

Addressing the Palestinian Refugee Issue: A Brief Overview

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Introduction

The question of refugees is often identified as one of the most difficult and sensitive issues in any Palestinian-Israeli peace process. For Palestinians and Israelis alike, it touches upon both deeply-held historical narratives and even existential values: the partition of Palestine, the establishment of the state of Israel, the forced displacement and refugee experience of the Palestinian people, the Palestinian right of “return,” and Israel’s fundamental desire to remain a Jewish state.

For these reasons, the refugee question proved particularly problematic throughout the Madrid and Oslo eras, and into permanent status negotiations at Camp David, Taba, and elsewhere. These difficulties, however, should not blind one to the very real progress that was made. Should the parties once more find themselves in permanent status negotiations, they will undoubtedly find themselves further apart than they were at Taba in January 2001—but perhaps still closer than they were when the peace process began in Madrid a decade earlier.

This paper will provide a descriptive overview of the course of negotiations through 1991-2001. In doing so, it will address the evolution of the Refugee Working Group; the Quadripartite Committee on displaced persons; the Camp David negotiations of July 2000; the Clinton Parameters of December 2000; and the Taba negotiations of January 2001. It will also briefly touch upon issues of donor coordination and economic planning in support of a refugee agreement, as well as the contribution of various so-called “second track” research and dialogue projects during this same period.

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The Refugee Working Group (1991-1997)

The Refugee Working Group was established in 1991-92 as one of the five multilateral working groups (refugees, water, environment, regional economic development, arms control and regional security) of the Madrid peace process.² Canada was assigned the “gavel” of the group. Participation was open to any interested state. As with other multilateral working groups, Syria and Lebanon did not participate. Israel, the Palestinians, and Jordan did, as did many other regional states and other members of the broader international community.

The RWG subsequently met in eight plenary sessions between 1992 and 1995. It also met in various other smaller “intersessional” activities undertaken either by the gavel or by the various thematic “shepherds” assigned with the group.³

Because of its open character and broad-based membership, it was difficult for the RWG to address sensitive political issues.⁴ Instead, the Palestinians tended to make broad declarative statements of Palestinian refugee rights, while Israel sought to direct the RWG into less political or apolitical efforts aimed at improving refugee conditions. The RWG did have some positive effect in focusing attention on refugee conditions, mobilizing some additional resources to address such conditions, and fostering a number of useful research and data-collection projects. It also helped encourage in an Israeli undertaking to slightly (and temporarily) liberalize its family reunification processes.

Finally, the multilateral track as a whole was very vulnerable to disruptions in the broader Middle East peace process. In 1997, the Arab League called for a boycott of the multilaterals in protest over Israeli policies. However, lower-level work by the RWG continued. This ended, however, with the eruption of the second Palestinian intifada in September 2000, which led to a suspension of all multilateral track activities. Despite this, Canada and the various RWG gavel holders continued to use the RWG “chapeau” to encourage a range of research, dialogue, technical, and other projects aimed at addressing both the immediate needs of the refugees and enhancing the prospects for eventually achieving a negotiated, mutually-acceptable resolution of the refugee issue.

² For background on the multilaterals, see Joel Peters, *Pathways to Peace: The Multilateral Arab-Israeli Peace Talks* (London: Royal Institute of International Affairs, 1996), and Dalia Dassa Kaye, *Beyond the Handshake: Multilateral Cooperation in the Arab-Israeli Peace Process, 1991-1996* (New York: Columbia University Press, 2001).

³ The themes (and shepherds) were databases (Norway), family reunification (France), human resource development (US), job creation and vocational training (US), public health (Italy), child welfare (Sweden) and economic and social infrastructure (the European Union). Later in the process, Switzerland was given special responsibility for the “human dimension” in the RWG and other working groups.

