

**What Role for UNRWA?
Opportunities and Constraints**

A Durable Solution to the Palestinian Refugee Issue



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Introduction

In 1995 UNRWA noted that “[f]or the first time since [the Agency] was established in December 1949, it is possible to see on the horizon the end of the Agency’s mission.”¹ Five years later, cautious expectations about winding down UNRWA at the end of the final status negotiations between the PLO and Israel appear less certain. Barely six months old, the final phase of the process has become mired in the same pattern of deadlock and delay, characteristic of Oslo from the first implementing agreement in 1994 until the present. Moreover, fundamental disagreements about the principles and standards for a resolution of the refugee issue persist.

While some degree of international “implicatedness” in generating the flow of Palestinian refugees in 1948 through UN Resolution 181 afforded Palestinian refugees a *heightened level* of protection and assistance, in practice, the special regime established in 1948/49 has been emasculated and reduced to a humanitarian operation. International efforts to find a solution to “the Palestinian refugee problem” have focused primarily on humanitarian issues, as if the standards and principles for the protection of refugees did not apply to Palestinian refugees. This is, at base, the reason for the failure of the international community to find a durable solution to the problems of Palestinian refugees.

In the absence of any kind of international protection, UNRWA remains the sole functioning international body responsible for the majority of Palestinian refugees. The uncertain future of the Agency, combined with persistent financial pressure, has only heightened the sense of anxiety, alienation, and marginalization experienced by Palestinian refugees under the Oslo process. As noted in the 1995 UNRWA report, “political and financial uncertainty surrounding the Agency is in itself a destabilizing factor with political consequences for the region and the peace process.”²

The development of initiatives “by refugees for refugees” – i.e. the evolution of refugees as a political category distinct from the Palestinian non-refugee population - is

¹ *UNRWA and the Transitional Period: A Five-year Perspective on the Role of the Agency and its Financial Requirements*. Vienna: UNRWA Headquarter (31 January 1995), p. 1.

² *Ibid.*

an indicator of the extent of alienation and marginalization.³ Since the first popular refugee conference in Deheishe Refugee Camp in 1996, independent initiatives by refugees and displaced persons have repeatedly called upon the international community to “[u]ndertake an immediate and special effort at solving the structural crisis of UNRWA’s budget, in order to stop the deterioration of education, health, and welfare services for Palestinian refugees in this politically sensitive period, and to enable the agency to offer adequate services to the growing refugee population until a just and durable political settlement is reached.”⁴

This discussion paper seeks to raise issues about the future of UNRWA within the framework set down by the United Nations General Assembly in 1948 – UN Resolution 194 (III) - for a durable solution to the Palestinian refugee issue. This framework is based on the principle of refugee choice, international law, the feasibility of voluntary repatriation, and its importance for regional stability and development.⁵ The potential role for UNRWA within this framework is examined in terms of the Agency’s mandate, its structure, and the interests of selected UNRWA stakeholders in relation to the components for durable solutions to refugee flows: voluntary repatriation, host country integration, and third country resettlement. Given the developments in finding durable solutions to refugee flows within the past decade, the paper also examines development and compensation.

Mandate

According to General Assembly Resolution 302 (IV) of 1949, UNRWA was established to provide relief and assistance, "without prejudice to the provisions of

³ “The Evolution of an Independent, Community-Based Campaign for Palestinian Refugee Rights: Palestinian Refugees in the 1967 Occupied Territories and 1948 Palestine/Israel Coping with the Post-Oslo Conditions,” Working Paper. Bethlehem: Badil Resource Center, 2000.

⁴ “Implementation of the Right of Return of Palestinian Refugees – A Condition for a Just and Durable Peace in the Middle East,” Joint Statement issued by Organizations and NGOs of Internally Displaced Palestinians and Palestinian Refugees in Palestine and Lebanon on the International Day of Solidarity with the Palestinian People, 29 November 1999 and the 51st Anniversary of UN Resolution 194, 11 December 1999, published in *al Majdal*, Issue No. 4 (December 1999).

