camp policing – as well as relations with neighbouring communities. Were representatives of the various camp committees to form, in turn, a unified Higher Committee for Refugee Camp

Affairs that represents all refugee camps, they would constitute a voice that would be difficult for national institutions to ignore, whether on politics or governance.¹²³

Such a move would also entail risks. First, Palestinian decision-makers would need to consider whether the creation of strong, institutionalised sectoral representation would help arrest or further intensify the fragmentation of the body politic. Secondly, elections could become a spur to conflict in and of themselves, particularly were some parties, domestic or foreign, unwilling to accept the results. What would be the consequences of Hamas or Fatah (or a third party) winning an election in any given camp? Would Hamas and Fatah be able to conduct free and fair elections and abide by the result? Would Israel object or seek to thwart the establishment of representative refugee institutions, which may be used to mobilise against it?

While the PA has a proven track record in organising free and fair elections, such exercises, particularly in recent years, have tended to exacerbate rather than ameliorate political rivalries, the Fatah-Hamas schism being the most prominent. Similarly, should leaders agree to select rather than elect such representatives – and there may be compelling reasons for considering such a course – they are likely to be condemned for abandoning the ballot box and hoarding power.

B. Development

In times past, one might have invoked the refugee imperative of resisting resettlement as an explanation of, and even a justification for, poor camp conditions. But that argument today does not hold much sway in the Occupied Territories; camp refugees have often been at the forefront of demands for effective service delivery, gainful employment and dignified living standards.

This change in attitudes notwithstanding, a refugee development strategy would need to be carefully formulated in order to minimise tensions between political and economic imperatives – a task all the more difficult with both UNRWA and the PA confronting recurrent budget shortfalls and compelled to prioritise limited resources. Threading this needle with any degree of consistency and effectiveness will be difficult without empowered camp representatives with whom to coordinate. Indeed, the technical specificities of any development path are probably less important than ensuring it has communal support. Getting the politics right is the vital first step, whatever the economic prescription.

This will present clear dilemmas for the international community – UNRWA in particular – and the PA. For instance, might the PA or neighbouring municipal governments increase the services that they provide within the camps? Quietly, by working through camp organisations and NGOs, without public acknowledgment, probably yes. In areas where the camps have sprawled into adjacent municipalities, limiting activity to the overlapping area might constrain opposition. Work in the seam zone could have an additional salubrious effect: reducing the chasm between refugees and non-refugees, for instance through joint activities bringing together residents of

¹²³ Refugee expert Ruham Nimri emphasised the imperative to ensuring refugee voice in the higher levels of the hierarchy. “The best thing to do is engage refugees in a process in which they state how they envision local governance and local representation, and not repeat the same mistake of deciding for refugees what they need, as happened with the establishment of DoRA [Department of Refugee Affairs] and the Popular Committees and even the EOR [Executive Office of Refugees]”. Crisis Group interview, Jerusalem, August 2014.

camps and nearby communities. But any such expansion of host government responsibility is risky when there is no real interlocutor with which to coordinate.¹²⁴

Another possibility, and dilemma, would be public-private partnerships. If camp development can be a hot-button issue because UNRWA is underfunded and the PA, beyond its own budget deficit, is disfavoured in the camps, the private sector could function as a third-party service provider. Development agencies would need to play a key role here, providing seed money and assisting camp committees without the technical expertise necessary for planning and managing the process.

C. Diplomacy

For Palestinians, Israel's acceptance of moral responsibility for their displacement is a sine qua non of any resolution to the refugee issue as well as to the conflict more broadly. Israel, of course, is unwilling to offer such an acknowledgment, now more than ever. But Israel's stiffened position, paradoxically, has a benefit for Palestinians: it has rescued them from having to confront the dilemma of what would follow such an Israeli acknowledgement. What are Palestinian demands beyond moral responsibility? Given the current state of both national institutions and diplomatic negotiations, having such a conversation might seem both impractical and unnecessary. But if and when talks resume, Palestinians would need to determine priorities:

Who? In an Israeli-Palestinian peace settlement that provides anything less than comprehensive, unrestricted return, whom would the national movement seek to prioritise? Living survivors of 1948? Refugees in Lebanon, who, until the Syrian civil war, were considered most disadvantaged? Have refugees in Lebanon now ceded that dubious honour to Palestinians displaced from Syria? How would the national movement relate to Palestinians who were displaced in 1948 but who remained within Israel's borders? If they were permitted to return to or rebuild their original villages and homes – which of course they could do without changing Israel's demography – might that be considered, in part, an implementation of return?

