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### **The United Nations Conciliation Commission for Palestine, Protection, and a Durable Solution for Palestinian Refugees**

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*BADIL-Briefs* aim to support the Palestinian-Arab and international debate about strategies for promotion of Palestinian refugees' right of return, restitution, and compensation in the framework of a just and durable solution of the Palestinian/Arab - Israeli conflict.

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#### **Introduction**

In 1948, a separate international agency was established by the United Nations to provide protection and promote a durable solution for Palestine refugees based on recommendations of the UN Mediator for Palestine.<sup>(1)</sup> The UN Conciliation Commission for Palestine (UNCCP), comprised of the United States, France, and Turkey, was established under UN General Assembly Resolution 194 (III) to assist the governments and authorities concerned to achieve a final settlement of the Palestine question, and to provide protection and promote a durable solution for Palestine refugees.<sup>(2)</sup> Paragraph 11 outlined the framework for a durable solution and emphasized a preferred option comprising a combined package of repatriation and compensation or resettlement and compensation based on the choice of each refugee.<sup>(3)</sup>

The provision of international protection for Palestinian refugees by the UNCCP and the framework set down by the international community in Resolution 194 (III) was both consistent with the protection function later accorded to the Office of the UN High Commissioner for Refugees (UNHCR)<sup>(4)</sup>, the international agency responsible for all other refugees, and remarkably forward-looking in regards to durable solutions<sup>(5)</sup>. During its early years of operation, the UNCCP attempted to intervene with state parties to promote and protect the internationally-recognized rights of the refugees; promote measures to improve the situation of refugees; preserve and promote the restitution of refugee properties, and; promote durable solutions for refugees, including repatriation, resettlement, restitution, and compensation based on the unconditional principle of refugee choice.

Since the early 1950s, however, the UNCCP has not provided Palestinian refugees with the basic international protection accorded to all other refugees. Owing largely to the inability of the Commission to reconcile the internal contradiction of its mandate, between conciliation of all outstanding issues and implementation of repatriation and compensation, refugee protection has been limited to those issues of least disagreement between the parties, namely documentation and evaluation of refugee properties for payment of compensation. This situation has had grave consequences for Palestinian refugees.<sup>(6)</sup>

The experience of the UNCCP is informative in relation to the provision of protection and implementation of a durable solution for Palestinian refugees. Analysis of the UNCCP clearly demonstrates how refugee rights may be compromised in the absence of an international protection body to promote the rights and choices of refugees at the negotiating table. The critical importance of refugee protection and the failure of the UNCCP to provide such protection raise urgent questions about the future of the Commission. Should the UNCCP be "revived", reformed, or should the role of protection be accorded to another agency like the UNHCR? At a broader level, the experience of the UNCCP poses a serious question to the international community about why Palestinian refugees, the largest and longest running refugee case in the world, have been deprived of an entire body of basic rights for more than fifty years.

## **Protection and Facilitation of a Durable Solution**

During the early years of its mandate, the UNCCP attempted to fulfill many of the protection functions that the UNHCR carries out in other refugee situations. This included the collection of basic information to facilitate protection and implementation of a durable solution, the protection and promotion of measures for restitution of refugee properties, and promotion of options for a durable solution based on refugee choice, including repatriation and resettlement. These functions were either carried out by the Commission directly, or by subsidiary bodies, such as the Technical Committee and Economic Survey Mission, established by the Commission under Article 12 of its mandate.

One of the first steps taken by the Commission was to gather basic information about the refugees, the policies, and political positions of the Arab host countries and Israel. During meetings with the governments of the Arab states, Israel, and refugees between February and April 1949, the Commission noted both the strength of refugee demands to return to their homes and properties, and the seemingly unbridgeable positions of the parties.<sup>(7)</sup> Given the importance attached to resolution of the refugee issue, the first tripartite<sup>(8)</sup> follow-up meeting of the Commission in spring 1949 in Lausanne, Switzerland focused on the refugee issue.

Following the first round of discussions in the region, the Commission appointed a Technical Committee in June 1949 to gather the necessary data for implementation of the durable solution set down in paragraph 11 of Resolution 194(III). The Committee was authorized to investigate methods for determining refugee choices, and collect information concerning repatriation, resettlement, rehabilitation, and payment of compensation. This included the places of origin of the refugees, their professions, and current living conditions. A second subsidiary body was established several months later, the Economic Survey Mission (ESM), to follow-up the work of the Technical Committee.