⁴ For an overview of the RWG, see Rex Brynen and Jill Tansley, “The Refugee Working Group of the Middle East Multilateral Peace Negotiations,” *Israel-Palestine Journal* 2, 4 (Autumn 1995), online at PRRN at http://www.arts.mcgill.ca/mepp/new_prn/research/papers/brytan.htm; Salim Tamari, *Palestinian Refugee Negotiations: From Madrid to Oslo II* (Washington DC: Institute for Palestine Studies, 1996); and Rex Brynen, “Much Ado About Nothing? The Refugee Working Group and the Perils of Multilateral Quasi-negotiation,” *International Negotiations* 2, 2 (1997), online at PRRN at http://www.arts.mcgill.ca/mepp/new_prn/research/papers/ado.htm.

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

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

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

The Beilin-Abu Mazen Understandings (1995)

In 1995, Yossi Beilin and Mahmud Abbas (Abu Mazen) led a series of informal and unofficial meetings intended to sketch the possible parameters of a Palestinian-Israeli peace agreement. The Tel Aviv-based Economic Cooperation Foundation, headed by Oslo negotiation veterans Yair Hirschfeld and Ron Pundak, played a key role in these talks, as did London-based scholars Ahmad Khalidi and Hussein Agha. They finally resulted in a statement of principles—the so-called “Beilin-Abu Mazen Understandings.”⁵

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

The “Ottawa Process” and Other Track Two Efforts

Since the mid-1990s, there have been a significant number of academic and civil society initiatives on the refugee issue. These have variously sought to support Israeli-

⁵ Text in Yossi Beilin, *The Path to Geneva: The Quest for a Permanent Agreement*, 1996-2004 (New York: RDV Books, 2004), pp. 299-312.

Palestinian dialogue; address important technical issues that would need to be resolved in any refugee deal; examine or shape public opinion; and engage the refugees themselves in thinking about their own futures.

Among these were a series of workshops, publications, and networking activities supported by Canada and the International Development Research Centre (IDRC), which collectively became known as the “Ottawa process.” As a consequence of these and other initiatives, considerable progress was made in developing collective knowledge and new and innovative thinking about key aspects of the refugee issue. The process was much less successful at forging a joint approach to resolving the conflict, despite a considerable effort at fostering second track discussions between well-connected Palestinian and Israeli scholars and (former) officials.⁶

The World Bank Refugee Studies (2000-03)

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

Additional analytical work was carried out in 2001-03, focused on refugee absorption in the West Bank, and undertaken in close cooperation with the Palestinian Ministry of Planning. These studies included cost estimates of housing construction, physical (water, sanitation, roads) infrastructure, and social services; analysis of housing finance, land availability and potential sites for neighbourhood expansion or new towns; and a study of “lessons learned” from Israel’s experience with large-scale immigrant absorption. While these studies were also never formally published, they have been summarized in a number of public sources.⁷

⁶ This included the Palestinian Refugee ResearchNet website (<http://www.prrn.org>), and associated email list on Palestinian refugee issues. For more detailed information on Ottawa Process activities (1997-2007), see: http://www.arts.mcgill.ca/mepp/new_prrn/activities/index.htm. For a critical appraisal of the initiative, see: Rex Brynen, Eileen Alma, Joel Peters, Roula el-Rifai and Jill Tansley. "The 'Ottawa Process': An Examination of Canada's Track Two Involvement in the Palestinian Refugee Issue," IDRC Stocktaking II Conference on Palestinian Refugee Research, Ottawa, 17-20 June 2003, online at http://network.idrc.ca/uploads/user-S/10576789140Session_3_BRYNEN_OTTAWA_PROCESS_PAPER.doc.