Where? As Jerome Segal and Jamal Abu Habel have independently suggested,¹²⁵ land swaps could be configured such that refugees could return to their ancestral villages, located today in the state of Israel but traded for territory in the state of Palestine. Could they count toward Israel's refugee quota? Might open access and visitation rights within Israel – for instance, for depopulated villages, religious sites, cemeteries, memorials and other locations of significance within Israel – substitute for permanent residence, particularly if Palestinians have a role in designing commemoration sites?

What? Realistic figures for refugee compensation that the international community might provide fall well below, by orders of magnitude, Palestinian expectations. With compensation potentially fractured among many family members, and the likely per

¹²⁴ Sensitive decisions could be taken by an independent advisory board that would include representatives of the PA planning ministry, the PLO (including the Department of Refugee Affairs and the Executive Office of Refugees), UNRWA (which would enhance the board's legitimacy), popular committees, certain Palestinian NGOs, donors and the Palestinian private sector.

¹²⁵ Crisis Group interview, Jamal Abu Habel, Fatah member and head of the popular committees in Gaza, Gaza City, December 2013; telephone interview, Jerome Segal, American researcher and peace activist, December 2013.

refugee amount so low that many might consider it insulting, the national movement should consider allocating lump sums for issues of pressing concern to refugees. Some have suggested universities and housing, but the possibilities are vast. Irrespective of the combination of financial compensation and actual return, restorative justice measures – including Israel’s public acknowledgements about, education relating to, and commemoration of the refugee question – could turn out to be more significant than many Palestinians and Israelis suspect.

These questions at a certain moment could become urgent and creativity in addressing them essential. Today, the absence of a political process makes them seem much less relevant. But answering them is no less crucial for it, as a successful political process is unimaginable until the Palestinians do.

Jerusalem/Ramallah/Gaza City/Brussels, 9 October 2014

Appendix A: Map of Israel/West Bank/Gaza



Appendix B: Map of Refugee Camps in the West Bank and Gaza



Appendix C: The Clinton Parameters

Clinton Proposal on Israeli-Palestinian Peace

Meeting with President Clinton White House, December 23, 2000

Attendance

United States: President Clinton, Secretary Albright, John Podesta, Samuel Berger, Steve Richetti, Bruce Reidel, Dennis Ross, Aaron Miller, Robert Malley, Gamal Hilal

Palestine: Sa'eb Erakat, Mohammad Dahlan, Samih Abed, Ghaith Al-Omari.

Israel: Shlomo Ben-Ami, Gilead Sher, Penny Medan, Shlomo Yanai, Gidi Grinstein

Minutes

President Clinton:

Territory:

Based on what I heard, I believe that the solution should be in the mid-90%'s, between 94-96% of the West Bank territory of the Palestinian State.

The land annexed by Israel should be compensated by a land swap of 1-3% in addition to territorial arrangements such as a permanent safe passage.

The Parties also should consider the swap of leased land to meet their respective needs. There are creative ways of doing this that should address Palestinian and Israeli needs and concerns.

The Parties should develop a map consistent with the following criteria:

- * 80% of settlers in blocks.
- * Contiguity.
- * Minimize annexed areas.
- * Minimize the number of Palestinian affected.

Security:

The key lies in an international presence that can only be withdrawn by mutual consent. This presence will also monitor the implementation of the agreement between both sides.

My best judgment is that the Israeli presence would remain in fixed locations in the Jordan Valley under the authority of the International force for another 36 months. This period could be reduced in the event of favorable regional developments that diminish the threats to Israel.

On early warning stations, Israel should maintain three facilities in the West Bank with a Palestinian liaison presence. The stations will be subject to review every 10 years with any changes in the status to be mutually agreed.

Regarding emergency developments, I understand that you will still have to develop a map of the relevant areas and routes. But in defining what is an emergency, I propose the following definition:

Imminent and demonstrable threat to Israel's national security of a military nature that requires the activation of a national state emergency.

Of course, the international forces will need to be notified of any such determination.

