



MENA-projektet

The Palestinian Refugees:
after five decades of betrayal – time at last?

Author: Thomas Hammarberg

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Foreword

In the autumn of 1998, the Foreign Ministry appointed a project group to carry out an in-depth study of the political, economic and social conditions in the Middle East and North Africa. The project has involved a number of written studies, including this present one. The contents of these studies are the sole responsibility of the authors and do not necessarily reflect the opinions of the FM on the issues in question.

This paper concerns the issue of the Palestinian refugees, their situation and the attempts to claim their short and long-term rights. One purpose of the paper is to give a certain amount of factual background, although its main intention is to analyse the possibilities of reaching a genuine agreement – and what such a solution would demand of both parties involved as well as the international community. Including us.

The paper was finalised in September 2000, after the July negotiations in Camp David. Its author, Ambassador Thomas Hammarberg, has been the Swedish representative in the refugee group of the multilateral peace process, the Refugee Working Group, since 1994.

The editors

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Introduction

The hopes of peace in the Middle East remain unfulfilled. One hurdle is the unresolved issue of the Palestinian refugees. Because no peace agreement has yet been reached, their plight continues, which in turn muddies the conditions for any constructive attempts to broker peace. Nonetheless, certain signs are now appearing that the vicious circle that has been created is breakable.

When in September 1993 Israeli and Palestinian representatives agreed on a Declaration of Principles for peace, they deliberately put off dealing with the most important, and most sensitive, issues until a later date. The problems of the Palestinian refugees, the settlers, Jerusalem and the final status and borders of the Palestinian entity were to be addressed in a later round of talks. It is these negotiations which have now, after a considerable delay, been opened and were pursued with some intensity in Camp David in July 2000.

The intention – and strategy – of the Declaration of Principles when it was drawn up was that an agreement on the Palestinian administrative control of parts of the occupied territories – combined with Israeli military withdrawal – would build confidence and allow a peaceful dynamic to evolve. This, it was hoped, would then facilitate the negotiations on the remaining, more difficult issues. The Declaration of Principles drawn up in Oslo was, therefore, an agreement on a process rather than a peace agreement in itself.

The “final status” questions concerning the refugees, settlers, Jerusalem and the Palestinian entity lie at the core of the conflict. For decades, there has been a deadlock between the parties on these issues, and any agreements will have to involve painful compromises. It is also obvious that the four issues are interrelated and must be dealt with simultaneously.

The refugee question has been an open wound since 1948, after which it has had a permanent place on the international agenda; the

UN has taken active steps both politically and through the UNRWA (the United Nations Relief and Works Agency for Palestinian Refugees in the Near East), while the Security Council has advocated an equitable resolution to the refugee problem (“*a just settlement of the refugee problem*”).¹

Three key concepts have shaped the discussions on a solution to the entire issue: “the right of return”, “compensation/reparation” and “naturalisation” (resettlement). These are also dealt with in this paper.

A special working group for the refugee question has been assembled within the multilateral peace process that opened in Madrid in 1991. This *Refugee Working Group* (RWG) is under the “gavel” of the Canadian government, with the Swedish government having a special responsibility as “shepherd” in the efforts to help Palestinian children and youngsters. The fact that the issue of the 1948 refugees was taken up by the multilateral approach as the only “final status” issue can be interpreted as an indication of its international nature.

The part of the refugee question that concerns the refugees of the 1967 war – often dubbed “displaced persons” – has, in accordance with the Declaration of Principles, been addressed in the quadripartite talks between the Israeli, Palestinian, Egyptian and Jordanian representatives.

This means that all the different aspects of the refugee question are now officially on the table for direct negotiations between the Israelis and the Palestinians. Even if the disagreements on Jerusalem was defined after the July talks in Camp David as the major obstacle to an agreement, it is clear that there can be no stable peace in the region without an accepted solution to the question of the rights of the Palestinian refugees. This requires, in turn, the participation of trusted representatives of the refugees themselves and of all the governments concerned.

¹ Security Council resolutions 242 and 338.

1 The refugees today

The main problem facing the Palestinian refugees is that they are just that – refugees. Expelled from their homes, year after year they have seen their dreams of return dashed. And what is more, their struggle for “the right of return” has seen their other rights undermined. Their status in some of the host countries has been unclear and they have been subject to discrimination.

Material standards for most have been low, but not desperate in comparison with the people of the surrounding Arab states. The UNRWA has made sure that the level of basic education and health care has been kept relatively high, even if it has dropped over recent years.² On the other hand, the refugees have had to put up with the lack of democracy and freedom and the political opposition encountered in certain host countries.

The host countries – with one exception (Jordan) – have refused to grant the refugees citizenship; this has also been the case for first and second generation children in the new country. The justification for doing so is that they would forfeit their refugee status if treated like normal citizens, adversely affecting their chances of returning home.

The decision taken by the Arab League at the beginning of the 1950's to approve the granting of resident and work permits to refugees in the Arab states has not been consistently implemented in concrete political terms. The same also applies to the 1964 resolu-

² The UNRWA, the United Nations Relief and Work Agency for Palestinian Refugees, was established after a General Assembly resolution in December 1949. It has some 20,000 individuals working for it, the vast majority Palestinians. Prioritised concerns, since food rationing has been excluded from the programme, are primary health care, education and support to hardship cases. Its main office is in Gaza, with regional offices in Jerusalem (east), Amman, Damascus and Beirut. It is led by the Danish diplomat Peter Hansen.

tion to give refugees the right to travel freely between the different Arab states.

The PLO has helped to cloud the issue through a distinctly cautious approach to the demand that the refugees should be given social and civil rights in the host countries and through its opposition to a role for the UN High Commissioner for Refugees (UNCHR) in relation to the Palestinian refugees.³ A further complication is that none of the host countries with large numbers of Palestinian refugees have ratified the 1951 UN convention of refugees and its 1967 protocol.

Lebanon

The plight of the Palestinian refugees in Lebanon is especially serious. They cannot hold citizenship on principle, even though exceptions for special reasons were made for over 50,000 Christians – many of them well-off and married to Lebanese citizens – and a small number of Muslims. Similarly, they are not able in theory to obtain residency, even though the 1948 refugees registered with the authorities (the Department for General Security) and the UNRWA have been able to reside in the country on a temporary basis and to apply for special travel documents.

Palestinian refugees from a second or third country have no such residency rights and are excluded from social services. The same applies to 1967 refugees not registered with the UNRWA, whose presence in the country is illegal.

For the first few years following 1948, the refugees were given material and moral support, but since then their treatment has deteriorated. The government's principle attitude is that the Palestinians are not allowed to stay in the country, and it refuses to discuss any solution that would open the door for the Palestinians to become assimilated or "naturalised" in Lebanon.

This line is pursued consistently and with zealous conviction. There

³ The PLO (Palestinian Liberation Organisation) is actually an umbrella organisation for a number of Palestinian parties, including al Fatah. The PLO was launched following the 1967 war, and was recognised by the UN and the Arab League as the official representatives of the Palestinians. The PLO was recognised by Israel on the signing of the "Declaration of Principles" in 1993.

are bitter memories of the civil wars of the 1970's and 80's in which the Palestinians – not least PLO leader Yassir Arafat himself – were blamed for dragging the country into a state of anarchy. This is exacerbated by the fear that the Palestinians, of which the majority are Sunni Muslims, would possibly upset the delicate political “balance” between Lebanon’s different communities if they were to be naturalised.⁴ During the talks in Lebanon about the withdrawal of the Israeli occupational forces, the government yet again proclaimed the Palestinian refugees to constitute the greatest threat to national security.

In addition to this, not even the Lebanese Sunni Muslim leaders can or want to welcome the Palestinians – so deep run the emotions. This ultimately led to the extraordinary 1990 amendment to the constitution refusing non-Lebanese permanent residence in the country.

All this has contributed to the dire circumstances under which the Palestinian refugees in Lebanon live; they have been allowed to stay, but not on a permanent basis and denied any social rights. They can neither work nor start up their own businesses without special permission, while a number of professions are completely closed to them. Even the unskilled cash-in-hand jobs which the refugees could previously get are now being snapped up by the 300–400,000 guest workers from Syria, who do not need to apply for residence or work permits.

Unemployment amongst the Palestinian refugees is consequently very high. Around half the number of men of working age are without work, and extremely few of the women have a job outside the home and the family. Those who manage to squeeze their way into the unofficial labour market are often exploited, with low wages and no insurance cover.

The refugees cannot own property without special permission, and most applications have been turned down. Their housing conditions have been made worse in that the camps which were destroyed may not be rebuilt, in that no new housing may, in theory, be built in the camps that remain, and in that the refugees who previously lived in battle-torn houses in Beirut are now being gradually evicted. The situation is aggravated by the fact that non-refugees have been able to

⁴ The Palestinians have a considerable demographic impact on Lebanon, despite the fact that they make up less than 10 per cent of the population.

move into the camps – in Shatila, over half the number of residents are Syrian guest workers.

One proposal put forward by the Canadian government to help provide a certain measure of relief to the homeless refugees through the construction of new barracks outside Beirut was discussed in 1994, but the talks were leaked by the media – the political storm that ensued led to the abandonment of the entire project. This was a symptom of the fact that any initiative that can be interpreted as indirect assent to the Palestinians remaining touches a political nerve. This is the real reason why so little has been done locally to give the Palestinians the social and humanitarian support they need.

Registered refugees have had difficulties to get travel papers, and some of those that have received and used them have been denied re-entry to the country. Another problem forced upon the Palestinians who remain unregistered with the authorities and the UNRWA is that they are forced to live a kind of underground existence in Lebanon. These include the 1967 refugees and a number who have been deported from Israel.

The financial circumstances of the Palestinians in Lebanon have not been helped by the fact that their relatives in the Gulf states were deported during the Gulf war and that the contributions made by Saudi Arabia and the PLO have plummeted since the first half of the 90's. For reasons of budget, the UNRWA has also had to cut its primary health care and schooling activities. The possibilities of receiving hospital treatment when needed are severely limited, as the number of beds that the UNRWA has managed to reserve for the refugees at the hospital has dwindled.