⁵ For more details about the framework see *Reclaiming the Right of Return*. Bethlehem: BADIL Resource Center (Second Edition).

paragraph 11 of General Assembly Resolution 194 (III)", to prevent starvation and distress and to further the conditions for peace and stability.⁶ In addition to emergency relief, rations, and basic services (i.e. health, education, welfare), Agency programs have also focused on development. In the early years of the Agency, this included small-scale training and employment-creating projects known as "work relief" and, medium government-controlled projects such as road-building and tree-planting known as "works projects". In 1951, a Development Bank, offering medium and long-term loans, was established in Jordan to encourage development and "to raise the standard of living *of all inhabitants* including the refugees."⁷ The provision of loans to all inhabitants of Jordan, rather than solely to Palestine refugees, reflected what would become a pattern of a more flexible interpretation of the Agency's mandate. UNRWA officials also raised the idea of providing assistance to *poor non-refugees* in the area of its operations.⁸

The early small and medium-scale projects, however were soon deemed to be unsuccessful due in large part to high overhead costs. According to UNRWA, fifty-four percent of project expenditures were spent on salaries. The works program cost five times as much as keeping a refugee on relief with little improvement in what UNRWA referred to as the "absorptive capacity of host countries."⁹ Moreover, the Agency noted that the projects tended to build up a separate refugee economy countering UNRWA attempts to "reintegrate" and "rehabilitate" the refugees. A large-scale economic project based on joint development of regional water resources, providing both short-term and long-term employment to refugees fared less well.

Small and medium-scale projects were eventually replaced by a new program, which emphasized refugee integration, by providing tools and equipment, rather than employment. Small loans were granted to individuals or groups who could become self-supporting. According to the 1952 Report of the Commissioner-General, the program included: (1) Helping refugees find employment where there is need for their services; (2) Training refugees for occupations where there is a shortage of trained workers; (3)

⁶ UNGAR 302 (IV), 8 December 1949.

⁷ UNRWA Report, June 1951. Italics added.

⁸ This included assistance to non-refugees in frontier villages with Jordan, the non-refugee population in Gaza, a number of refugees in Egypt, and Bedouin. UNRWA Report, June 1956.

Making loans or grants to refugees to enable them to establish small enterprises to improve their economic position; (4) Building houses in or near urban areas where employment is available; (5) Establishing rural villages in areas where land is available for cultivation; (6) Developing agricultural lands through well drilling, irrigation works, access roads and similar activities; and, (7) Generally, financing economic development and providing technical assistance where there are assurances of proportionate benefit to refugees.¹⁰

UNRWA also undertook surveys of the economic situation in the host countries to determine development possibilities. Smaller studies examined the impact of UNRWA expenditures on the national economies of host countries; the national income of the host countries and Israel; theoretical aspects of investment requirements for refugee rehabilitation, and; the long-range economic potential of Iraq, among others.¹¹ In the 1980s, UNRWA initiated Developmental Social Services, and Self-Help Projects in cooperation with Private Voluntary Organizations. An income-generation program continues to support small and micro-enterprises by providing capital investment and working capital through field-based revolving loan funds, and by providing technical assistance. More recently, UNRWA has engaged in reconstruction efforts in the West Bank and Gaza through the Peace Implementation Program. Projects have focused on the development of infrastructure to meet the increasing demand for UNRWA services.

While the exact meaning of “assistance for the relief of the Palestine refugees” was never defined, some of UNRWA’s stakeholders felt that some Agency projects went beyond the mandate set down in Resolution 302 (V). Refugee opinion about UNRWA’s early economic development projects, for example, ranged from suspicion to outright hostility. As the Agency noted in 1951, the hostility was based on the conviction that the works projects might mean permanent resettlement – i.e. “tantamount to renouncing the right to return home, and perhaps even the right to compensation.”¹² UNRWA repeatedly attempted to reassure refugees emphasizing that the projects did not prejudice repatriation and compensation. “This principle justifies repetition,” the Agency noted in its 1952

⁹ UNRWA Report, 1951.

¹⁰ UNRWA Report, June 1952.