Both subsidiary bodies were authorized to investigate ways to improve the immediate situation of the refugees. The Technical Committee examined practical projects for immediate work relief under the auspices of the Arab host governments, while the ESM was authorized to design an organizational structure to coordinate, supervise, and facilitate measures for relief, resettlement, economic development, and related requirements such as community facilities. The UN Secretariat meanwhile drafted a definition of Palestine refugees.<sup>(9)</sup>

In order to promote agreement on specific issues and bridge the preference of Arab states for mediation and Israel's demand for direct negotiation, the Commission created to set up a second "technical" track composed of mixed working committees chaired by individual members of the UNCCP. The Commission sought to advance agreement, in particular, on access for refugees to their orange groves in order to prevent crop loss and reduce the number of persons requiring humanitarian relief. It also focused on facilitating access to the blocked accounts of refugees held in financial institutions inside Israel.

Consistent with the special guidelines set down in Resolution 194(III), paragraph 11, the Commission attempted to protect and promote the restitution of refugee properties, in part through the initial repatriation of rural refugees, but also through the Technical Committee, which was authorized to determine methods for protecting the rights, properties, and interests of the refugees, and payment of compensation. The Commission called for the abrogation of Israel's 1950 Absentees' Property Law under which refugee property had been expropriated, the suspension of all measures of requisition and occupation of Arab houses, and the unfreezing of waqf property. In 1950, a Refugee Office was established to document refugee properties in order to facilitate restitution and compensation. The Commission also studied various schemes by which the refugees could derive income from their assets even if they did not control them, and methods for determining total losses of the refugees.

Notwithstanding the Israeli government's well-known position against the return of the refugees, the UNCCP attempted to promote the voluntary repatriation of refugees to their homes and lands inside Israel. In meetings with the Israeli government the Commission stressed the important role refugee repatriation might play in contributing to an overall resolution of the conflict. Without prejudice to the right of all refugees to return, the Commission attempted to promote the safe return of specific groups, including divided families, and religious personnel.

Given the importance of land for the largely rural refugee population, the Commission approached the government of Israel to secure the return of inhabitants of areas falling within the no-man's land in the north of the Gaza region, refugees in the Gaza area under Egyptian control and possessing land in the hinterland of this zone, and refugees in the Gaza zone originating from the Bir Saba' (Beersheva) area, in addition to the owners of orange groves. Recognizing that not all refugees may wish to return, the Commission further engaged in discussions with the various Arab host states to determine if the governments would be willing to resettle refugees choosing not to return.

### **The UNCCP Mandate: Conciliation versus Protection**

The ability of the UNCCP to provide full international protection and facilitate a durable solution based on the principle of refugee choice and the framework set down in paragraph 11 of Resolution 194 (III), however, was severely hampered by the internal contradiction of the Commission's mandate. Before examining this internal contradiction and its impact, however, it is important to understand the original vision behind the UNCCP.

The idea of creating a Conciliation Commission was first raised by the UN-appointed Mediator for Palestine, Count Folke Bernadotte, in his Progress Report of September 1948. Paragraph 4(i) of the "Specific Conclusions" attached to the report first sets out the framework for a durable solution for the refugees, including repatriation, resettlement, economic and social rehabilitation, and payment of adequate compensation. It then suggests that a conciliation commission be established by the UN to supervise and assist in implementation of a durable solution. The principle of refugee choice, referred to throughout the report, is once again reiterated in reference to the framework for a durable solution. Paragraphs 4(j) and 4(i) subsequently lay out the broader protection functions of such a Commission.

When the UN General Assembly subsequently established the UNCCP in late 1948, however, the mandate included both the terms of reference for the late UN Mediator<sup>(10)</sup> (resolution of all aspects of the conflict), and the framework for a durable solution for the refugees (return and compensation) set down by the Mediator in his September *Progress Report*.<sup>(11)</sup> The Commission was therefore accorded a dual mandate: a broad mandate (paragraphs 4 through 6) for conciliation of all outstanding issues between the parties, and a specific mandate (paragraph 11) for the protection and promotion of a durable solution for Palestine refugees.

This dual mandate, in effect, placed the Commission in a conflict of interest, making it difficult, if not impossible to protect and promote the specific rights of the refugees. Pursuit of the specific guidelines on refugees, given Israel's opposition to repatriation, placed a seemingly insurmountable obstacle in the way of the Commission's broader mandate to achieve a resolution of all outstanding issues. Pursuit of a comprehensive settlement of all outstanding issues, on the other hand, necessitated a certain amount of critical compromise of the specific mandate for the refugees.