For the younger generation, it is difficult to continue post-compulsory school studies, even if Swedish assistance has helped to provide secondary school places for some. The normal state schools are closed to Palestinians, while private schools charge fees that are often beyond the means of the Palestinians. Interest in further education has also been deflated by the fact that the more skilled professions, such as teaching and medicine, are not accessible to Palestinians.

All this has generated ill will and deep bitterness amongst the refugees. Previously rare social problems, such as crime, prostitution and drug abuse, have now reportedly taken hold, especially amongst the young. There are also signs that fundamentalist groups have begun to infiltrate the camps.

Much of the political frustration is aimed at the Palestinian leadership in Gaza. Syrian-dominated Palestinian factions have political control of many of the camps, especially in northern Lebanon. The UNRWA has also been affected, and has been hit by selective strikes.

The Lebanese government, like the Syrian, declines to participate in the multilateral talks. Swedish representatives have sought a dialogue on the Palestinian refugees in the bilateral dialogue between Stockholm and Beirut, and have proposed an improvement to their situation in anticipation of a coherent regional solution to the refugee question.

Syria

Although the Palestinians in Syria have not been granted citizenship, they do have social rights. They have access to education and the labour market, including within the public sector. They are able to own certain kinds of property, though no agricultural land, and are considered to have roughly the same standard of living as Syrian citizens in general.

Nonetheless, freedom of movement is restricted and political rights limited, even in comparison with the rest of the country, and are controlled by a separate authority, the Office for Palestinian Refugees. The Syrian government has extracted a political price for the acceptance of the refugees: in both Syria and Lebanon, it has stopped groups that sympathise with the PLO and its leader, Arafat.

As Syria remains outside the multilateral process, it is not represented at the RWG meetings. The government's express position is that the refugees are to have the right of return to the places they once left.

Jordan

Since the grave crisis in Jordan in the early 70's, when the PLO was deemed to have embarked on the establishment of a "state within the state", and the armed clashes (known as "Black September") between Hashemite and Palestinian militia, there has been a gradual process of reconciliation. Palestinians now hold leading positions in banking, business and, to a certain extent, public administration.

The Palestinians were granted citizenship in 1954 by a new nationalities act, a decision which ought to be seen in light of Jordan's annexation during the 1948 war of the West Bank – a large chunk of the area which, according to the UN partition plan, was to be allocated to the Palestinian state.

In 1988, two decades after the Israeli occupation of the West Bank, Jordan relinquished all claims over the territory – the idea being that it was to become part of the future Palestine instead. People living there then ceased to be Jordanian citizens, although they could still obtain passports valid for two or five years. 1948 or 1967 refugees from the West Bank have also continued to be recognised as citizens.

Yet people from the West Bank who travelled out of the country on an Israeli limited permit and who failed to return in time (the *latecomers*) have not been granted citizenship, nor the stateless 1967 refugees from Gaza (who are now estimated to number 100,000). One group that has found itself particularly badly hit are the Palestinians from Gaza who were expelled during the Gulf War and who ended up in Jordan – they have found it difficult to even obtain work permits.

The standard of living of the refugees is on a par with the rest of the population, thanks partly to the efforts of the UNRWA. There is, however, a deeply rooted mutual suspicion between the Palestinians and the Hashemites; for the latter there is said to be a traditional concern that the former, particularly now in their majority status, will “take over” the country, while the Palestinian camp is suspicious of the King's direct contact with Israel. On the other hand, the King is also regarded by many Palestinians as their political and/or religious leader, which has lent further resonance to the repeated Israeli proposal that the future Palestine should form part of, or be intimately tied to, Jordan. Relations between the Jordanian and Palestinian leadership have not yet been fully clarified following the accession of King Abdullah II.

Even though the Palestinians have been given greater freedoms in Jordanian society, a feeling still remains among many of them that they are discriminated against and that their actual and potential contribution to the Hashemite state – given their high level of education and competence within a number of different areas – have not been recognised. This does not only apply to the military, but to their ability to reach the higher offices of public administration as well.

Jordan is discussing the refugee issue directly with the Israelis as part of the quadripartite talks on the 1967 refugees, and has taken part

in the meetings of the multilateral Refugee Working Group. Their approach has been constructive, even if Amman, naturally enough, expects both Israel and the international community to actively recognise that Jordan has borne a heavy burden in its efforts to ease the refugees' situation; in the event of a collective solution of the refugee question, Jordan will be demanding compensation for this.

Egypt

Its participation in the RWG and the quadripartite talks gives Egypt a direct role in the resolution process of the refugee issue. There are an estimated 70,000 to 100,000 Palestinians in the country, and up until the mid 70's, they had economic, social and civil rights. Since this time, however, these rights have been eroded away, leaving the Palestinians treated in the same way as any other foreigner. They have had difficulties obtaining travel documents and, consequently, work permits as well. However, the government has, as part of its RWG activities, made promises that the Palestinians' situation will be improved.

Egypt's historical and geographical links with Gaza is an interesting part of the puzzle, something that will become much more evident once Israel no longer controls the border crossing.

The West Bank – Gaza

For the outsider, there is little difference between registered refugees and other Palestinians in those areas now under the administrative rule of the Palestinian National Authority in the West Bank – Gaza, especially since the camps have tended to merge increasingly with the surrounding villages. For the refugees themselves, however, it is a crucial fact that they are just that – refugees – and that they and their descendants will never be able to return to the homes and towns they once left; that they will always be “displaced”.

Registered refugees have a permanent entitlement to UNRWA services in terms of access to health clinics and basic schooling. Although it requires double the amount of administrative work, the Palestinians are keen to see that the UNRWA continues its programmes (which has generally been possible, despite the extensive cuts that have been

made). This is a sensitive issue: if the UNRWA were now to pack their bags and leave, it would be interpreted as a signal that, despite the absence of any long-term solution to their plight, the refugee question had been struck from the agenda.

Daily life for the refugees and other Palestinians in the West Bank – Gaza has been deeply affected by the Israeli occupation. The constant security checks are distressing. Special permission is needed to travel within the occupied areas and between Gaza and the West Bank. Freedom of movement is also limited by the fact that the West Bank is divided up into separate zones with different security regimes. Conditions for the Palestinians in East Jerusalem are clearly inadequate, with many being subject to bureaucratic harassment, a strategy obviously designed to force them out of the city.

Two groups have been particularly exposed to political-bureaucratic problems. One is the 40,000 or so people who were granted overseas travel permits (for one year if leaving via the airport, three years if travelling by road to Jordan) who stayed away longer than their permits allowed, and who then applied to return home. Many of them are students who had studied abroad. The other group consists of about 20,000 people who were allowed into the country on a temporary entry visa to meet family members and who then remained without permission. The importance of finding constructive solutions to the problems has been raised within the RWG and the Quadripartite Committee, but so far with little success.

Security measures, particularly during the *intifada* protests from the end of 1987 to the beginning of the 90's (and even later), have had an enormous impact on individuals.⁵ The repeated closure of schools (on the initiative of the Israeli authorities and Hamas) also obstructed the UNRWA's work and severely damaged basic education.⁶ Besides being an assault on people's rights, the closure of Gaza and other obstacles to freedom of movement have had far-reaching economic consequences.

⁵ The *intifada* was a protest movement directed against the Israeli occupation in the West Bank and Gaza. From its spontaneous beginnings in December 1987, it went on to adopt more organised forms of protest such as strikes and other actions of "civil disobedience". It is best known for the street clashes between soldiers and youths burning tyres and throwing stones.

⁶ Hamas is a fundamentalist Islamic movement in the West Bank-Gaza. It runs extensive social activities and has advocated acts of terrorism.

These transportation problems have generally been a genuine problem for the Palestinian community.

The extensive confiscation of land (around 65 per cent of the West Bank and 50 per cent of the Gaza Strip) has also had an adverse impact on the Palestinians, and not just in the way it has frustrated any future possibilities of organising a return of refugees to Palestinian territory.

Israel

There are almost a million Palestinians in Israel, the majority of whom belong to the families that stayed behind in 1948 (their status as a minority in the Jewish state will not be discussed here). Amongst them, however, are also a number of internal refugees, who remained in the country after fleeing their homes in 1948. Even though their presence in the country is officially sanctioned, it would only be fair for their material demands to be seen to during the deliberations on reparation ahead of any peace agreement.

A tiny proportion of Palestinian refugees have even been allowed to return to places in Israel other than their original homes, on condition that it is made clear that the decision to grant these permits does not constitute a recognition of a “right of return”.

During the occupation, the Israel authorities have had administrative control of the areas inhabited by the refugees. Although co-operation with the UNRWA has been strained, particularly during the *intifadah*, refugee support was able to continue pretty much as normal. A new situation has now arisen in which the Israelis have withdrawn from the areas containing most of the camps but have continued to occupy East Jerusalem (containing the camps Shaofat and Kalandia) and parts of the remaining West Bank, areas which are also home to many refugees.

Other countries

Palestinian refugees have occasionally encountered harsh treatment, not least in other parts of the Arab world. In 1991, in the wake of the Gulf War, around 350,000 were expelled from Kuwait, mostly to Jordan – very much in response to PLO leader Yassir Arafat’s statement

supporting the Iraqi invasion the previous year. Today, there are once again several thousand Palestinians in Kuwait, where they live under strict surveillance and enjoy only very limited rights; and it is roughly the same story for the 180,000 or so Palestinians in Saudi Arabia. Just over 50,000 Palestinians are said to live in Iraq, where they have social, but not political, rights. In 1995, Libya's Muammar al-Qaddafi had most of the country's 20,000 plus Palestinians deported, many of whom, for an extended period of time, came no further than the Libya/Egypt border.

Over the past few decades almost half a million Palestinian refugees have, individually, been granted asylum in the USA, Canada and Europe, where they are generally treated in the same way as any other refugees.

2 The refugees: who are they and how many are there?

Definitions

The original number of Palestinian refugees from 1947/48 and 1967 amounted to around one million. If you include their descendants, the number is estimated to rise to more than three million. It is these figures that are usually used in international talks, and, if they are correct, it means that the refugees make up half of all living Palestinians. However, the numbers are approximate and disputed, not least by the Israelis. No reliable census has ever been carried out for reasons we will discuss later, while the figures are complicated even further by the contention surrounding how the term “refugee” should be defined.