⁷ Rex Brynen, “Perspectives on Palestinian Repatriation,” in Michael Dumper, ed., *Palestinian Refugee Repatriation: Comparative Perspectives* (London: Routledge, 2006); Rex Brynen, “Refugees, Repatriation, and Development: Some Lessons from Recent Work,” Khalil Nijem, “Planning in Support of Negotiations: The Refugee Issue,” Nick Krafft and Ann Elwan, “Infrastructure Scenarios for Displaced Persons,” and Rachele Alterman, “Land and Housing Strategies for Immigrant Absorption: Lessons from the Israeli

Prenegotiation (May-June 2000)

Through the spring and early summer of 2000, there were several attempts made to identify, and close the gaps between, the Palestinian and Israeli positions on permanent status issues. The most important of these was the secret “Stockholm channel,” facilitated by the government of Sweden (with active American engagement) in May 2000. Here, the two sides addressed the core of the refugee issue—among others—for the first time. The Israelis also drew up a non-paper—a draft “Framework Agreement on Permanent Status” (FAPS)—which sought to identify areas of convergence and divergence between the two sides.⁸

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

The Stockholm channel eventually collapsed, both because of events in the region and because of political tensions on the Palestinian side.⁹ Nevertheless, exploratory discussions were continued by the Americans, both in the Middle East and in Washington, through June. These only marginally touched upon the refugee issue. The Palestinians reiterated that they would accept limits on return to Israel (and possibly a fixed number) in exchange for recognition of the “right of return” or UN General Assembly Resolution 194. Israel stressed that it could not accept the principle or right of return of refugees, and that the refugee issue would need to be largely resolved through resettlement or a return to a Palestinian state, coupled with an international fund for

Experience,” all in Rex Brynen and Roula el-Rifai, eds., *Palestinian Refugees: Challenges of Repatriation and Development* (London: I.B. Tauris, 2007).

⁸ On the Stockholm discussions, see Charles Enderlin, *Shattered Dreams: the Failure of the Peace Process in the Middle East, 1995-2002* (New York: Other Press, 2003), pp. 157-158; Gilead Sher, *The Israeli-Palestinian Peace Negotiations, 1999-2001* (London: Routledge, 2006), pp. 21-39; Dennis Ross, *The Missing Peace: The Inside Story of the Fight for Middle East Peace* (New York: Farrar, Straus, and Giroux, 2004), pp. 612-620.

⁹ The Palestinian delegation to Stockholm had been headed by Ahmad Qurai (Abu Ala), and the track was opposed by several senior Palestinian officials who were not included, notably Mahmud Abbas (Abu Mazen) and Yasir Abd Rabbu.

refugee compensation. At most it might be willing to accept a token number of Palestinians, at its discretion, in the context of family reunification.

The Camp David Summit (July 2000)

The trilateral US-Palestinian-Israeli Camp David Summit of July 2000 represented the most important effort yet to address the core issues of the Palestinian-Israeli conflict. For the most part, however, it was the issues of territory, settlements, security, and Jerusalem that received the greatest attention from the participants. By contrast, in the subcommittee addressing refugees, the two sides largely confined themselves to staking out initial positions and key principles, with even less flexibility than had been shown in the Stockholm track.¹⁰

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

By contrast, the Israeli side rejected any moral responsibility for the refugee issue, arguing that instead this was the fault of the Palestinians and Arabs for opposing partition in 1947. While Israel would acknowledge a Palestinian “right of return” to a Palestinian state, it would not recognize any right of return to Israel, nor would it accept UN General Assembly Resolution 194. Compensation would be paid to refugees out of an international, not Israeli, fund. Israel would be prepared to accept the phased return of a few thousand refugees, under the rubric of family reunification and at its discretion. UNRWA would be phased out within ten years. Particular weight was placed on the termination of refugee status, and clear acknowledgement that any permanent status agreement would represent both an end of the conflict, and that its implementation would bring with it the end of any refugee claims. Israel also introduced the issue of Jewish refugees from Arab countries, and sought to have their financial claims addressed too.¹¹

The US approach sought to incorporate symbolic recognition of Palestinian concerns with practical arrangements that would address Israeli concerns, such as reference to UNGAR 194 combined with the return of only a very limited number of refugees to Israeli territory, at Israel’s sovereign discretion. It also suggested an