The ability of the Conciliation Commission to fulfill these two mandates was discussed during the drafting process of UN Resolution 194 (III). The original draft resolution submitted by the UK at the 203rd meeting of the First Committee in November 1948 included a paragraph, which endorsed the Mediator's "Conclusions", including those on refugees. During the debate in the First Committee, however, numerous representatives opposed inclusion of specific recommendations. Similar concerns were raised in the Plenary meetings on the 11 December. While the Mediator's "Conclusions" on Palestinian refugees were incorporated into the UNCCP mandate, the final paragraph of the draft resolution, which endorsed the "Conclusions" was dropped.<sup>(12)</sup> China noted that all sponsors of the amendment had accepted the French sub-amendment, which had called for the elimination of "controversial points from the resolution so as not to prejudge the conciliation efforts".<sup>(13)</sup>

The inability of the Commission to fulfill both mandates was subsequently reflected in the drafting history and terms of reference for the Refugee Office established in 1950 to facilitate implementation of Resolution 194 (III). Debate in the *Ad-Hoc* Political Committee concerning measures to address repatriation and compensation centered predominantly on a joint four-power resolution by France, Turkey, the United Kingdom, and the United States, which eventually became the basis for General Assembly Resolution 394 (V) establishing the Refugee Office.<sup>(14)</sup> The draft resolution first urged the governments concerned to engage without delay in direct discussions in order to arrive at a peaceful settlement of all questions outstanding between them. It then proposed that the Commission establish a Refugee Office to make arrangements for the assessment and payment of compensation, and finally to work out arrangements for the implementation of other objectives in paragraph 11 of Resolution 194 (III).

An alternate resolution submitted by Egypt also called for the creation of a Refugee Office, but emphasized a dual role of both repatriation and payment of compensation as set down in paragraph 11. In making the case for their draft, the sponsors of the joint four-power resolution argued that the Egyptian draft was based on an incorrect reading of Resolution 194, which they argued should be read as a whole without exclusive reference to its provisions concerning refugees. The four powers further noted, incorrectly, that the UN had already provided for the repatriation of refugees under the framework of the UN Relief and Works Agency (UNRWA).<sup>(15)</sup> Reflecting the move towards the broader mandate and away from the specific mandate concerning refugee protection as envisioned by the UN Mediator, the four powers argued that their draft would better contribute to relations between Israel and the Arab states because it recognized that the principles contained in the Assembly's resolution must be applied on a "practicable basis".

### **The Demise of International Protection for Palestinian Refugees**

Given the broader mandate to conciliate all outstanding issues among the parties, and the constraints imposed by the absence of any kind of enforcement mechanism<sup>(16)</sup>, the Conciliation Commission was hard pressed to provide protection and facilitate implementation of the durable solution for Palestinian refugees as set down in paragraph 11. While the Commission frequently emphasized the principle of refugee choice, which included repatriation, it was often deferred in light of what the Commission viewed as practicalities on the ground.

The Commission attempted to promote agreements between the parties, but these agreements focused predominantly on the broad mandate of conciliation and inevitably compromised the ability of the UNCCP to facilitate implementation of the specific mandate for the refugees. The 1949 May Protocol, which combined elements of Resolution 181 and 194<sup>(17)</sup>; the March 1950 proposal for mixed working committees chaired by the Commission<sup>(18)</sup>; and, the 1951 Comprehensive Pattern of Proposals<sup>(19)</sup>, did little to provide protection and promote a durable solution for the refugees.

While the Commission and its subsidiary bodies compiled technical data related to repatriation, resettlement, economic and social rehabilitation, and payment of compensation, recommendations tended to focus largely on resettlement despite the fact that the Commission had noted the preference of refugees to return to their homes and properties. The Technical Committee, for example, based its recommendations on the assumption of the resettlement of large numbers of refugees outside of Israel. Moreover, the Committee dismissed the idea of determining individual refugee choices as "premature" stressing that repatriation, unlike resettlement, involved a "political decision".[\(20\)](#)

The interim and final recommendations of the Economic Survey Mission (ESM) yielded similar recommendations, focusing almost solely on resettlement. Given the framework established in Resolution 194 (III) and the broad demand for voluntary repatriation, the ESM noted in its interim report of November 1949 that the only immediate constructive step in sight was to give the refugees an opportunity to work in the host countries.[\(21\)](#) The conclusions of the ESM, however, did result in the UN General Assembly decision to establish the UN Relief and Works Agency to provide assistance for Palestine refugees, without prejudice to the provisions of Resolution 194 (III), paragraph 11.