Not all Palestinians of the diaspora should be regarded as refugees, but who should? The established international definition – as laid down by the 1951 convention of refugees and its 1967 protocol – is inadequate since it is based upon the assumption that refugees neither can nor want to return. In the case of the Palestinian refugees, reference is instead regularly made to the UNRWA definition of a refugee as *a person whose normal residence was Palestine for a minimum of two years preceding the conflict in 1948, and who, as a result of this conflict, lost both his home and his means of livelihood and took refuge in one of the countries where UNRWA provides relief*. These refugees and their descendants have a right to aid if they are in need of it and are *registered with the UNRWA*.

Even a superficial analysis of the definition reveals the flawed legal logic – it is close to a circular argument, and mainly seems designed to identify operatively those that are allowed to obtain UNRWA relief. Even so, the UNRWA figures have still become those used in the estimation of refugee numbers.

The refugees registered with the UNRWA can be broken down geographically, with 42 per cent in Jordan, 38 per cent in the West Bank – Gaza and 10 per cent in both Lebanon and Syria.

Table 1 Refugees registered with UNRWA, June 30 1999

	Camps	Outside camps	Total
Jordan	274,816	1,237,926	1,512,742
Lebanon	204,999	165,145	370,144
Syria	109,315	265,206	374,521
West Bank	153,380	416,361	569,741
Gaza	437,650	360,794	798,444
TOTAL	1,118,160	2,445,432	3,625,592

This means that about one third of the West Bank's Palestinian population are refugees, as are three-quarters of Gaza's. In Jordan, two thirds of the refugees are registered with the UNRWA, a similar proportion in Syria, while in Lebanon, the figure is in the region of 85–90 per cent. It should also be mentioned that about one third of all refugees live in camps, and that many of these camps are not very different from the surrounding residential areas.

In fact, even disregarding the vague definitions, these figures are still problematic as there is much to suggest that the UNRWA register has distinct shortcomings. For example, since registration is a condition of relief, it has not been in any family's interest to report when a family member should be removed from the list.

On the other hand, the UNRWA definition does not include the refugees that moved into areas other than those where the UN agency was active, e.g. Egypt or the countries of the Gulf; nor does it include those, who for reasons of pride, good financial standing or otherwise, have not sought help from the UNRWA in countries such as Lebanon or Jordan.

The refugees that remained in the area under Israeli rule since the 1948 war (but not in their homes or home towns) were initially recognised as an UNRWA responsibility, but this was to change when their support was considered an Israeli concern – they too are thus not included in the UNRWA figures. According to Palestinian sources, they amount to nearly 20 per cent of the Palestinian population of Israel.⁷

⁷ The Palestinian representatives count a total of almost four million Palestinians as refugees or as "displaced" persons. The total Israeli figure, which includes only the 1948 refugees and their immediate families – who now live in UNRWA camps – is only half of this.

The 1967 war produced new refugee groups. According to the UNRWA, the resulting refugee wave was made up of some 350,000 individuals, of which around 200,000 were seeking refuge for the first time and who have been regarded as internal refugees or “displaced persons”. Their families have grown since then, and now this latter group numbers about half a million. Even if they have not been registered as UNRWA refugees, the UN agency has still provided them with relief.

Included amongst the numbers fleeing from the 1967 war were around 166,000 (UNRWA) who were displaced for the second time; i.e. refugees from the 1948 war and their descendants. Naturally, they were registered with the UNRWA this time too, primarily in Jordan.

Host countries for the new refugee wave became Jordan (200,000) and Syria (110,000). 35,000 were taken in by Egypt from Gaza while a lesser number (5,000) made their way to Lebanon.

The “displaced persons” category could include another two groups: those who happened to be in other countries when the 1967 war broke out (e.g. in the Gulf region) and those who were refused entry to the occupied areas after successive trips out of the country (known as the “latecomers”). A Palestinian estimate has these groups numbering 60,000 and 40,000 respectively.

Another moot point has been whether children and grandchildren should also be regarded as refugees despite their never having lived in their family’s original home. The Israelis have not seen this as given, and their definition of “displaced persons” in the quadripartite talks comprises only those who have themselves fled.

The Palestinians have disputed a sexually discriminating feature of UNRWA practice, namely that the children of female refugees who marry non-registered men lose their UNRWA cards, while this is not the case for male refugees who marry outside the registered community.

Numbers

Apart from all these technical-political problems surrounding the definition of the term “refugee”, the actual estimate of the number of people is also a sensitive issue. In Lebanon in particular, the question of the number of Palestinians is shrouded in mystery, something which

should be understood in light of the delicate “balance” between different ethnic groups and religions, as reflected in the principles of political power-sharing enshrined in the Lebanese constitution.

A kind of reverse logic has been set in motion here. There are a number of political groups who would see the naturalisation of Palestinians as a particular threat (bearing in mind this power balance amongst other things), and it is in their interest to exaggerate the number of Palestinians to render any discussion on pragmatic compromises impossible. People who have cited lower and more realistic figures have been suspected of preparing the ground for demands for the national assimilation of the Palestinians.

The issue is such a volatile one in Lebanon that the UNRWA also shies away from publicising more realistic estimates, contenting itself with the number of registered refugees, which has in recent years been lying at around the 350,000 mark. The PLO – who admittedly can have several reasons for wanting to estimate on the conservative side – cite a figure as low as 150,000. There has obviously been a significant emigration of Palestinian refugees, not only to the Gulf region but also to Europe and North America. Yet there are also several thousand “illegal” refugees in Lebanon, including those from the 1967 war and people deported from Israel. The actual number of refugees in Lebanon is commonly estimated in diplomatic circles to be somewhere in the region of 180,000 and 220,000.

Population statistics is a political issue in Jordan as well. The tension there resides in the simple fact that the Palestinians make up more than half of the country, something which understandably touches some highly sensitive political nerves.

If the refugee question is now finally put to serious negotiation, there will be the inevitable wrangling over definitions: who, exactly, is a refugee? Such debate has already opened up a can of worms during the quadripartite talks on the 1967 refugees. Is it not unreasonable to demand now that a more definitive definition embrace those that left the area in 1947–48 and 1967 and their descendants? It is also important that there are approved (gender neutral) criteria for how to include people married into the Palestinian community and their children and grandchildren in the statistics.

In normal circumstances, a person’s refugee status ends once he or she is accepted as a fully-fledged citizen in another country. It would therefore, once more, be not unreasonable to argue that the Palestin-

ians who now hold citizenship of another country should no longer be regarded as refugees – although this too requires closer analysis. The Jordanian decision to grant refugees citizenship was, however, taken with the clear proviso that it would not undermine their demands as refugees. It would hardly be fair for the refugees who have benefited from this generosity to be deprived of their rights once discussions on resolving the entire Palestinian refugee question commence.

3 Historical background

It is impossible to discuss the Palestinian refugee question without turning to the history books. The description of the actual events in the British mandate area in 1947–48 is in fact one of the most controversial aspects of the refugee debate, one which has come to be expressed in terms of culpability and justice. The different views of the background to events have led to conflicting demands on all sides. Each proposal for a solution that is now put on the table is seen through the filter of each party's different historical convictions – as a present confirmation of one or the other version – and carries with it its own particular moral charge.

Between 1947 and 48, over 700,000 Palestinians fled from the parts of the mandate area which, following the UN partition plan, were to fall under Israeli rule and from the territories that were annexed by Israel during the 1948 war.⁸ They headed mainly for Gaza, the West Bank, Trans Jordan, Syria and Lebanon, but some ended up in other parts of the region which were to become the post-war state of Israel.

What made the refugees flee? Was it a matter of “ethnic cleansing”, with the Arabs being driven out with violence and intimidation? Or were they encouraged to leave by their own leaders, to return victoriously with the Arab forces from the neighbouring states?

The real reason is naturally more complex than the propaganda would have it. Consider the following aspects that emerge from a retrospective comparison of different reports, analyses and their sources.⁹

Even right after the UN resolution in November 1947 on the parti-

⁸ UN sources estimate the number of people who fled at 726,000.

⁹ The selection – which is inevitably controversial – is the author's and in no way is meant to represent the complete picture. It is put forward to illustrate that the background is relevant, not least for understanding why accounts and opinions of the historical causality are in themselves so heavily charged.

tion of Palestine – when the rumours were born of a coming invasion by the Arab governments of the mandate area – tens of thousands of the leading and more well-off Arabs were already leaving the region. This weakened the Palestinian Arabs, politically and in terms of morale, and helped to undermine their social structure. Moreover, the Arabs in the mandate area were militarily ill-equipped compared to the Jewish troops.

Another decisive factor was the acts of violence committed by Jewish terrorists, sometimes with the backing of the more official Jewish organisations. The attack on the village of Deir Yassin on April 9, 1948, in which civilians were shot both before and after their defenders had fled, is the grimmest example. More than 250 people were killed, many of them women and minors, while the survivors were driven by truck to Jerusalem, where many of them were paraded along the streets in a macabre demonstration of power.

It goes without saying that these events spread fear throughout the Arab population. The Palestinian national committee in Jerusalem, which was lobbying the Arab governments to send troops to “liberate the Palestinians from the Jews”, made matters worse by exaggerating the attacks in their reports by, for example, fabricating accounts of rape. This combination of brutality and exaggerated reporting fuelled the flow of refugees.

Even before the outbreak of war in May, 200,000 Palestinians had already left. By the end of April, effectively all 70,000 Arabs in Haifa had evacuated the town after panic had broken out among them. The British decision to begin pulling out of the town added to the situation, which was exacerbated through a combined Jewish military offensive and loud-speaker propaganda campaign at a time when the Arabic leadership was already badly weakened. The local Arab national committee finally appealed for an escort out of the area by sea. It is highly unlikely that those fleeing the area counted on never returning, particularly the ones who had swallowed the Arab propaganda concerning the victorious invasion to come.

The threat of an imminent attack from the Arab armies was probably one of the reasons why the Israelis put no more effort into curbing the violence and intimidation. The fact that the Palestinian-Arabic national committee in Jerusalem was urging the Arab governments to invade was to them a sign that the enemy was just around the corner.