¹¹ UNRWA Report, June 1956.

report, "because it is often forgotten or obscured."¹³ References to "host country absorptive capacity" - as noted above - at the same time, however, seemed to contradict the message UNRWA was trying to communicate to the refugee community.

Given the strong backing of these projects from donor countries that supported resettlement, notably the United States, the anxiety and anger expressed by refugees was not without cause. The appointment of Gordon Clapp, former head of the Tennessee Valley Authority in the United States, to head up the Economic Survey Mission and statements by both Clapp and US State Department officials in favor of resettlement not only provided further evidence to refugee fears but also highlighted the increasingly broad mandate under which UNRWA operated. In 1959, the United States instructed the Secretary General to undertake a new study to determine whether a program of capital investment to produce jobs could make the services of the Agency unnecessary.¹⁴

The driving assumption behind these efforts, that improvement in the economic conditions of refugees would lead to resettlement, has proved to be false. Nevertheless, advocates of resettlement continue to advance economic programs as a panacea for refugee demands for repatriation. Even in areas where heavy investment has occurred under the Peace Implementation Plan, however, support for resettlement remains marginal. Gaza and the West Bank, for example, have received the greatest share of project investment under PIP (\$5.5 million of \$7.8 million in 1998/99), yet recent opinion polls reveal that the significant majority of Palestinians in general, and refugees in particular, consider return to their homes both the most just and the most feasible solution.¹⁵

The ambiguous language often employed by UNRWA in its early years, referring to reintegration and rehabilitation programs, did little to allay refugee fears about forced (*de facto*) resettlement. In fact, UNRWA was actively involved in small-scale

¹² UNRWA Report, June 1951.

¹³ UNRWA Report, June 1952.

¹⁴ Milton Viorst, *Reaching for the Olive Branch, UNRWA and Peace in the Middle East*. Washington, DC: The Middle East Institute, 1989, p. 38.

¹⁵ *Public Opinion and Palestinian Refugees*. Report submitted to the International Development Research Centre, Ottawa (December 1999). For more on the interpretation of opinion polls in the Palestinian refugee context see, "Public Opinion Polls and the Palestinian Right of Return: The Problematics of Polls and

resettlement in the early 1950s through the Placement Services Office, albeit on the basis of refugee choice. The Placement Services Office provided assistance, including emigration loans limited to \$400 per adult and \$200 per child, to Palestinian refugees who sought resettlement in Libya or Iraq. A full-time liaison officer was appointed for each country. The Agency also approved a two-month experiment of assisting overseas emigration for refugees who had already obtained visas. The migration experiment was suspended after a year, however, at the request of local governments pending a review of the Agency's programs. During its first year, the program assisted 145 persons to migrate at a cost of \$294 per person.¹⁶

At the same time, the Agency has opposed resettlement efforts. Following the Israeli occupation of the West Bank and Gaza in 1967, the Israeli Military Administration initiated a policy involving the demolition of refugee shelters in the occupied territories in order to break up and eventually eliminate refugee camps. The demolitions took place under the guise of security – i.e. widening camp roads to facilitate the maintenance of security. The measures, which resulted in the demolition of nearly 8,000 homes alone in July and August of 1971 were vigorously protested by UNRWA.¹⁷ These protests were reiterated in subsequent years before the UN General Assembly in relation to the West Bank, calling upon Israel “to abandon its plans and to refrain from the removal, and from any action that may lead to the removal and resettlement of Palestine refugees [...] and from the destruction of their camps.”¹⁸

UNRWA has further adapted Agency programs to meet the changing needs of its clients, including the provision of limited protection. While UNRWA offered protection primarily through the Refugee Affairs Officers (RAO) program in the West Bank and Gaza, established during the *intifada*, the Agency has also coordinated small-scale repatriation of refugees. In 1994, UNRWA agreed to administer funds, provided by Canadian International Development Agency, for the repatriation of some 363 Palestinian refugee households stranded on the Egyptian side of the border after the Camp David

Summary of Available Results." BADIL Press Release (7 October 1999). Archived on the BADIL website: www.badil.org.