The UNCCP was relatively more successful in relation to the protection of refugee properties, but even this was guided by what the Commission perceived as practically possible under its broad mandate. Efforts to investigate the laws and regulations adopted inside Israel affecting the refugee properties continued, however, the Commission's demand that Israel abrogate the Absentee's Property Law went unheeded. Expropriation and transfer of refugee property to state control continued unabated. The Commission was unable to advance protection even for religious properties; in many small Palestinian villages, religious sites, including mosques, churches, cemeteries, and shrines were demolished. In 1961, the Special Political Committee adopted a proposal for the appointment of an international Custodian of Arab refugee property but the proposal failed to receive a majority vote in the General Assembly due to Israeli and US opposition.

According to the UNCCP, the establishment of the Refugee Office in 1950 to determine the ownership, interest, and nature of each refugee property marked a new phase in its work, a phase in which it must progress from general discussion to the seeking and, in certain cases, the putting into operation of practical measures, towards a "liquidation of the refugee problem".[\(22\)](#) By October of 1952, the Commission had come to the conclusion - irrespective of the mandate set down in paragraph 11 of Resolution 194(III) - that the most promising way it could lend itself to the resolution of the refugee issue was in further efforts to solve the questions of compensation and the release of blocked bank accounts.[\(23\)](#)

By 1951, the Refugee Office had completed a global identification of all refugee properties. The Office estimated that a total of 16,324 sq.km out of 26,320 sq.km (the total area of pre-1948 Palestine) were determined to be refugee lands.[\(24\)](#) The Refugee Office also prepared an initial plan for individual assessment of refugee properties relying on detailed information collected from refugees themselves and checking it against the British Mandate records. Due to political considerations, however, the Commission decided to rely solely on British Mandate records. A new body, the Office for the Identification and Valuation of Arab Refugee Property (Technical Office), was established to complete the individual identification process.

Detailed individual documentation was based on the Land Registers of the British Mandate, the Rural Tax Distribution Lists and the Urban Field Evaluation Sheets. Record forms were prepared for each parcel of land owned by Palestinian Arab individuals, including property owned in partnerships, companies, and cooperatives.[\(25\)](#) The Office completed its work in 1964 having collected 453,000 records amounting to 1,500,000 individual refugee holdings.[\(26\)](#) Step-by-step progress was made by a mixed committee on the issue of blocked accounts in Israel, estimated at 4-5 million Palestinian pounds. By 1966, some 3.6 million Palestinian pounds (1947) had been released from bank accounts inside Israel.[\(27\)](#)

The Commission also examined means and principles for the implementation of compensation. The UNCCP recommended that compensation should be paid primarily to individuals (not governments), and should be handled through the Commission or another international body. It was also recognized that any compensation should entail a choice by the refugees and should therefore be linked to a repatriation scheme, however limited in practice.<sup>(28)</sup> The Technical Office was closed in September 1966. To date, the UNCCP continues to hold the most comprehensive record of Palestinian refugee properties. While additional work and documentation is required to correct imbalances and omissions in the records, the UNCCP records are invaluable for restitution of refugee properties and compensation according to the terms set down in Resolution 194 (III).<sup>(29)</sup>

While the UNCCP attempted to facilitate repatriation in the first several years of its operation, by the time the Refugee Office was established in 1950, all efforts to promote repatriation of those refugees choosing to return to their homes and properties inside Israel had ceased. In 1949, the Israeli government accepted, in principle, the repatriation of around 100,000 refugees, but this offer came only in response to American pressure, and Israel's pending membership in the United Nations.<sup>(30)</sup> Even the Commission, however, viewed the offer as inadequate and refused to present the offer to the Arab states.<sup>(31)</sup> Given the position of the government of Israel, the Commission suggested that at minimum an international agency should be charged with the protection of the Palestinian Arab minority in Israel, though no such agency was ever established.

The only area of progress on repatriation involved small groups of refugees. Israel rejected repatriation of orange grove owners and their laborers, but did allow a small number of refugees from Abasan and Akhzah to cultivate land in Israel-held territory with the creation of a special zone. In addition, a small number of refugees were permitted to rejoin families inside Israel, particularly where the breadwinner remained inside Israel. In December and January 1949, for example, a total of some 800 dependents from Lebanon and Jordan rejoined their families in Israel. On 14 February 1949, 115 persons from Gaza crossed into Israel.<sup>(32)</sup> Understandings were reached with Jordan and Syria, on the other hand, concerning resettlement of refugees choosing not to return.<sup>(33)</sup> Although the Technical Committee recommended in its 1949 report to establish international body to handle repatriation and resettlement, no such international body was established.