During the war which started on May 15 1948, the more hawkish

elements in the Israeli camp began to dominate; the Arab community was driven out of certain areas as if part of a deliberate strategy. One example of this is the decision in July to expel around 50,000 Palestinians from Lydda – Yitzak Rabin, who was there at the time, wrote later that this was executed on the direct orders of David Ben-Gurion.

Why were the refugees not allowed to return after the war? UN representative Folke Bernadotte appealed to Israel on exactly this point – months before he was murdered by Jewish terrorists. While the Israeli government rejected his proposal, the General Assembly adopted it – in a somewhat diluted form – in resolution 194 (III) on the Middle East of December 11, 1948. This dealt with the refugee question in paragraph 11:¹⁰

“The General Assembly...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 reparation should be paid for the property of those choosing not to return and for the loss or damage to property which, under principles of international law or in equity, should be made good by the Governments and authorities responsible”.

The resolution also called for the appointment of a *Conciliation Commission for Palestine* (CCP) to put its demands into practice. The CCP included representatives from the USA, France and Turkey.

In the diplomatic talks of the summer of 1949, Ben-Gurion’s government promised to take in 100,000 refugees – on certain conditions: that this would be part of a final peace accord; that no further demands would be made; and that the returning refugees would not insist on moving back to their original homes, but make do with the places the Israeli government allocated to them. All other refugees would be integrated into the Arab states.

The Arab leadership accepted the proposal as a bargaining chip, but not as a final solution, and their demands for further concessions were answered by the Israelis withdrawing their offer. Since this time, only a few thousand refugees have been able to return – but only “humani-

¹⁰ A Palestinian delegation criticised the draft of resolution 194. The Arab UN delegation voted against it, but not because of the section on the refugee question. Israel voted against the resolution, the USA supported it.

tarian cases” of family reunification. The Israeli reluctance for generosity was linked, of course, to the fear that the Palestinians would become a “fifth column” – as the existence of the Israeli state had not been recognised by its Arab neighbours for many years.

The Israeli goal was to build a Jewish state, immigration to which obviously being made easier by the evacuation of the land by the Arabs, land in which most of the new Jewish settlements were then established. Over 600,000 immigrants are thought to have arrived between the years of 1948 and 1951, including many survivors of the Nazi concentration camps. It was not long before abandoned property, housing and production capacity found themselves in new hands, giving Israel the vitality it needed. The right of possession to occupied assets went on to be enshrined in law.

Why has the question of compensation come no nearer a solution either? The CCP assessed the value of this abandoned real and personal estate and its estimates could be found in the records. The Israeli government did not reject the principle of compensation, and expressed itself willing to donate money to a collective fund to support the integration of the Palestinians in their new home countries. However, it declared that such reparation would only be possible as part of a final agreement and once Israel had, in turn, received compensation for the damage it had incurred during the war.

The way forward for an agreement was hampered in the early years of the 1950's by the arrival in Israel of over 100,000 Jewish refugees from Iraq, whose assets had been frozen by the Iraqi government. The Israel government argued that the two demands could be traded off against each other – that of the Iraq refugees against that of the Palestinian refugees.

Since then, no progress has been made on the question of compensation. There has also been a degree of scepticism on the part of the Arabs towards discussing that part of resolution 194 as a separate issue, as they have not wanted the refugee question to be bought off in any way. The idea that the refugees would be integrated into the Arab world encountered vehement opposition; the camps were seen as necessary – also as a reminder of past injustices and of the fact that the conflict had not yet reached an acceptable settlement.

Even though the UN shouldered some of the responsibility for giving the Palestinian refugees a reasonably bearable material existence, the host countries have been heavily burdened – both economically

and politically. Jordan and Lebanon in particular have witnessed their camps become occasional training grounds for paramilitary groups, whose attacks on Israeli targets have met with reprisals. Such tensions greatly fuelled the civil wars in both Jordan (1970–71) and Lebanon (1975–82).

Nonetheless, the Arab governments and the Palestinian organisations have taken the same fundamental stance on the refugee question. They have both opposed assimilation in the host countries, albeit for different reasons, and have been committed to keeping the vision of return alive.

4 Madrid, Oslo and afterwards

A slow process

After lengthy preparations, the USA and the Soviet Union invited Israel and its neighbours Lebanon, Syria, Jordan and Egypt to a peace conference in Madrid at the end of October 1991. The Palestinians were to be represented by leading figures from the occupied areas – but not by any member of the PLO, the dominant Palestinian organisation. The political and diplomatic hurdles were many, but at least proceedings could begin.

The intention was to conduct two-pronged peace talks: bilateral between Israel and each of its neighbours, and multilateral, organised into five working groups on refugees, regional economic development, arms control, and common security, environmental and water resources. The multilateral groups would help to prepare the ground for agreements between the direct parties themselves.

The Canadian government was asked to “gavel” the refugee group, while the USA and the Soviet Union/Russia were given a special status as initiative-takers (co-sponsors), with the EU and Japan as co-organisers. The “core” parties were the Israelis, Jordanians, Palestinians and Egyptians while the Syrians and Lebanese refused to take part.

The group contains a number of other governments as well, some with an allocated area of responsibility. The EU “shepherded” the development of the social and economic infrastructure, the USA human resources and job creation, and France the question of family reunification, while Italy took on responsibility for public health projects, Norway for databases, and Sweden for “child welfare” (which we have interpreted to mean the rights of Palestinian children and youngsters). Switzerland agreed, at a later stage, to shepherd the “humanitarian dimension”. The broader plenary sessions have seen over thirty governments take part.

The RWG was to focus on finding ways to improve living condi-

tions for the refugees (including the displaced persons) without forestalling their future status; on facilitating and improving the possibilities of family reunification; and on supporting the process of reaching a broad and viable solution to the refugee question.

That the refugee question was taken up by the multilateral track at all was a Palestinian proposal, to which the Israelis responded with reservation. One obvious reason for this was that the Israeli government was not prepared to make any multilateral concessions that would undermine their bargaining power in the bilaterals. This stance was given increased relevance through the Declaration of Principles in Oslo 1993, which concluded that the refugee question should be dealt with as one of the “final status issues” in the talks between the Israelis and Palestinians. At the same time, it has become clear that there are international dimensions to the refugee question, including matters relating to international law, and that a solution will probably require international financial support.

Another channel for negotiations on the refugee question was opened up with the Oslo Declaration of Principles. It was decided that a joint Israeli-Palestinian-Jordanian-Egyptian committee, the *Quadripartite Committee*, would be established to discuss how to organise the return of the 1967 refugees from the West Bank and Gaza. This was also taken up in the bilateral agreement that was signed in 1994 between Israel and Jordan. As mentioned above, Syria and Lebanon have remained outside both this and the multilateral process.

Given that the positions of the different parties were so very far apart, it was not surprising that the multilateral refugee group got off to a shaky start, bogged down with minimally inspiring discussions on matters of procedure.¹¹ The Palestinians wanted the group to discuss concrete issues, not least refugee rights; the Israelis, on the other hand, wanted to turn the discussions towards what could be done to improve the current standard of living of the refugees, for which they proposed confidence-building relief projects.

For work to be dynamic in such a group requires sufficiently common goals – and because of this, there has not, with one exception,

¹¹ The RWG’s first two meetings were dominated by the question of who was to represent the Palestinians. Israel – who boycotted the first meeting in Ottawa – opposed representatives from the PLO, and, in fact, any Palestinians from the diaspora at all.

been any real debate on the more politically sensitive, concrete issues. With the question of aid dominating, the meetings have mainly consisted of reports on what the donors have given or plan to give within each area of responsibility, including what Sweden has done for children in the West Bank – Gaza and Lebanon.

The exception is the French efforts concerning the regulations for family reunification. The Israeli delegation has looked with scepticism upon the question being raised at all, seeing it as a potential opening through which “the right of return” might enter the agenda. What the French have achieved in spite of everything is Israel’s acceptance of a quota of 2,000 cases (a “case” being a nuclear family with a child/children under the age of 16), or no more than 6,000 individuals, who would be able to return to the areas that are occupied or under the administration of the Palestinian National Authority.¹² On top of this quota, a few additional thousand cases have been approved in connection with the external recruitment of Palestinian police. Certain procedural simplifications have been introduced as well.

A Vision Paper

The different multilateral working groups have been co-ordinated through a steering committee under the control of the USA and Soviet Union/Russia. In July 1994, this committee recommended that a “Vision Paper” should be drawn up for the multilateral process, and that each working group should sketch a ten-year vision of priorities for its own area of responsibility. The Canadian delegation organised consultations directly with the parties involved and with all members of the RWG at a plenary session in Antalya, Turkey, in December 1994. From early on it was clear that it would be difficult to formulate a common vision on the refugee question.

The Canadian government had to content itself with sketching several “elements” in the Vision Paper that are best borne in mind in the ensuing discussion. One of these was that the refugees should not be faced with an ultimatum, but offered alternatives to choose between,

¹² The Israeli RWG delegation informed the author in March 2000 that the quota of 2,000 cases (nuclear families) had been raised to 3,000.

and that each solution must take their legitimate rights into consideration. Another was that although time was short, the process must be one of gradual measures. A third element was that the solution must comply with international law – demanding, however, all-round compromise rather than a legalistic approach to the law.

The Paper stressed that the parties had to bring themselves to discuss a series of delicate issues, openly and freely. They had to be prepared to address sensitive issues, such as “the right of return” and compensation, the future international status of the Palestinian Authority (including its power to issue travel documents) and the ability for a number of Palestinians to remain with full economic and civil rights in their current host countries.

The idea was, of course, to begin easing up the political logjam, to break taboos and in so doing, encourage each party to think along new, and future oriented, lines. However, the Canadian Paper was never properly discussed by the steering committee or at the RWG meetings. It went too far for the Israelis and said too little for the Palestinians. Not one of the parties was prepared to slaughter any holy cows, at least not at this stage of the proceedings. It was possibly also due to the fact that the bilateral talks looked as if they were grinding to a halt, as Israeli plans for further settlements in East Jerusalem had reawakened animosity between the parties. Nevertheless, the Canadian delegation said that the Paper “was there” and could be picked up again at the appropriate time.