¹⁶ Ibid.

¹⁷ UNGAR 35/473, 8 October 1980.

¹⁸ UNGAR 41/568, 3 September 1986.

Accords. On average, 10 households have been permitted to return to Gaza since the process was initiated in 1982. At that rate, it would take 60,000 years to repatriate the current number of UNRWA-registered refugees. Even at the rate set for the completion of the repatriation project, around 110 families per year, it would take over 5,000 years to complete the return of UNRWA registered refugees.¹⁹

Finally, while UNRWA does not have a mandate to represent or administer compensation for refugees, that function being accorded to the Conciliation Commission, the Agency has demanded compensation for damages to UNRWA properties, including damages for the demolition of refugee shelters mentioned above.²⁰ UNRWA has also acted as a representative of Palestinian refugees to submit claims to the UN Compensation Commission, in the absence of a government to undertake such a task.

Structure

While the mandate and experience of UNRWA is limited with regard to repatriation, the structure of the Agency is of greater relevance. Critical information, including documents related to property ownership, has been preserved in UNRWA archives.²¹ Some 700,000 family files provide a detailed, though not always systematic, record (due to the exigencies of early relief operations) for each refugee family registered with the Agency, each accompanied by an average of 40 supporting documents. Records also exist for internally displaced Palestinians, mostly from the Galilee but also from Jerusalem, Lydda, and Jaffa, although property is not systematically documented. The village structure has also been preserved through UNRWA registration and documentation, according to place of origin denoted by a 5-digit code. Most UNRWA registered refugees, moreover, live within 100 km of their original homes and lands. In addition, registered refugees from more than two-thirds of the villages that were

¹⁹ For details see, UNRWA Progress Report, "Repatriation of Refugees from Canada Camp."

²⁰ Benjamin Schiff, *Refugees Unto the Third Generation: UN Aid to Palestinians*. Syracuse, New York: Syracuse University Press, 1995, p. 191.

²¹ This includes the Central Registry covering legal and administrative matters, the Unified Registration System (URS) integrating data from UNRWA archives with information from the Field Offices, the Socio-Economic Database with profiles on individuals and families of Special Hardship Cases (SHC), the

depopulated in 1948 are currently living in the same host country. The inhabitants of less than five percent of the total number villages, on the other hand, are completely scattered.²²

The organizational structure of UNRWA, with established field offices, provides the kind of decentralized network, knowledgeable and attentive to local sensitivities, and responsible for some 3.6 million refugees, that is capable of responding to the particular needs of refugees not only within each host country but within different regions of the host country. The needs of refugees repatriating from Jordan, for example, may not be the same as those repatriating from Lebanon where socio-economic, legal, and political conditions are more severe. Additional assistance may be required to assist the high number of special hardship cases in Lebanon, approximately 11 percent of the refugee population, for successful repatriation.

A significant drawback, however, lies in the fact that not all refugees are registered with UNRWA. As the Agency notes, its definition of a refugee “was not meant to be exhaustive in a political sense but rather to define eligibility for the Agency’s services.”²³ Those excluded include: refugees with an independent income or property, refugees who did not reside in UNRWA operation areas, refugees dropped from the record due to budgetary limitations on the number of persons receiving aid, refugees who were offspring of refugee mothers and non-refugee fathers, refugees whose dignity prevented them from registration, refugees whose status improved and moved out of eligibility criteria, and refugees who lost home and property but remained inside Israel (and first time displaced persons in the 1967 war). Today it is estimated that some 1.4 million refugees are not registered with the Agency. The expansion of UNRWA’s definition of Palestine refugees in 1992, which removed the criteria of need, however, provided the opportunity for non-registered refugees to register with UNRWA. Between 1992 and 1996, it is estimated that some 400 Palestinian refugees registered annually with UNRWA.

Demographic Database with background information about refugee families, the Family Files from the Fields, the Health Files, Education Files.

²² Salman Abu Sitta, *The Palestinian Refugees: The Anatomy of Exile*. (Forthcoming).

²³ *UNRWA in the Transition Period*.