In the early 1960s, a Special Representative, Joseph E. Johnson, was appointed to revisit the region in order to promote a solution to the refugee issue. Defining the fundamental considerations for a durable solution, Johnson noted that the primary focus should be on the refugees as set down in Resolution 194(III), which spoke of the wishes of the refugees.<sup>(34)</sup> Johnson then noted that it would be necessary to obtain the co-operation of the governments involved in facilitating implementation of the refugee choices. Numerous meetings were held with senior government officials, technical experts, and refugees, but no progress was made towards a durable solution.

## Conclusion

Despite the internal contradiction of its mandate, the early work of the UNCCP offers a clear example of the kind of international protection, which the Commission was to provide to all Palestinian refugees. This included, interventions with state parties to promote and protect the internationally-protected rights of the refugees; promotion of measures to improve the situation of refugees; preservation and promotion of restitution of refugee properties, and; promotion of durable solutions for refugees, including repatriation, absorption, and resettlement based on the unconditional principle of refugee choice as set down in Resolution 194 (III).

The decision by the UN General Assembly to merge the role of international protection for the refugees with the larger task of Arab-Israeli conciliation, however, ultimately compromised the ability of the UNCCP to protect and promote the basic legal rights afforded to refugees under international refugee law and under the wider body of international human rights law. In the Lausanne Conference of 1949, two years later in Paris, and in numerous small meetings, such as the mixed working committees, the UNCCP was unable to represent and promote the specific rights and choices of the refugees. In the midst of all the other outstanding issues on the agenda, the rights of the refugees were, in effect, displaced in the search for a resolution of the entire conflict itself.

While the UNCCP continues to operate out of New York, its role is no more than functionary - a symbol of international responsibility to the refugees, and a sad reminder of unfulfilled commitments.<sup>(35)</sup> Since 1964, the Commission has noted in its annual report to the General Assembly that it "hope[d] that the situation and related circumstances in the region will improve towards the achievement of a comprehensive, just, and lasting peace in the Middle East, thus enabling it to carry forward its work in accordance with its Mandate as defined by the General Assembly in its resolution 194 (III)." With the signing of the Oslo Accords in 1993, however, all reference to Resolution 194 (III) was removed from the reports of the Commission.

The experience of the UNCCP raises the question about what kind of international agency should be responsible for the protection of Palestinian refugees. Clearly, an unreformed UNCCP would be unable to provide the full range of protection afforded to all other refugees. Reform of the Commission's mandate, on the other hand, would require political and financial support from the international community. It must also be considered whether the UNCCP is the appropriate body functionally, given the fact that the Commission has little practical experience related to the implementation of durable solutions.

Other alternatives that must be considered include transferring protection to an existing or new international agency. While Palestinian refugees have been regarded as outside the provisions of the 1951 Refugee Convention and the international protection provided by the UNHCR, a reinterpretation of the status of Palestinian refugees under Article 1D of the Convention indicates that Palestinian refugees should, in fact, be afforded protection by the UNHCR, due to the cessation of protection under the UNCCP.<sup>(36)</sup> The political, functional, and financial implications of UNHCR involvement must also be addressed before a decision is taken with regard to the most appropriate address for international protection of Palestinian refugees.

For nearly five decades, Palestinian refugees have been denied an entire body of rights and basic protection afforded to all other refugees. In the absence of such protection, Palestinian refugees have been consigned to much the same position in the current final status negotiations, as they held in the early years of the UNCCP. The continued absence of international protection weakens not only the refugees, but also the ability of the PLO to protect and promote the rights of the refugees. Without international protection and the presence of an international protection agency at the negotiation table to promote the specific rights and choices of the refugees, there is a real danger that the rights of the refugees will once again be displaced amid the exchange and compromise of the negotiation process.