One of the concrete proposals contained in the Canadian vision was the gathering of information on the Palestinians and the conditions they were living under. A census was recommended for the West Bank – Gaza as well as for the neighbouring countries, in order to collect data on numbers, living conditions, citizenship (or statelessness), employment, connections to family or property in Israel and the occupied areas etc.

Through the social research institute FAFO, the Norwegian government has made valuable contributions with such demographic studies in the West Bank – Gaza, Jordan and Lebanon, although, naturally enough, it is always unclear which choice the refugees would make if they were really offered alternatives to a future solution.

Another Canadian initiative was to address the possibility of refugee absorption (the Canadians prefer the vaguer term, *adaptation*), referring mainly to the capacity and resources of the West Bank – Gaza

to take in more refugees. What would be the demands on land, water, electrical power, housing and roads? On schools, health institutes and other social services? On opportunities for small and large enterprises and other ways of earning a living? On public administration and other social organisations? Such questions will need to be analysed if there are to be any deliberations on scheduling the re-immigration, on the necessary investments and how they are to be financed, and on the possibility of obtaining outside aid.

The Canadian delegation proposed that a) the Palestinian Authority receive support to strengthen its institutional capacity and that voluntary groups be encouraged; b) the relief projects be better co-ordinated; c) research be conducted into the numbers that could conceivably move to the West Bank – Gaza and the reasons they might have for doing so (as something on which deliberations about future needs could be based); and d) all Palestinian groups in the West Bank – Gaza be given the chance to participate in the planning of the social, economic and political changes necessary.

Although these issues have now been tabled, it would be an exaggeration to claim that they have been followed up with any sense of commitment and determination. On the Palestinian side – where this discussion could in all events be expected to be of some urgency – there is concern that it is based on the covert condition that none (or extremely few) of the refugees will be able to return to their original homes in Israel, and that it would now feel like a mistake to indirectly approve this. Another concern is, of course, that the region, particularly Gaza, is already considered over-populated and has a high level of unemployment.

The RWG held six plenary sessions between 1992 and 1995. Since then, no such meeting with all parties involved has been possible, only some contact meetings between the “shepherds” of the different areas of responsibility, and a number of thematic meetings on databases and health initiatives, for example. The main reason for this is the frosty atmosphere that existed between Israel and its neighbours (including the Palestinian Authority) during Binyamin Netanyahu’s premiership. Since no progress was being made in the bilaterals, the Arabs were unprepared to hold any multilateral meetings as they would possibly give the impression that Israel was still willing to negotiate while it was simultaneously blocking any chances of real success.

Even before the deadlock following the Israeli election of May 1996,

enthusiasm amongst both the Israelis and the Palestinians was low. It appeared as if the Israeli representatives wanted to demonstrate that the group was not really needed, especially when questions like that of family reunification were brought up. The Palestinian delegates did not seem to prioritise the group's work either, although it was unclear whether this was due to a shortage of resources for preparing the meetings, disappointment about the sluggish progress of the work it was doing, or their own uncertainty about certain matters of principle. Syria and Lebanon's absence from the RWG naturally undermined the significance of the entire process.

However, a steering committee meeting in Moscow in January 2000 gave an indication at the time that the multilateral process might be revived. Meetings were being prepared within the RWG, while the quadripartite committee on the 1967 refugees began to meet more regularly.

At the same time, there was a continual uncertainty about how the bi- and multilateral processes were to be interwoven. The USA played an active and dominant role in both formal and informal processes, occasionally acting as "chair" of the bilateral meetings. This dominant role as mediator was further marked through the talks in Camp David in July 2000.

5 Perspectives

Points of departure

The **Palestinian** version of the historical background is that the Zionists drove out the refugees in 1948 with force. The Palestinians insist on the right of the refugees to return home or, if they choose to decline to do so, to reparation. They also demand that Israel recognise its moral accountability for the injustices that were done in connection with the expulsion of the refugees.

Their attitude to UN resolution 194 has been split; while the Palestinians have claimed, and rightly so, that it is not especially clear on the actual right of return, they have still recognised it as a valuable reference point in discussions over the years.

The concept of the “return” has been, and still is, at the very core of the Palestinian national identity; the vision of one day returning home permeates the entire Palestinian cultural life, shaping and colouring the camp schools and Palestinian literature. There are many similarities here with the Zionist revival – no Palestinian politician can negotiate away this one idea in return for others. Criticism levelled by Palestinian organisations, intellectuals and leading figures against Yassir Arafat following the Oslo Declaration of Principles in 1993 was very much to do with the effective shelving of the refugee question.

For the Palestinian representatives, compensation is unacceptable as an imposed alternative to the right of return, but not as an offer of reparation to those who choose not to return. In all events, those who were dispossessed of their property in Israel should be individually compensated. The question of compensation for the suffering has also been raised.

The PLO has therefore not expressed any support of the concept of assimilation in the current host countries. It has been extremely important for the PLO that the UNRWA continues its work until an

acceptable solution has been reached and the sense of apprehension ahead of each discussion about the UNRWA's future has been intense. Israel has, however, looked with scepticism upon the UNRWA, which it has sometimes even accused of being a political tool used for anti-Israeli reasons to keep the refugee question burning.

The **Israeli** version is that the responsibility for the refugee tragedy lies with the Arab governments, which refused to accept the formation of the state of Israel and declared war on it. They gave both carrot and whip to the Palestinians to flee and then went on to consolidate their refugee status – for political ends – instead of giving them the chance to assimilate themselves into the host societies.

As was seen above, this view of reality is simplified and lacking in accuracy. The Israeli delegation has also made statements in the RWG that could be interpreted as advocating a shared responsibility, at least in terms of the actual reasons why the refugees left.¹³ The refugee problem, they have reasoned, was not created deliberately but as a result of the inherent brutality of the war and the fear that permeated both sides. Israel has never given its approval to resolution 194, as it has never accepted the claim that the Palestinians have a “right” to return home.

As mentioned above, for a short period in 1949 the Israeli government gave 100,000 refugees the opportunity to return, under certain fixed conditions (which were never met). However, certain cases of “humanitarian” return have been accepted for purposes of family reunification (about 40,000 individuals to Israel before 1967 and more than 88,000 to East Jerusalem and the West Bank following the 1967 war¹⁴). The government has been careful to stress that this can not be interpreted to mean that those allowed to return have had any sort of “right” to do so.

Whenever the question of compensation has been raised, the Israeli representatives have tended to broaden the discussion to include the Jewish migration from Arab countries to Israel, asserting that these

¹³ The leader of the Israeli delegation Shlomo, Ben-Ami, declared to the RWG in November 1992 that: “...the Palestinian refugee problem was born as the land was bisected by the sword, not by design, Jewish and Arab. It was largely the inevitable by-product of Arab and Jewish fears, and the protracted bitter fighting.”

¹⁴ According to Shlomo Gazit, 88,000 “displaced persons” were allowed to return between 1967 and June 1994.

two phenomena should be regarded as two sides of the same problem. Parallels have been drawn with other resettlements, such as that in the Indian sub-continent when India and Pakistan were established as independent nations. The idea was that the two groups of refugees would cancel each other out.

One basic approach in the Israeli camp has thus been that the refugees should be assimilated into their current host countries and that the UNRWA should be dissolved. Whenever the Israeli government has expressed a willingness to grant compensation, it has been talking about contributions to a general fund that would finance such integration in the Arab states rather than any kind of direct reparation or compensation to individual refugees.

There is an obvious relationship between their attitude to the Palestinian refugees and the vision of Israel as a homeland for all Jewish people. A cornerstone of the Israeli state has been that it should be open to, and actively encourage, re-immigration from the Jewish diaspora, and this has left no room or resources for the repatriation of, or compensation to, Palestinian refugees.

The determination to defend the country's Jewish character and the fact that there already exists a Palestinian group within Israel – with a high birth rate – are two of the principal reasons why the acceptance of a Palestinian right of return has never been on the agenda.

Another contributory factor is the fact that the Arab governments and the PLO questioned the actual existence of the Jewish state for many years, and prepared military actions against it. In Israel's eyes, any repatriation of Palestinian refugees could well mean bringing the enemy inside their own walls.

Arguments concerning Israeli security interests have been used to justify restrictions on return to the occupied territories as well as areas now under the control of the Palestinian Authority. The RWG discussions (on family reunification) and the Quadripartite Committee (on the 1967 refugees) have centred on the return to the West Bank and Gaza – which Israel has reserved the right to govern. It is this that the quota for family reunification has been all about.

Thus on point after point, each party's version of the truth and convictions have diverged, and for decades the international community has been unable to reconcile these differences. The yearly debates in the General Assembly gradually became virtually a matter of ritual, closing on every occasion with a referral to resolution

194.¹⁵ However, during the 1990's , especially after the Oslo Declaration of Principals, a series of initiatives were taken for informal contacts between the Israelis and Palestinians in order to attempt to define the framework for compromises and final status issues, including the refugee question.

Contacts and compromises

In 1995–96 Abu Mazen and Yossi Beilin met informally for such deliberations.¹⁶ The conclusions they reached have never been published, but are said to have been that the Palestinian state would be able to accept refugees, without any Israeli-imposed limitations, in return for the withdrawal of their demand for the right of the refugees to return to within the “Green Line”. The refugees would receive compensation; the UNRWA would be devolved and a new international organ would be created to take care of reparation and rehabilitation. Israel would contribute to this new body.

An interesting contribution to the debate was published in May 1988 through the Weatherhead Center for International Affairs at Harvard University in Boston. A united Israeli-Palestinian working group made up of politically connected intellectuals drew up a two-part report on the parties' positions: first they presented each side's preferred alternative, and then a “compromise version” for each party.¹⁷

Implicit in this was that each party would be able to accept “their” version of a compromise if other aspects of the negotiations did not throw any spanners in the works. The purpose of the entire initiative was to destroy a number of taboos and to start drawing the blueprints of a possible settlement. The working group first discussed both par-

¹⁵ One aspect of the discussions that is of particular interest was that the USA voted for this yearly referral to resolution 194, to the certain chagrin of Israel. However, the USA shifted its position during the Clinton administration and voted blank.

¹⁶ Abu Mazen is one of Yassir Arafat's closest men and a key figure in the negotiations. Yossi Beilin, currently Minister of Justice, was considered close to Shimon Peres and played a central role in the “Oslo Process”.