UNRWA also has a wealth of resources to facilitate development, both for refugees choosing to return and for those choosing to be integrated into host countries. With some 22,000 local staff, most of which are refugees themselves, UNRWA provides a natural conduit for refugee participation in the processes of repatriation and integration based on refugee choice. Local staff also possess broad experience in a variety of professional fields, from administration, delivery of education, health, and welfare services, and development. Detailed records charting the educational, medical, and welfare needs of Palestinian refugees over the past fifty years, moreover provide an excellent source of data for planning for both current and future needs of returnees as well as those refugees who choose host country integration.²⁴ In the area of health, for example, short and long-term planning for a new health system can be made through use of data from the Health Family Files, which include a list of chronic and or family diseases and the Clinic cards containing the medical history and records of each adult family member with similar records kept for children.

Ongoing provision of donor funding for UNRWA, during a transitional period, moreover, would reduce the amount of new financial outlays necessary for repatriation and integration according to refugee choices. Based on the 1999 General Fund budget for education and health, the total investment over a ten year period would be, respectively, 1.6 billion dollars and 640 million dollars or with a 5% increase per annum (the estimated increase necessary to maintain services) the total calculated investment would reach 2 billion dollars for education and 800 million dollars for health.²⁵

²⁴ For more details see, for example, Lena C. Endresen and Geir Ovinsen, *The Potential of UNRWA data for Research on Palestinian Refugees, A Study of UNRWA Administrative Data*. Norway: FAFO, 1994.

²⁵ "The Impact of Return on Compensation for Palestinian Refugees," Paper prepared for the PRRN workshop on compensation for Palestinian refugees. Bethlehem: BADIL Resource Center, 1999.

Stakeholders

The primary interest of Palestinian refugees, the main stakeholder or client, continues to be implementation of the right of return as affirmed in UN Resolution 194 (III) and the provision of assistance until such a time as a durable solution is effected. In the first interim report of the Agency, the Commissioner General Howard Kennedy noted that, “the refugee, individually and collectively, is tired of his present condition. Above all, he wishes to return to his former home and means of livelihood.”²⁶ On the 51st anniversary of the adoption of UN Resolution 194 in December 1999, internally displaced Palestinians, refugees in the West Bank and Gaza, and refugees from Lebanon, once again issued a call to the international community to reaffirm its commitment to a solution to the Palestinian refugee issue based on international law and UN resolutions, especially UN Resolution 194 (III).²⁷

The commitment of the Agency to assist refugees until their status is resolved according to the framework set down in 1948 has, by necessity in the absence of any other international body, fashioned deep bonds between the refugee community and UNRWA. As noted above, refugees regard UNRWA as a symbol of international responsibility for the creation and resolution of the refugee issue. On the other hand, the Agency has been regarded at times with an equal degree of suspicion as a mechanism to extinguish the refugee issue through *de facto* resettlement. This suspicion finds roots not only in the early development programs of the Agency, lack of progress on repatriation, ambiguous language, lack of information about the future of the Agency, and unilateral measures like the ending of rations in 1983, but also due to the history of financial crisis and service attrition.

The fact that UNRWA is not mandated to address repatriation, however, has not prevented refugees from raising the demand with the Agency. With the failure of Conciliation Commission to effectuate repatriation, UNRWA, through its daily contact with the refugees, has become both a symbol and lightning rod for Palestinian refugee demands for the right of return. According to the 1951 Annual Report of the Agency,

²⁶ Interim Report of the Director of UNRWA, October 1950.

²⁷ "Implementation of the Right of Return" (see ft. 4 above).