On airspace, I suggest that the state of Palestine will have sovereignty over its airspace but that two sides should work out special arrangements for Israeli training and operational needs.

I understand that the Israeli position is that Palestine should be defined as a "demilitarized state" while the Palestinian side proposes "a state with limited arms." As a compromise, I suggest calling it a "non-militarized state."

This will be consistent with the fact that in addition to a strong Palestinian security forces. Palestine will have an international force for border security and deterrent purposes.

Jerusalem and Refugees:

I have a sense that the remaining gaps have more to do with formulations than practical realities.

Jerusalem:

The general principle is that Arab areas are Palestinian and Jewish ones are Israeli. This would apply to the Old City as well. I urge the two sides to work on maps to create maximum contiguity for both sides.

Regarding the Haram/Temple Mount, I believe that the gaps are not related to practical administration but to the symbolic issues of sovereignty and to finding a way to accord respect to the religious beliefs of both sides.

I know you have been discussing a number of formulations, and you can agree one of these. I add to these two additional formulations guaranteeing Palestinian effective control over the Haram while respecting the conviction of the Jewish people.

Regarding either one of these two formulations will be international monitoring to provide mutual confidence.

1- Palestinian sovereignty over the Haram, and Israeli sovereignty over a) the Western Wall and the space sacred to Judaism of which it is a part; b) the Western Wall and the Holy of Holies of which it is a part.

There will be a fine commitment by both not to excavate beneath the Haram or behind the Wall.

2- Palestinian sovereignty over the Haram and Israeli sovereignty over the Western Wall and shared functional sovereignty over the issue of excavation under the Haram and behind the Wall such that mutual consent would be requested before any excavation can take place.

Refugees:

I sense that the differences are more relating to formulations and less to what will happen on a practical level.

I believe that Israel is prepared to acknowledge the moral and material suffering caused to the Palestinian people as a result of the 1948 war and the need to assist the international community in addressing the problem.

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

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

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

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

Any solution must address both needs.

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

Under the two-state solution, the guiding principle should be that the Palestinian state would be the focal point for Palestinians who choose to return to the area without ruling out that Israel will accept some of these refugees.

I believe that we need to adopt a formulation on the right of return that will make clear that there is no specific right of return to Israel itself but that does not negate the aspiration of the Palestinian people to return to the area.

In light of the above, I propose two alternatives:

1- Both sides recognize the right of Palestinian refugees to return to historic Palestine, or,

2- Both sides recognize the right of Palestinian refugees to return to their homeland.

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

- 1- The state of Palestine.
- 2- Areas in Israel being transferred to Palestine in the land swap.
- 3- Rehabilitation in host country.
- 4- Resettlement in third country.
- 5- Admission to Israel.

In listing these options, the agreement will make clear that the return to the West Bank, Gaza Strip, and areas acquired in the land swap would be the right of all Palestinian refugees, while rehabilitation in host countries, resettlement in third countries and absorption into Israel will depend upon the policies of those countries.

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

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

The parties would agree that this implements resolution 194.

The End of Conflict:

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

Concluding remarks:

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

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

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

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

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

Note: After reading the above text to the Israeli and Palestinian delegates in the Roosevelt Room of the White House, President Clinton left the room. His aides went over the text subsequently to ensure that each side had copied the points accurately. No written text was presented. This version is derived from that published in *Haaretz* (English), January 1, 2001, and a slightly more complete version issued by the Jerusalem Media and Communication Center.

Appendix D: About the International Crisis Group

The International Crisis Group (Crisis Group) is an independent, non-profit, non-governmental organisation, with some 125 staff members on five continents, working through field-based analysis and high-level advocacy to prevent and resolve deadly conflict.

Crisis Group's approach is grounded in field research. Teams of political analysts are located within or close by countries at risk of outbreak, escalation or recurrence of violent conflict. Based on information and assessments from the field, it produces analytical reports containing practical recommendations targeted at key international decision-takers. Crisis Group also publishes *CrisisWatch*, a twelve-page monthly bulletin, providing a succinct regular update on the state of play in all the most significant situations of conflict or potential conflict around the world.

Crisis Group's reports and briefing papers are distributed widely by email and made available simultaneously on the website, www.crisisgroup.org. Crisis Group works closely with governments and those who influence them, including the media, to highlight its crisis analyses and to generate support for its policy prescriptions.