¹⁷ Joseph Alpher and Khalil Shikaki wrote: *The Palestinian Refugee Problem and the Right of Return*, paper no. 98-7, the Program on International Conflict Analysis and Resolution. The group also included Gabriel Ben-Dor, Ibrahim Dakkak, Yossi Katz, Ghassan Khatib, Moshe Ma'oz, Yezid Sayigh, Ze'ev Schiff and Shimon Shamir.

ties' fundamental needs – what was it exactly that was important to each of them?

The first requirement of the **Palestinians** was that Israel should accept responsibility for the refugees' plight. Such an acceptance would not only have moral and symbolic value, but would also serve as a basis for compensation. The second point was an Israeli acceptance of the refugees' political and moral "right of return" to their home towns in the actual state of Israel. For the Palestinians, the refugee question was more of a political concern than a humanitarian; nonetheless, a third demand was improving the material lot of the refugees: a home, or at least a reasonable hope of a better life.

A further point was that the area that would make up the new Palestinian state – the West Bank and Gaza – must be large enough to receive a larger number of refugees: a return in other words to the 1967 boundaries.

In **Israeli** eyes, the refugee question is mainly a fundamental matter of internal security. Israel is determined to defend its existence, stability and Jewish character and interprets any moves to force an acceptance of responsibility for the refugee problem as attempts to throw doubt on its legitimacy.

In light of how discussions have evolved, Israel is looking for an end to the refugee question as part of a collective peace agreement. Unresolved refugee problems can sow the seeds of future discord, which in turn can threaten Israeli, or the Israelis', security.

To defend Israel's democratic and Jewish character, any solution that significantly increases the non-Jewish part of the country's population must be rejected. Nor can Israel accept solutions that might involve threats and the instability of a new Palestinian state spilling over into Israel.

The principal alternatives which the members of the working group formulated stressed exactly these needs and demands; and they conformed to the parties' known positions (see above). But what were the details of the compromise proposals – and how far were they away from what each side wanted?

The compromise proposal put forward by the **Palestinians** in the working group insists on Israel accepting its responsibility for causing the refugee problem and on the refugees' having, in principle, an individual moral right to return. Nevertheless, in light of over 50 years of changing conditions, and given Israel's problems, they conceded that

only a limited number of refugees could return to their original homes. Israel would pay individual and collective compensation. The fact that the new Palestine is prepared to absorb refugees into its territory adds strength to its demands that Israel retreat to its 1967 borders.

The **Israeli** compromise proposes that the country accept, along with other sides in the 1948 war, a joint practical – but not moral – accountability for the refugees' plight, and that a solution to their problem lies at the hub of the peace process. Israel would agree to the repatriation of tens of thousands of refugees under the family reunification programme and would also be prepared to pay compensation to the Palestinian state on condition that the Arab states paid compensation for Jewish refugees.

As far as is known, the Harvard group made no attempts to synthesise the two compromise proposals, concluding in their report that the solution should fall somewhere in between. They defined four dilemmas which, as emerged from their own deliberations, had to be discussed further and resolved before any agreement could be possible:

- How many are to be allowed to return to Israel, and on what conditions?
- What is to be the nature and extent of the compensation – and how would it be linked to the question of the Jewish refugees?
- How is Israel to formulate an acceptance of responsibility and/or of the refugees' suffering?
- How many would be able to return to the Palestinian state?

6 Points of contention

The question of repatriation

As we have seen, General Assembly resolution 194 demanded that those refugees that wanted to return to their homes and live in peace with their neighbours would be allowed to do so, and that those who did not wish to return would receive financial compensation.

Over the years, Israeli governments have consistently claimed that since this paragraph was meant to be part of a package, it could not be implemented separately and before any lasting peace had been established. Israel has always, under all circumstances, voted against the resolution and has, as was seen above, never given its approval to the idea that the refugees should have any kind of right to return to their original homes.

In retrospect, this part of the resolution seems somewhat vague; and it should also be pointed out that, in general, refugee rights have improved since the end of the 1940's (even if they have mainly concerned the protection of refugees from being sent home against their wills).

The right to leave *and to return* to one's country has been established in a number of different contexts since it was included in the 1948 General Declaration on Human Rights – which was adopted by the General Assembly the day before resolution 194. However, the fact that these directives referred to “country” rather than “home” complicated matters and rendered them less applicable to the Palestinian question. Another human rights complication in this context is that the majority of those that fled were never granted Israeli citizenship, most of them having fled before the state of Israel was established.

Another relevant development is that the principles of family reunification have been strengthened. The right to live, if possible, with one's nearest and dearest has taken on a prominence, not least since the talks on security and co-operation in Europe that were launched

in the 1970's. The UN Convention on the Rights of the Child contains an article on exactly this point, which is relevant to those who have been parted from their families after having fled as refugees.

The events of the 1990's in the former Yugoslavia have underscored how important it is for the international community to adopt a position of principle towards giving people who have fled war or who have been driven out of their homes for ethnic or similar reasons the opportunity to return when they consider the time to be ripe. At the same time, the Dayton agreement and later events in Kosovo have demonstrated that the world is prepared to weigh this right against political considerations, not least against factors that affect stability and the conditions for peace.

The obvious risk is that any compromises on the right of return will be a confirmation of the injustices that have been done through violent methods – which not only sets a bad example but can stoke a resentment that, in turn, can undermine peace.

There can be no question that the Palestinian demand that the refugees be allowed to return has both a human rights and moral potency.

Has this right been forfeited, or made impossible, by the fact that Israel's neighbours – with their special relationship to the refugee communities – were in a state of war with Israel? This seems to be the crux of the Israeli position, against which the Arab/Palestinian side could claim that Israel's refusal to let refugees back into the country was the reason why hostilities continued (or at least one of the reasons). To an observer, the deadlock looks very much like a “catch 22” situation.

The ex-Israeli general, Shlomo Gazit, who also took part in the RWG, proposed in a document written in 1994 that although the right to return should be recognised “in the abstract”, its implementation should be rejected for reasons of security.¹⁸ Today, it still seems impossible to reconcile Israel's demands on security and the protection of the country's Jewishness with the refugees' right of return.

It must also not be forgotten that the refugees' homes have been taken over by others, who after so many years lay claim to a historical right of possession. In practice, then, the choice faced by the Palestinians is between continued hostilities – with the refugee question re-

¹⁸ Shlomo Gazit's report, “The Palestinian Refugee Problem” was published by the Jaffa Center for Strategic Studies at Tel Aviv University in 1994.

remaining unresolved – and a “reinterpretation” of the concept of return to mean resettlement in the areas under Palestinian rule rather than a return “home”.

This would be a painful retreat for the Palestinian movement. But the question is whether it would even be possible without a number of concessions from Israel and the international community, with recognition of the unjust treatment of the refugees coupled with a generous compensation package that would also be able to function as a state grant to build a new life in a new place.

It would also be important for at least some of the refugees to be allowed to return. Bearing in mind that in 1949 Israel actually offered to receive 100,000 returnees and that several thousand have been granted permits to re-immigrate within the programme for family reunification, this could be regarded as relatively uncontroversial; far from it, as the issue touches some of the most sensitive nerves.

Israel seems prepared to take in just a small number of refugees, so small that it would have no impact on the demographic balance, figures mentioned at the Camp David talks in July 2000 were 5–10.000 during a five–ten year period. It would also be made completely clear that their return was not a right and that their being received must in no way be regarded as an indirect admission of guilt and accountability.

The returning refugees would not be able to move into their original homes, something which has effectively been accepted by the Palestinians. Nevertheless, they have greater expectations on the other points, and want a number that is large enough to serve as a demonstration that the Palestinian demands for refugee rights are being given, indirectly at least, recognition. For the same reason, they are not willing to limit the criteria to family reunification alone.

It is never easy to reconcile arguments of rights and quotas. A right is a right, no matter how many others are in the same situation. In this case, it is obvious that the first decision will be about numbers, i.e. the quota, which will be determined by the total balance of compromises on the different final status questions. When the number and timetabling is settled, it would seem reasonable for the humanitarian concerns to be given priority treatment. This means that the question of rights must manifest itself in other ways in any peace settlement. So we will now turn to the questions of compensation and recognition of the refugees’ suffering.

The question of compensation and accountability

The General Assembly resolution 194 also addressed the question of compensation. Those refugees who did not want to return would be able to receive financial reparation, as would those who had lost property or had it destroyed. The CCP put in a considerable amount of work in its time to determine the compensation needs. Now, five decades later, the question has become substantially more complicated, both technically and legally.

The Israelis for their part claimed that the matter should be seen as settled through the payments previously made by Israel to individual people, and especially with a mind to the fact that Jewish refugees from the Arab states never received compensation themselves (which was indirectly “substituted” by the support they received in Israel) – “quid pro quo”, so to speak. This has been rejected by the Palestinians who have claimed that the two refugee situations must be kept well apart; the Iraqi regime failed to act in their interests when they confiscated Jewish assets. Why should they suffer for the violations of other governments?

Their position is that resolution 194 must be respected, that compensation should be paid and that this should not be traded off against the right to return, with the entitlement to further reparation for those who decided not to return. Compensation should be paid to individual families who had lost assets (including for the internal refugees who live in Israel today), and collectively for the years of hardship.

What should a compensation programme prioritise? Salim Tamari, one of the Palestinian delegates to the RWG, has pointed out that if compensation is directed towards those who had land and other such property, it would mean in effect that relief would be going mainly to the richer members of the refugee community. Giving simply their refugee status as grounds for compensation would be fairer, even more so, of course, if the compensation was based on needs – but then this would just help to weaken the links with the events of 1948 (and/or 1967).

A realistic prediction is that the negotiators will propose that no distinction be made between “compensation” and “start-up aid”; such a blurring of terms would facilitate a compromise. On the other hand, compensation based on confiscated property would be more legally rooted, even if it would be more difficult to implement in practice.

This discussion will be arduous, regardless of its political charge. It will be hard to define – and agree upon – the criteria (within the Pal-

estinian group too). The administration of the entire programme will be demanding and expensive.

Naturally, the costs will depend on the size of the payments – compensation for confiscated property with compound interest alone would amount to astronomical sums. Even if Israel was prepared to make a significant contribution, other grants would probably be necessary.