"[t]he desire to back to their homes is general among all classes; it is proclaimed orally at all meetings and organized demonstrations, and, in writing, in all letters addressed to the Agency and all complaints handed in to the area officers."²⁸

While refugees seek to improve the living conditions in the camps, development projects, particular if they are not developed and implemented in cooperation with refugees themselves, are often perceived to be part of a policy of forced resettlement. As UNRWA noted early in its history, "[t]his hostility to all works undertaken by the Agency was based upon their conviction that to accept employment within the host countries would be tantamount to renouncing the right to return home, and perhaps even the right to compensation."²⁹ The same fears were expressed nearly fifty years later in the recommendations from the first popular refugee conference in Deheishe Refugee Camp.³⁰

Refugees consider Agency development projects successful when the benefits are not seen to negatively impact demands for return. The importance of this approach is vividly demonstrated by a small development project facilitated by UNRWA in 1951. The success, both perceived and real, of the project is striking in comparison to other development projects initiated by the Agency at the same time. According to the 1951 report of the Commissioner-General,

[a]n example of the willingness and enthusiasm that could be aroused, when the work was in the interest of the refugees and its advantages were clearly understood by them, was the case of Battir village. This village is situated almost on the demarcation line between Arab Palestine and Israel, and some of its land and several houses are on the Jewish side, although in this case access to them is permitted by the Israeli authorities. The village had formerly existed by marketing its vegetables in Jerusalem, and since no road existed and the railway was now in Israel hands, economic activity was virtually at a standstill. The Agency therefore undertook the construction of a 7 km road to link Battir to the main Jerusalem-Hebron road and provide access to the village, using local refugee labor.

Once the refugees had overcome their initial suspicion of the Agency's work and saw what advantages the new road would bring, they gave their active and enthusiastic cooperation. On five separate holidays, 250 men, women and children worked without pay so that the work might be expedited. When the shortage of blasting powder threatened to interrupt operations for a few days, the refugees, unwilling to delay the work, purchased the powder themselves as a

²⁸ UNRWA Report, 1951.

²⁹ Ibid.

³⁰ "Recommendations Issue by the First Popular Refugee Conference" (13 September 1996) Copy with BADIL Resource Center.

donation to the Agency. When a house stood in the way of the road, the owner agreed that it should be demolished without compensation, trusting that his neighbors would later help him to build another. Moreover, the village was stimulated to make many improvements on its own initiative such as a retaining wall, a reservoir, baths and a handsome mosque at the entrance to the village.³¹

Conclusion

A brief review of UNRWA's mandate, structure, and stakeholders provides some initial insight into both the opportunities and constraints of a future role for the Agency. At base, the mandate of UNRWA, to provide assistance to prevent distress and further the conditions of peace, has proven flexible. Agency programs have focused, in greater and lesser degrees, on relief assistance, development, resettlement, repatriation, and compensation. The bulk of the work of the Agency, however, has focused on relief assistance and development. The structure of the Agency provides valuable human and material resources for repatriation, development, resettlement, and to a lesser degree compensation, although to date, these resources have been used primarily for development. In terms of the future role of UNRWA, based on these two areas, there appear to be significant opportunities for the Agency to play a role in development, according to refugee choice of repatriation or resettlement.

As regards UNRWA stakeholders, the primary stakeholder, examined above, are the refugees themselves. Refugees are stakeholders both at the delivery end of UNRWA assistance, and organizationally within the Agency. Over the past fifty years, refugees have acted as a constraint and sometimes a brake concerning implementation of UNRWA projects, particularly those with the aim, or perceived aim, of forced resettlement. As such, while refugees have not been able to exercise choice with regard to a durable solution, they have preserved the potential for such a choice to be made in the future. Of course, refugees are not the only stakeholders. Others include the PLO/PA, host countries and Israel, donor states, and the United Nations system. Each has its own unique, divergent, and sometimes overlapping set of interests, which in turn act to constrain UNRWA. While these interests inevitably impact the future role of the Agency, they must, from a refugee perspective, be considered secondary.

³¹ Ibid.

Other methodologies provide additional insight into future roles for the Agency. The requirements for each component of a durable solution – i.e. repatriation, host country integration, and resettlement based on refugee choice – could be disaggregated and then correlated administratively, functionally, and economically with UNRWA’s administration, functions, and economic status. For example, how does UNRWA’s experience correlate with return programs involving shelter, employment, micro-credit and community development, special return procedures, pilot projects, assessment visits, freedom of movement initiatives, human rights programs, and lobbying reform of property laws? Could UNRWA deal with problems such as harassment, intimidation of minority groups, systematic violation of property rights, shortage of housing, inappropriate distribution, legal and bureaucratic obstacles, and lack of economic and employment activity?