¹⁰ For US, Israeli, and Palestinian views of refugee discussions at Camp David, see Ross, *The Missing Peace*, p. 655, 663, 671; 703-704; Clayton Swisher, *The Truth About Camp David: The Untold Story About the Collapse of the Middle East Peace Process* (New York: Nation Books, 2004), pp. 279-282, 319-320, 323-324; Shlomo Ben-Ami, *Scars of War, Wounds of Peace: The Israeli-Arab Tragedy* (Oxford: Oxford University Press, 2006), p. 249; Sher, *The Israeli-Palestinian Peace Negotiations*, pp. 62, 69-70, 101-104, 247-250; Akram Hanieh, “The Camp David Papers,” in *Journal of Palestine Studies* 30, 2 (Winter 2001), p. 82.

¹¹ A detailed account of Israel’s position, and the text of its draft “Framework Agreement on Permanent Status,” can be found in Sher, *The Israeli-Palestinian Peace Negotiations*, pp. 247-250.

international fund for refugee compensation, to which Israel would be only one of many donors. This could also address the question of Jewish refugees from Arab countries.

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

Clinton Parameters (December 2000)

Following the failure of the Camp David summit, the US continued to engage the parties on permanent status issues—a task complicated by the eruption in late September of the second *intifada* in the West Bank and Gaza, as well as by Palestinian ambiguity and the weakness of Ehud Barak’s gradually collapsing political coalition.

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

On the question of refugees, President Clinton outlined the following principles:¹²

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

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

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

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

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

Any solution must address both needs.

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

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

¹² Foundation for Middle East Peace, text of Clinton Parameters, at http://www.fmep.org/documents/clinton_parameters12-23-00.html.

In light of the above, I propose two alternatives:

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

2. Both sides recognize the right of the Palestinian refugees to return to their homeland. The agreement will define the implementation of this general right in a way that is consistent with the two-state solution. It would list five possible final homes for the refugees:

1. The state of Palestine
2. Areas in Israel being transferred to Palestine in the land swap
3. Rehabilitation in a host country
4. Resettlement in a 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 the areas acquired in the land swap would be a right to all Palestinian refugees.

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

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

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

The parties would agree that this implements Resolution 194.

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

The President also noted, on the question of Jerusalem and refugees, that “I have a sense that the remaining gaps have more to do with formulations than practical realities.”

In its subsequent response, Israel informed Washington that it considered the Clinton parameters to be a basis for subsequent negotiations, provided that the Palestinians did so too. At the same time, it registered a number of misgivings. With regard to refugees, it suggested to Washington that it had underestimated Israel's opposition to any form of a “right of return.”¹³

Arafat was unwilling to give the President a clear response to the Parameters. Instead, the Palestinian negotiating team sought clarifications regarding the Clinton formulation, which it was felt “taken together and as presented without clarification, fail to satisfy the conditions required for a permanent peace.” Regarding the refugee component of these, the Palestinians argued:¹⁴

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

¹³ Sher, *The Palestinian-Israeli Negotiations*, p. 207.

¹⁴ PLO Department of Negotiation Affairs, “Remarks and Questions from the Palestinian Negotiating Team Regarding the United States Proposal,” 1 January 2001, online at http://www.nad-plo.org/inner.php?view=nego_nego_clinton_nclinton2p

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

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

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

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

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

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

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

When he presented his ideas to the parties, President Clinton noted that all of the US ideas would be considered “off the table” when he left office. The subsequent Bush Administration has not sought to revive them.

Taba Negotiations (January 2001)

The final set of Palestinian-Israeli negotiations were held in Taba, Egypt, in late January shortly before elections in Israel. Although President Clinton had recently left office, the Clinton Parameters were the implicit reference point for much of the discussion at Taba.¹⁵

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

¹⁵ A public account of the EU’s internal summary of developments at Taba can be found in Akiva Eldar, “Moratinos Document—The peace that nearly was at Taba,” *Ha’aretz*, 14 February 2002, online at http://www.arts.mcgill.ca/mepp/new_prn/research/papers/moratinos.htm. Yossi Beilin’s account of the negotiations can be found in Beilin, *The Path to Geneva*, pp. 227-248.