Shlomo Gazit recommended that Israel should accept its part of the financial burden of rehabilitating the refugees, even if it could be interpreted as an admission of guilt or accountability. He proposed a fixed grant of 10,000 dollars per family, irrespective of the value of the property they left behind in 1948. For financing the grant, he looked to Germany and the possibility of asking the country to contribute to this sum by paying the compensation still due to Israel from East Germany (which in his estimation should be somewhere around 7–10 billion dollars).

The Palestinian intellectual Rashid Khalidi proposed something more generous – that each refugee should receive 20,000 dollars, which he estimated would amount to a total of about 40 billion dollars.

The question is whether funds of this order of magnitude are actually available. When the donor community convened to discuss the financing of the plan for the West Bank – Gaza that resulted from the Declaration of Principles in 1993, the outcome was no more than 2.5 billion dollars (a third of which as a loan) to be utilised over a period of five years. Is there any reason to believe that there would be any greater generosity towards refugee compensation today?

This is compounded by the entrenched opposition on guilt and responsibility. Israel has rejected discussions on every form of compensation that could be interpreted as an indirect admission of Israeli accountability for the refugee problem and acceptance of a “right of return”. But here, of course, is the crux of the matter for the Palestinians: they want a clear signal that the refugees have in fact suffered injustice. And this is one of the toughest knots to unravel in the entire proceedings.

It might be easier to reach an agreement if the compensation question was considered, as far as possible, a purely technical process of repayment and if the guilt and responsibility questions were taken up as distinct issues, in, for example, a separate declaration. Even with heavy international participation, such a separation, for obvious reasons, would be difficult to maintain.

Whatever form such an admission from the Israelis would take – even if made via an international initiative – it is for the Palestinians a matter of some redress, as confirmation that five decades of dreams of return were not totally unfounded; this will be particularly important if that dream must now be given up.

For the Israelis it would be a matter of taking a self-critical review of their own history and of accepting that people from another group were severely wronged when the state of Israel was formed. The internal response to their own revisionists for the past few years has demonstrated that this will be a painful thing to do.

Shlomo Gazit proposed that Israel make a “moral-psychological” declaration which recognises the suffering of the Palestinians over the years, even if there was a danger of this being interpreted as an admission of guilt by the Israeli government. One possibility would be to do this by supporting a resolution in the General Assembly that welcomed an agreement between the parties, that recognised the suffering of the Palestinians and embraced their readiness to take part in a rehabilitation programme while abandoning their demands of returning to Israel.

The question of resettlement

One alternative would thus be that the refugees be allowed to move into the new Palestinian state, even if their original homes lay outside its borders. But are there really enough resources in the West Bank – Gaza to absorb a large number of refugees? This is where the Canadian term *adaptation* comes in.

Making huge investments in the expansion of the infrastructure, schools and other social institutions and to stimulate business is not enough. The area must be able to function as an administrative and economic unit, which demands the development of public administration and the guaranteed maintenance of communications between the two geographical areas.

How the new Palestine will relate to Jordan will be a matter of obvious import, while more relaxed borders to Egypt will give a significant boost to economic development. Such relationships could also offset the unilateral economic dependence on Israel in terms of transport, trade and employment opportunities.

It is understandable that the Palestinians will link a concession that

the refugees be allowed to move into the West Bank – Gaza with the demand that the area will not be cut back by Israeli annexations. From this point of view as well the Israeli stance is a problem. The “absorption question” in the new Palestine will also be shaped by how the question of the settlers is resolved. This is about more than just physical space made up of land and water – it is about all the security measures – including the separate access roads – which take a great chunk out of the land resources.

Leaving behind the actual capacity to absorb refugees in the West Bank – Gaza and the space available to them, the other limitation is Israel’s demands to have control over the extent of the immigration and even, perhaps, over who is allowed to move in – for reasons of security. As has been seen, there exists a concern in Israel that a group of resentful refugees living in their immediate neighbourhood would constitute a serious security threat.

An invisible line probably runs here: there can hardly be an agreement if the Palestinians are both expected to accept a “reinterpretation” of the right of return (to the new Palestine instead of to Israel), while being deprived of the right to implement that change in practice. The new state must surely be able to determine its own immigration policy for itself; Shlomo Gazit wrote that the new Palestinian National Authority could be expected to adopt a “law on return” – following a familiar model (!) – which would give the Palestinians of the diaspora the right to move into the new Palestine and hold citizenship there.

On the other hand, it is obvious that further discussion will be needed on security, for both sides. Israel will demand that the new Palestine be a demilitarised zone, though with a police capacity to deal with violent extremists. What is clear is that security problems – in both directions – will be exacerbated if the Israeli settlers are allowed to remain. If the security problems are cleared up, there should be room for greater Israeli generosity than has so far been proffered.

Would the refugees accept having to move to the new Palestine? There has been much speculation about how many would actually want to, and numbers of around half a million have been bandied about. The truth is that nobody knows. No serious opinion poll has been taken, partly because of the sensitive nature of the issue, but also because it is difficult to conduct such hypothetical interviews on such a broad base of refugees.

Poorly designed surveys could in fact do damage – by raising unrealistic hopes, engendering conspiracy theories or spreading further misconceptions. At the same time, it is a matter of some urgency that more information is gathered on the opinions of the refugees themselves. An academic and/or international framework for such studies would possibly make things easier, but there are also arguments for a more indirect, journalistic method.

For the majority of the refugees in Lebanon, who originate from northern Galilee, resettlement to the West Bank would mean an even greater displacement from their original homes. Moreover, few of them have any family connections there. Whether this can still be seen as a feasible option depends partly on how important the refugees feel it would be to live under the Palestinian Authority and flag; and this, in turn, is affected somewhat by how they perceive the new Palestinian Authority.

In any event, the new Palestine's capacity to absorb refugees is not unlimited, so it would appear difficult to reach a realistic and acceptable solution to the whole problem without some of the refugees being allowed to stay put – and without any loss of dignity or humanity.

As we have seen, there is particularly strong opposition in Lebanon to each proposal for “naturalisation”; but even in the other host countries any decision on assimilation would not be without its problems – even if the refugees are already relatively well integrated into Syrian and Jordanian society. It would in all events require external financial support. There is also, for the governments involved, a political dimension: to agree to assimilation would be a distinct departure from the long-established course.

The refugees that would prefer to remain would probably be those that were enjoying greater prosperity; they would also be less of a “burden”, especially if they, or their host country, received a handout from the compensation fund. The Palestinian community contains a number of skilled entrepreneurs who would be able to help stimulate the national economy. Another compensatory feature could be the UNRWA's remaining resources which might also be used to help ease this transition.

Another resettlement option could be to move to a third country. Most Palestinians are already living, most often temporarily, in the Gulf region, while possibly another half million live in North America or Europe – and it is no secret that many of the refugees in Lebanon

would like to follow in their footsteps. It is very likely that an internationally sanctioned Middle East peace will give some of the refugees – but hardly very many – the opportunity to move to a third country.

An important question concerns the future national identity of the refugees. One idea that has been talked about informally is that the refugees would be offered Palestinian citizenship in combination with permanent residency (and social rights) in the host country where they currently reside. This is an interesting possibility, although it too has its difficulties: normally, citizenship means the right to live in the country of which one is a citizen. If all Palestinians were to use this right to settle in the new Palestine, there would quite simply not be enough room for them all. A theory that everyone knows will collapse as soon as it is put to the test is clearly no real solution at all.

Individual Palestinians have also expressed concern that such an arrangement, with theoretical citizenship of the new Palestine, could easily become a pretext for the host country to deport Palestinian refugees there at the slightest sign of a problem.

Another possibility would be dual nationality, but the Arab League has taken a firm stand against such a deal. Nevertheless, it still seems reasonable to be intellectually prepared for a more concrete discussion on dual nationality as part of a general solution.

There is also a possibility that creative solutions will emerge from the Palestinian entity's various potential relations to Jordan, although there would be a danger that such an opening would lead to the forced deportation of refugees from Lebanon to Jordan.

Inherent to each solution must be an element of voluntariness and choice for the refugees: no option that makes the Palestinians feel they are being herded around like cattle will work. The different options should also be interesting: moving to the Palestinian entity should be a reasonably attractive option, compensation should be set at meaningful levels and the living conditions for those who have been invited to settle in their current host countries, or anywhere else, should be sufficiently tempting.

7 The next step

Immediate action to secure refugee rights

One of the Palestinian tragedies has been the collision between the struggle for the right to return and the refugees' more immediate rights. In order to keep the temporary nature of their refugee status alive in people's minds, far too little has been done, partly deliberately, to improve their standard of living. This has been particularly obvious in Lebanon, where, in order to quash any suggestion that people are adapting to permanent residency, the camps have been allowed to fall into disrepair and the houses to become overcrowded.

Despite the absence of any protection brief for the UNRWA – it is after all a relief organisation – the UN High Commissioner for Refugees has not been allowed a role in the matter of the Palestinian refugees. In certain situations this has been to the disadvantage of the Palestinians, and has probably also contributed to the fact that so many of them are still stateless – despite the increasing tendency to see protection from statelessness as a human right.¹⁹

It should be possible – in light, for instance, of this development in refugee rights – to examine and improve the status and rights of the Palestinian refugees, in anticipation of a peace settlement as much as anything else. If the treatment, in different respects, of all refugees is upwardly adjusted to the highest level found in all the host countries, the whole situation would be considerably improved. Even if this might be out of reach, bearing in mind the problems in Lebanon, there is a definite need to put an end to the worst of the injustices with no further delay.

¹⁹ Hence the direction laid down in the UN Convention on the Rights of the Child that minors are to have a right to a nationality. Their country of origin or their new country should the former default in this, has a duty to offer citizenship to a stateless child.

An obvious priority would be to secure the legal status of many of the Palestinian refugee groups who, for various reasons, have fallen through all the safety nets. This applies not least to the refugees without papers, the “illegal” refugees in Lebanon and the displaced persons from Gaza in Jordan.

It also applies to those who were not allowed entry to the West Bank – Gaza since they had stayed away after their permits had expired. Another group with their own particular problems are the refugees without ID cards.