The Crisis Group Board of Trustees – which includes prominent figures from the fields of politics, diplomacy, business and the media – is directly involved in helping to bring the reports and recommendations to the attention of senior policy-makers around the world. Crisis Group is co-chaired by former UN Deputy Secretary-General and Administrator of the United Nations Development Programme (UNDP), Lord Mark Malloch-Brown, and Dean of Paris School of International Affairs (Sciences Po), Ghassan Salamé.

Crisis Group's President & CEO, Jean-Marie Guéhenno, assumed his role on 1 September 2014. Mr. Guéhenno served as the United Nations Under-Secretary-General for Peacekeeping Operations from 2000-2008, and in 2012, as Deputy Joint Special Envoy of the United Nations and the League of Arab States on Syria. He left his post as Deputy Joint Special Envoy to chair the commission that prepared the white paper on French defence and national security in 2013.

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Appendix E: Reports and Briefings on the Middle East and North Africa since 2011

Israel/Palestine

Gaza: The Next Israeli-Palestinian War?, Middle East Briefing N°30, 24 March 2011 (also available in Hebrew and Arabic).

Radical Islam in Gaza, Middle East/North Africa Report N°104, 29 March 2011 (also available in Arabic and Hebrew).

Palestinian Reconciliation: Plus Ça Change ..., Middle East Report N°110, 20 July 2011 (also available in Arabic and Hebrew).

Curb Your Enthusiasm: Israel and Palestine after the UN, Middle East Report N°112, 12 September 2011 (also available in Arabic and Hebrew).

Back to Basics: Israel's Arab Minority and the Israeli-Palestinian Conflict, Middle East Report N°119, 14 March 2012 (also available in Arabic).

The Emperor Has No Clothes: Palestinians and the End of the Peace Process, Middle East Report N°122, 7 May 2012 (also available in Arabic).

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Israel and Hamas: Fire and Ceasefire in a New Middle East, Middle East Report N°133, 22 November 2012 (also available in Arabic).

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The Next Round in Gaza, Middle East Report N°149, 25 March 2014 (also available in Arabic).

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Syria's Metastasising Conflicts, Middle East Report N°143, 27 June 2013 (also available in Arabic).

Marching in Circles: Egypt's Dangerous Second Transition, Middle East/North Africa Briefing N°35, 7 August 2013 (also available in Arabic).

Anything But Politics: The State of Syria's Political Opposition, Middle East Report N°146, 17 October 2013 (also available in Arabic).

Flight of Icarus? The PYD's Precarious Rise in Syria, Middle East Report N°151, 8 May 2014 (also available in Arabic).

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Breaking Point? Yemen's Southern Question, Middle East Report N°114, 20 October 2011 (also available in Arabic).

In Heavy Waters: Iran's Nuclear Program, the Risk of War and Lessons from Turkey, Middle East Report N°116, 23 February 2012 (also available in Arabic and Turkish).

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Spider Web: The Making and Unmaking of Iran Sanctions, Middle East Report N°138, 25 February 2013 (also available in Farsi).

Yemen's Military-Security Reform: Seeds of New Conflict?, Middle East Report N°139, 4 April 2013 (also available in Arabic).

Great Expectations: Iran's New President and the Nuclear Talks, Middle East Briefing N°36, 13 August 2013 (also available in Farsi).

Make or Break: Iraq's Sunnis and the State, Middle East Report N°144, 14 August 2013 (also available in Arabic).

Yemen's Southern Question: Avoiding a Breakdown, Middle East Report N°145, 25 September 2013 (also available in Arabic).

Iraq: Falluja's Faustian Bargain, Middle East Report N°150, 28 April 2014 (also available in Arabic).

Iran and the P5+1: Solving the Nuclear Rubik's Cube, Middle East Report N°152, 9 May 2014 (also available in Farsi).

The Huthis: From Saada to Sanaa, Middle East Report N°154, 10 June 2014 (also available in Arabic).

Iraq's Jihadi Jack-in-the-Box, Middle East Briefing N°38, 20 June 2014.

Iran and the P5+1: Getting to "Yes", Middle East Briefing N°40, 27 August 2014 (also available in Farsi).

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