The Israeli refugee negotiating team, headed by then Justice Minister Yossi Beilin, submitted an Israeli “non-paper” on January 23 that attempted to bridge the Palestinian and Israeli positions, and which indeed contained substantial Palestinian input. This contained a substantial joint narrative that sought to span the very different Israeli and Palestinian views of the origin of, and responsibility for, the refugee issue. It called for refugee compensation from an international fund, to which Israel would contribute an agreed amount.¹⁶

On the question of refugee residence, the non-paper followed the Clinton model by outlining a menu of five choices that refugees could choose from. With regard to the critical question of return to Israel, it proposed this be capped to an agreed limit, with priority being accorded to those Palestinian refugees currently resident in Lebanon. Verbally, members of the Israeli negotiating team suggested that 25,000 refugees might be accepted over three years or 40,000 over five years, in the context of a 15 year program of absorption that would also include (possibly additional) family reunification. This ambiguous formula could be read as representing anywhere from 25,000 to 125,000 or more refugees. On the Palestinian side, negotiators had been urged to press for a level “in the six figures”, but with no more explicit political guidance.

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

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

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

The work done on the refugee issue at Taba was far more detailed, and embodied a far higher degree of agreement, than any of the discussions that had preceded it. Indeed, members of both delegations to the refugee component of the talks would later comment that it was a lack of time—rather than fundamental impediments—that prevented them from reaching agreement on the issue. On the other hand, the progress at Taba can also be seen with a significant degree of skepticism. Beilin (perhaps the most dovish member of

¹⁶ Israel, “Non-Paper: Private response to the Palestinian refugee paper of January 22, 2001,” online at <http://www.monde-diplomatique.fr/cahier/proche-orient/israelrefugees-en>.

the Israeli cabinet) clearly was willing to go beyond his instructions from Barak, in the hopes that if a deal on refugee was reached the Prime Minister would find it impossible to reject it. The head of the Palestinian refugee team, Nabil Sha'ath, was also a relative soft-liner on the issue. However much progress was made on implementation mechanisms, the key issue of *how many* refugees might return to Israel was never resolved, nor was the amount of compensation Israel would be willing to contribute. Perhaps most important of all, it is far from clear that the broader negotiations were really about reaching an agreement at all. For Barak, it was important to signal his commitment to reach a peace agreement whilst in the midst of a (losing) election campaign. For Arafat, it was important to pin down Israeli positions before they could harden under a new Israeli Prime Minister.

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

The “No-Name Group” (2000-)

In December 2000, ongoing permanent status negotiations, coupled with the failure of past donor mechanisms to address sensitive political and economic aspects of a possible refugee deal, led to a small and informal meeting of key states at the Canadian Embassy in Washington DC to discuss how the international community might best support the refugee component of any future peace agreement.

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

Despite the collapse of the peace process, the so-called “No-Name Group” was felt useful enough that the next few years would see subsequent meetings quietly held in London, Washington, Geneva, and Brussels under more official Canadian auspices. These addressed a range of issues including Palestinian policy research, refugee compensation mechanisms, the refugee components of the unofficial “Geneva Accord,” and the refugee implications of Gaza disengagement.

The Beirut Arab Summit Declaration (March 2002)

Following a Saudi initiative, in March 2002 the Arab League endorsed a peace initiative calling for full Arab recognition of Israel in exchange for a full Israeli

withdrawal from the Arab territories occupied in 1967.¹⁷ This initiative was endorsed again by the Arab League at its March 2007 summit meeting.

With regard to the refugee issue, the summit statement contained two clauses on the issue. The first—part of the original draft—called for “achievement of a just solution to the Palestinian refugee problem to be agreed upon in accordance with U.N. General Assembly Resolution 194.” A later clause, added during the Summit at Syrian and Lebanese insistence, rejected “all forms of Palestinian settlement (*tawtiin*) which conflict with the special circumstances of the Arab host countries.”