Another priority must be to help the homeless obtain reasonable housing. Again, this is an acute issue in Lebanon, where concern over misunderstood “signals” has been allowed to prevent even the most urgent repairs and building work.

One of the RWG’s aims has been to use financial aid to help raise standards for the refugees – and thereby to improve the climate for agreements, including concessions. Swedish efforts to support children’s rights in Lebanon and the West Bank – Gaza have been of importance here. However, the UNRWA’s budget problems – compounded by other hapless circumstances – have unfortunately meant that total standards have been dragged down; in just a few years, the UNRWA’s grant per refugee has been halved. This also seriously undermines the possibilities of creating a healthy climate for talks that would facilitate a solution to the refugee question.

The refugee question in the peace process

The way things have developed, it is impossible to address the refugee question separately. Consequently, it must form part of a comprehensive peace agreement in which Palestine is recognised as its own state with well-defined borders. Jerusalem is an important part of the puzzle, as is a solution to the question of the settlers.

The Israeli investments in settlements and other infrastructure could, on the other hand, be seen as an asset towards resolving economic problems, including aspects of the reparation question, if settlers move out of the West Bank – Gaza. The creation of a Palestinian state with reasonable borders would obviously be of great benefit to the refugee talks.

What these final status issues have in common is that, from an Is-

raeli perspective, they all concern security and protection from acts of terrorism. In the Israeli debate, “concessions” regarding refugees and the other issues will be weighed against the extent to which security can be guaranteed.

A lasting settlement must be based on direct agreement between the Israelis and the Palestinians. However, the problems involved have obvious global dimensions as well. Peace in the Middle East is itself a widespread concern; the five decades of conflict have been exceedingly costly, in all respects, to the international community, while the issues of Jerusalem and the refugees involve other interested parties with their own legitimate claims to make.

There is, of course, a regional dimension to the refugee question, and the neighbouring countries, including Syria and Lebanon, must be involved in the talks. The international community has, particularly through the UN, been involved since the 1940's. The role of the UNRWA is also an important part of the solution, and how and when the agency is devolved will be a central issue. It is also important that there is a human rights profile to every resolution reached at the negotiating table.

A future peace settlement will also demand new, or reformed, agencies to help implement the agreements, and not only the established authorities in the countries/areas concerned. Although nobody is suggesting that the *Conciliation Commission for Palestine* which has been dormant since the early 1960's, should be activated, its experiences should be studied. It has been informally suggested that Sweden take charge of a new body with a similar mandate, but the government has declined to respond to “this invitation”.

Nonetheless, there is a clear need for external funding to help finance a peace agreement. Resources in the neighbouring countries will need mobilising, which also emphasises how important it is for the Gulf states, amongst other countries, to become involved in the process.

To bring the refugee question to a resolution will actually require a mobilisation of diplomatic and economic resources of a colossal scale – and of a stalwart nature. Working with continual improvisations on an open account – as in the case of the former Yugoslavia, for example – will not be sufficient. The United States of America will need to take on an active role, although it is also just as important that the project is not completely dominated by Washington.

The bottom line is that the strategies for organising the talks will demand a great deal of thought: one risk is that the different parties will copy earlier models too closely. What is clear is that the current framework consisting of bilateral talks between the Israelis and the Palestinians, the quadripartite talks and the RWG will be inadequate. At the same time, it seems inappropriate to rely on one central peace broker and shuttle diplomacy. Whatever, there will be a need for external supportive initiatives at different stages and concerning different sub-issues.

One problem in the process so far has been that the Palestinians have, in many ways, been in an inferior position, which has meant that the talks have not been between two equal sides, able both to give and take. Israeli representatives have acted from a distinct position of power and have, in effect, decided the negotiation agenda.

The only thing that the Israelis have actually demanded from the Palestinian leaders – guarantees of security – has not given the latter a usable card to negotiate with, partly because it would be impossible to control all the individual potential extremists, and partly because the political-ethical pressure upon just that issue leaves no room for anything other than maximum efforts.

The only way open for the Palestinian leadership has thus been to keep as tight a reign as possible on the extremist factions. However, the methods used to this end have violated human rights and aroused the resentment of the Palestinian people, something which can hardly be seen as a benefit to future security on either side.

Even though the Palestinian delegates gradually developed impressive negotiation skills, they have always been clearly inferior, technically and in terms of resources, to their Israeli counterparts. This lack of balance increases the danger that any agreement reached will be politically unsustainable on the part of the Palestinians. It would probably advance the peace process if a better balance were created in terms of “secretariat competence” between the negotiating parties, including investigative capacity and a knowledge of human rights.

One dimension which has tended to be forgotten is the importance of allowing the refugees themselves a voice in their destiny. For instance, they had no direct representative at the Camp David talks in July 2000. Even if the PLO has taken on the responsibility of representing all Palestinians (i.e. including those outside the independent area), this constitutes a sensitive political problem. The role of the

PLO leadership as administrators of parts of the West Bank – Gaza has fuelled suspicions, not least amongst the refugees in Lebanon.

This was exacerbated by the fact that since 1993, all relief money has been channelled to the independent leadership, rendering the PLO unable to support refugee institutions (including upper secondary schools and hospitals). Today, there is therefore a crisis of confidence between the PLO and many of the refugees they aspire to represent, a problem that is aggravated by the way that the Syrian government directly undermines the PLO in both Syria and Lebanon. This means that it might be necessary to try to find complementary channels for meaningful consultation with the refugees themselves.

Conclusions: towards a settlement

The process that was launched with the Declaration of Principles in 1993 was meant to build mutual confidence between the two sides. Granted, there has been some success in the understanding of the other side's arguments and reasons, at least between the negotiators themselves. However, the drawn-out nature of the process has also encouraged extremists on both sides to try to find ways of scuppering the process.

Unfortunately, the men of violence have been duly rewarded and their acts of terrorism have led to the discontinuation of talks. The collective punitive measures taken out on the Palestinians as a group have undermined the grounds upon which the peace work rests. The uncertainties surrounding the future of the settlers has spurred the extremists amongst them to exploit political opportunities to sabotage the process. The result of this is that there has been no widespread, enthusiastic upswing for the peace process on either side, and the fact that the peace process was obstructed so radically during the Netanyahu government gave pause for thought – even if it might be of value for the future that numerous conservative politicians and diplomats were drawn into the practical negotiations as well.

Here, politicians and intellectuals have been cited who, to a certain extent, have been voicing free thoughts beyond the traditional camp lines. Their proposals appear more rational and the hope is, of course, that they could become guides out of this sensitive tangle of political postures. Yet the difficulties related to public opinion must not be underestimated – on both sides there are broad-based groups that regard concessions as a betrayal of sacred, national goals.

Bearing in mind the distinct inequality of the different sides of the negotiating table, it is important that the process is not simply a matter of trade-offs, and that any peace settlement is built upon fundamental principles. This applies not least to the question of refugee

rights, which is a reason why the discussions should take on an international dimension and involve the participation of external, impartial representatives.

This analysis of the problems and the different political stances seems to lead to the following conclusions, conclusions which might be seen as building blocks of a peace agreement:

- Israel recognises that it has a shared responsibility for the refugee question and that the Palestinians have suffered heavy human and material loss. This could either happen directly or through support to a new UN resolution.
- Israel agrees to take in some tens of thousands of Palestinians more inside the 1948 borders. Any such move will have to concede to security observation, while the Palestinians will have to abandon their demand for a mass repatriation to Israel itself.
- The refugees are invited into the new state of Palestine, which should be given the area and resources it needs. Israel relinquishes its demands on controlling the immigration, although this does not preclude any co-operation on questions of common security.
- A programme of compensation is developed that recognises claims for the refugees' lost assets and for their refugee status. Such a fund would also be seen as a source of start-up grants. Israel contributes to the fund.
- Refugees who decide to settle in their current host country (if this is approved) should be given social and civil rights. The host countries should be compensated for the costs incurred in trying to help resolve the refugee question.
- Every attempt should be made provide the refugees with reasonable options. Settlement in a third country, when possible, should also be given financial support from the reparation and compensation fund.
- The question of the refugees' citizenship must be resolved. One option is a Palestinian citizenship issued by the new state (also to those who will continue to live in exile). Another possible option is dual nationality.
- The Palestinian representatives declare, after settlement has been reached, that they relinquish all claims against the state of Israel. The books are closed.

Together, these points sketch an approach that is not so dissimilar to that which now seems to be emerging from within the more moderate camps on both sides. However, there are a number of inherent grey areas and contradictions.

It is possible that many of these problems can be handled with a little creative diplomacy, which would leave a certain amount of room for different interpretations in the face of the “home opinion” – even if the margins for this are small and in no way applicable to the more concrete measures. An obvious area for prudent diplomacy is the account of the historical background and the acceptance of the refugees’ suffering.

One even more pressing problem is that far too few refugees will be able to make use of the theoretical options that are being sketched out – the “solutions” for settlement seem quite simply to fall short. It will take an extremely long time to develop a “reception capacity” in the new Palestine. On top of this, the chances of obtaining funds for the necessary investments are limited – in relation to what would be needed. There is reason to fear that the options that can be offered to the refugees, for instance those in Lebanon, will not be sufficiently attractive. There is also time pressure – given the 52 long years that have passed.

The international community will be needed as advisors to the parties, and sometimes as intermediaries and lobbyists as well. A particularly important mission is to look after the human rights aspects. We must also be prepared to offer further resources, in the name of solidarity.

The possibilities of establishing peace in the Middle East depend largely on whether the Palestinian refugees are granted their rights. This paper presents an analysis of this sensitive issue: the historical background, the relevant statistics, the present situation for the refugees in the host countries, the positions of the parties and the attempts that have so far been made to mediate a solution. It outlines some elements for a possible agreement – based on mutual compromises and principles of human rights.

The paper is a contribution to a study within the Ministry for Foreign Affairs on the political, economic and social conditions in the Middle East region. Aspects being reviewed are security issues, prospects for democratisation, economic trends and trade patterns, and the role of development co-operation. Several studies have been published in Swedish. The main report has also been published in English: "Tradition and Renewal. A Study of North Africa and the Middle East". All publications in the series, including this one, can be obtained from the MENA department of the Ministry by calling +46 8 405 10 00.

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