Some answers may be found in past and present UNRWA projects. What can be learned from the seven components of UNRWA's new program announced in 1952, mentioned above, in relation to a durable solution - i.e. the role of UNRWA in job creation, reconstruction of homes, and villages? What can be gleaned from UNRWA's early economic surveys to determine development capacity, within a durable solution based on refugee choice? While studies have been made of the absorptive capacity of the West Bank, these studies should be complemented by a study of the absorptive capacity of Israel consistent with the guidelines set down in Resolution 194 (III). An additional factor, which must be examined is the role of non-governmental organizations. UNRWA's early reports in particular give significant credit to the efforts of NGOs and the importance of these efforts in the implementation of UNRWA's mandate. Moreover, what role can/should transnational institutions, private corporations, etc. play in implementing a durable solution?

A brief overview of UNRWA illustrates the considerable potential that the Agency offers consistent with its mandate of providing assistance to promote conditions of peace and stability. While UNRWA can play an important role, there is one bridging element, the absence of which lies at the heart of the failure of finding a durable solution to the problems of Palestinian refugees – i.e. protection. This function, originally accorded to the UN Conciliation Commission has been emasculated, with the

Commission merely acting as a depository for the records of refugee properties. The annual report of the Commission over the past several decades, totaling less than two pages, symbolizes the ineffectiveness of the protection component of the special regime established for Palestinian refugees, a regime which was to provide *heightened* and not diminished protection.

In effect, Palestinian refugees do not have the same protection afforded to all other refugees, protection, which is critical in reaching a durable solution to refugee flows. As Goodwin-Gill notes, “[...] without protection, such as intervention to secure admission and *non-refoulement* of refugees, there can be no possibility of finding lasting solutions.”³² International debate and policy towards Palestinian refugees has focused almost solely on a palliative approach, to the extent that protection and a discussion about developing norms against ethnic cleansing has been totally absent. While governments must not only be held to account for actions which force people to seek sanctuary in other countries, the UNHCR 1995 report further adds that governments “must also be encouraged to create the conditions which will allow refugees to return to their homeland.”³³

While the UNCCP is defunct, the lack of protection is not really related to the absence of a protection body, which does exist - i.e. the UNHCR. The lack of protection afforded to Palestinian refugees, rather, relates to an incorrect interpretation of the status of Palestinian refugees under the 1951 Refugee Convention and the Statute of the UNHCR and the resulting non-implementation of protection. According to the second paragraph of Article 1(d) of the 1951 Convention, “When such protection *or* assistance [from organs or agencies of the UN other than the UNHCR] has cease to exist for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention.”³⁴ In other words, because Palestinian refugees do not receive protection and because their status has not

³² Guy Goodwin-Gill, *The Refugee in International Law*. 2nd Edition. Oxford: Clarendon Press, 1996, p. 212.

³³ *State of the Worlds Refugees* 1995. UNHCR.

been resolved according to relevant UN General Assembly resolutions - the foremost of which is UN Resolution 194 (III) - Palestinian refugees should receive protection from the UNHCR.

Within the current political context and the unlikelihood that an agreement can be reached in the near future that resolves the problems of the refugees according to relevant UN resolutions and international refugee law, critical discussion about the protection of Palestinian refugees is urgent. This discussion, moreover, does not contradict or negate a role of UNRWA, which continues to fulfill an important role in providing assistance for Palestinian refugees and could play an important role in implementing a durable solution for Palestinian refugees. Perhaps there is no need to "re-invent" a role for UNRWA, but rather to put in place a complete refugee regime, one that could provide protection through UNHCR as mandated under Article 1(d) of the 1951 Refugee Convention, assistance and future development through UNRWA, while compensation could be administered through the UNCCP.

³⁴ See for example, Amicus Curiae prepared by Susan M. Akram and Guy Goodwin-Gill for the United States Department of Justice Executive Office for Immigration Review. Copy with BADIL.