Within Israel, the inclusion of UNGAR 194 has been widely seen as an assertion of the Palestinian “right of return,” and indeed has been one of the most frequently-stated stumbling blocks in any positive Israeli response to the Arab League initiative. The reference to UNGAR 194 was favoured by Saudi Arabia, Jordan, and the Palestinians, however, as one that could also be found in the Clinton Parameters and Taba refugee negotiations—and hence more flexible than any blanket assertion of refugee rights.

The Roadmap (April 2003)

In April 2003, the Quartet (US, European Union, Russia, and United Nations) released its “Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict.”¹⁸ This called for a three-stage process of mutual steps by both Israel and the Palestinians, with the goal of establishing an “independent Palestinian state with provisional borders and attributes of sovereignty” by the end of 2003. This would be followed by permanent status negotiations, with the aim of reaching an agreement (and full Palestinian statehood) by the end of 2005.

The roadmap has relatively little to say about the refugee issue, which is reserved for permanent status negotiations. It does, however, call for an “agreed, just, fair, and realistic solution to the refugee issue.” Moreover, at the start of the second stage of the process (during which “efforts are focused on the option of creating an independent Palestinian state with provisional borders and attributes of sovereignty,”), the roadmap proposes revival of multilateral engagement on issues, including the refugee issue (meaning, presumably, the RWG).

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

¹⁷ Text online at http://www.fmep.org/resources/official_documents/the_beirut_declaration.html.

¹⁸ “Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict,” text online at <http://www.state.gov/r/pa/prs/ps/2003/20062.htm>.

In its official acceptance of the Roadmap, the Israeli cabinet staked out a number of objections and positions relating to the refugee issue. These included insistence that “In connection to both the introductory statements and the final settlement, declared references must be made to Israel's right to exist as a Jewish state and to the waiver of any right of return for Palestinian refugees to the State of Israel. ” It also stressed that “End of the process will lead to the end of all claims and not only the end of the conflict.” Finally, it called for “The removal of references other than 242 and 338 (1397, the Saudi Initiative and the Arab Initiative adopted in Beirut).”¹⁹

The “Geneva Accord” (December 2003) and Other Unofficial Initiatives

With the collapse of permanent status negotiations in 2001, a number of Israeli-Palestinian dialogue projects sought to build agreement on the principle for a future Palestinian-Israeli peace agreement. The “People’s Voice” initiative of Sari Nusseibeh and Ami Ayalon, for example, released a statement of principles in July 2002 that included two sections particularly relevant to the refugee issue:²⁰

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

...

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

- Palestinian refugees will return only to the State of Palestine; Jews will return only to the State of Israel.
- The international community will offer to compensate toward bettering the lot of those refugees willing to remain in their present country of residence, or who wish to immigrate to third-party countries.

An even fuller treatment of the refugee agreement was offered by the Geneva Initiative, a collaborative effort of a number of Israeli and Palestinian figures generally associated with Fateh or the Israeli centre-left. In December 2003 they unveiled the “Geneva Accord,” a detailed (if incomplete) model of a possible Palestinian-Israeli peace agreement.²¹

In its broad outlines, the Geneva Accord reflects previous proposals and understandings developed at the Taba final status negotiations in January 2001, as well as the prior Clinton Parameters of December 2000. Refugee return to Israel was again made

¹⁹ Israel’s response to the Roadmap, 25 May 2003, online at http://www.knesset.gov.il/process/docs/roadmap_response_eng.htm.

²⁰ The text of the People’s Voice statement of principles can be found online at <http://www.mifkad.org.il/en/principles.asp>.

²¹ Text of the Geneva Accord online at <http://www.geneva-accord.org/accord.aspx?FolderID=33&lang=en>.

subject to Israel's "sovereign discretion," although this was loosely linked to the number of refugees accepted for third country resettlement.

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

In proposing an implementation mechanism for refugee components of a peace agreement, the Geneva accords largely follow the preliminary agreements reached at Taba regarding the establishment of an international commission. The Geneva Accord stressed that "The Parties recognize that UNGAR 194, UNSC Resolution 242, and the Arab Peace Initiative... concerning the rights of the Palestinian refugees represent the basis for resolving the refugee issue, and agree that these rights are fulfilled according to Article 7 of this Agreement." It also emphasized (as did the Israeli position before and at Taba) that implementation of the agreement constitutes the end of both refugee status and refugee claims.²²

The Geneva Accord was rejected by the then Israeli government of Ariel Sharon, and only weakly and ambiguously endorsed by the Palestinian Authority. Polls conducted immediately after its release showed both the Palestinian and Israeli public split on the initiative, with the refugee component being among those that enjoyed the least support (albeit, still from a large minority). More recent data shows that this remains the case. According to a December 2006 poll by the Harry S. Truman Research Institute for the Advancement of Peace at the Hebrew University of Jerusalem and the Palestinian Center for Policy and Survey Research:²³

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

...

²² For a detailed analytical assessment of the Geneva Accord, see Rex Brynen, "The Geneva Accord and the Palestinian Refugee Issue," presented to a meeting of the No-Name Group, Brussels, April 2004. Available online at http://www.arts.mcgill.ca/mepp/new_prn/research/papers/geneva_refugees_2.pdf

²³ Poll data available online at <http://www.pcpsr.org/survey/polls/2006/p22ejoint.html#b2refugees>.

Among Palestinians, 41% support and 54% oppose a refugee settlement in which both sides agree that the solution will be based on UN resolutions 194 and 242. The refugees would be given five choices for permanent residency. These are: the Palestinian state and the Israeli areas transferred to the Palestinian state in the territorial exchange mentioned above; no restrictions would be imposed on refugee return to these two areas. Residency in the other three areas (in host countries, third countries, and Israel) would be subject to the decision of these states. As a base for its decision Israel will consider the average number of refugees admitted to third countries like Australia, Canada, Europe, and others. All refugees would be entitled to compensation for their “refugeehood” and loss of property. In June 2006, 41% agreed with an identical compromise while 55% opposed it.

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

Conclusion

This paper has offered a brief descriptive overview (but little analytical assessment) of various efforts to address the Palestinian refugee issue since the onset of the Middle East peace process in 1991. As noted at the outset, despite the great difficulties of the issue, significant progress was made in the course of the Stockholm Track, Camp David summit, Clinton Parameters, and Taba negotiations. Significant progress was also made in enhancing technical knowledge of the refugee issue, and what might be needed to implement any eventual agreement—especially in the key areas of refugee repatriation and development and compensation/reparations.

It remains to be seen, however, how much of this progress could be the basis for future negotiations on the refugee issue. The Palestinian and Israeli publics remain deeply split on the desirability of Clinton- or Geneva- type arrangements. Years of violent conflict and the breakdown of the process may have hardened attitudes, and certainly have damaged confidence and heightened mistrust. Hamas—the dominant actor in the Palestinian Legislative Council, and the senior partner in the current national Unity Government—has repeatedly reiterated its commitment to a full Palestinian “right of return.” In a context of heightened domestic conflict and political competition, Fateh officials have been reluctant to voice any other position. On the Israeli side, Prime Minister Olmert has recently stated in a lengthy interview in the *Jerusalem Post* that he does not see the Clinton Parameters as providing the basis for a resolution of the refugee issue.²⁴

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

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

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

²⁴ *Jerusalem Post* (online edition), 29 March 2007, at <http://www.jpost.com/servlet/Satellite?cid=1173879210818&pagename=JPost%2FJPArticle%2FShowFull>.

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

[JP] Not for family reunification?

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

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

[[Olmert] No.

Nevertheless, as international efforts continue to encourage a “political horizon” and inch towards engagement of Palestinian-Israeli permanent status issues, it is certainly worth taking stock of the discussions, negotiations and technical progress made on the refugee issue in the past.