## Endnotes:

- (1) The international community believed the UN had a unique and special responsibility to Palestine refugees as the refugee flow was a direct result of the UN decision to partition Palestine (General Assembly Resolution 181). The international community was thus reluctant to submerge the Palestinian refugee case with all other refugee flows.
- (2) The UN Relief and Works Agency for Palestine Refugees (UNRWA) was later established under General Assembly Resolution 302 (IV) of 1949 to provide assistance. Under the *1951 Convention Relating to the Status of Refugees*, Article 1D, the UNHCR was accorded responsibility for Palestinian refugees, if for any reason, either assistance or protection ceased to exist without the situation being resolved according to the relevant resolutions of the UN. For more details on the special regime see, Susan M. Akram, *Reinterpreting Palestinian Refugee Rights under International Law, and a Framework for Durable Solutions*, BADIL Brief No. 1 (February 2000). For a more detailed discussion see, Susan M. Akram and Guy Goodwin-Gill, *Brief Amicus Curaie*.
- (3) The importance of these special guidelines was emphasized by a series of working papers prepared by the Secretariat of the Commission, similar to the Executive Committee Decisions of the UNHCR. According to the Secretariat, the special guidelines intended to confer upon the refugees as individuals the right of exercising a free choice as to their future, which included the return of each refugee specifically to his house or lodging. Amendments, which referred to the "areas from which they have come", were rejected by the General Assembly. The Secretariat also noted that the guidelines included two types of compensation for refugees, compensation for those choosing not to return and compensation for damages.
- (4) International protection includes "that body of obligations towards an individual which a state ordinarily provides, and which are missing in the situation of a refugee." For more details see Chapter II, paragraph 8 of the *1950 Statute of the Office of the United Nations High Commissioner for Refugees* (UNHCR).
- (5) Durable solutions include voluntary repatriation, voluntary absorption, and voluntary resettlement. Since the 1980's the international community has emphasized voluntary repatriation as the preferred option for durable solutions to refugee flows. See for example, UNHCR Executive Committee Decisions No. 18 and No. 40, which recognizes voluntary repatriation as the most appropriate solution for refugee problems. The principle of refugee choice is fundamental for durable solutions.
- (6) For more details see, *Palestinian Refugees in Exile, Country Profiles*. Bethlehem: BADIL Resource Center, 2000, and Lex Takkenberg, *The Status of Palestinian Refugees in International Law*. Oxford: Clarendon Press, 1998.
- (7) In sum, the Arab states demanded Israel's recognition and implementation of Resolution 194 (III) with special emphasis on paragraph 11 relating to the refugees, while Israel preferred to focus on the issue of borders and opposed repatriation of the refugees.
- (8) The Arab states, Israel and the UNCCP. The Arab states preferred to deal with the Commission and Israel as a single group.
- (9) The legal advisor to the Secretariat prepared the following working definition: (Article 1) "Are to be considered refugees under paragraph 11 of the General Assembly resolution of 11 December 1948 persons of Arab origin who, after 29 November 1947, left territory at present under the control of the Israel authorities and who were Palestinian citizens at that date. Are also to be considered as refugees under the said paragraph stateless persons of Arab origin who are 29 November 1947 left the aforementioned territory, where they had been settled up to that date. Persons who have resumed their original nationality or who have acquired the nationality of a country in which they have racial ties with the majority of the population are not covered by the provisions of the above paragraphs of this Article. It is understood that the majority of the said population should not be an Arab majority. (Article 2) The following shall be considered as covered by the provisions of Article 1 above: (1) Persons of Arab origin who left the said territory after 6 August 1948 and before 29 November 1947 and who at that later date were Palestinian citizens; (2) Persons of Arab origin who left the territory in question before 6 August 1948 and who, having opted for Palestinian citizenship, retained that citizenship up to 29 November 1947. (Article 3) The term "of Arab origin" appearing in the foregoing Articles related to persons belonging to the Palestine Arab community and to those who are considered or considered themselves as belonging to that community. *Addendum to Definition of a "Refugee" Under paragraph 11 of the General Assembly Resolution of 11 December 1948* (Prepared by the Legal Advisor), UN Doc. W/61/Add.1, 29 May 1951.
- (10) The terms of reference were defined in UN General Assembly Resolution 186 (S-2) of 14 May 1948. The Mediator was accorded the task of promoting a peaceful adjustment of the future situation in Palestine. Additional tasks included arranging for the operation of common services necessary for the safety and well being of the population in Palestine, protection of the Holy Places, directives to co-operate with the Truce Commission for Palestine, and to invite assistance and co-operation of additional agencies for the promotion of the welfare of the inhabitants of Palestine.
- (11) *Basic Premises and Specific Conclusions of the UN Mediator* submitted to the General Assembly in September 1948. The UN Mediator noted that, "no settlement can be just and complete if recognition is not accorded to the right of the Arab refugee to return to the homes from which he has been dislodged [...] It would be an offence against the principles of elemental justice if these innocent victims of the conflict were denied the right to return to their homes while Jewish immigrants flow into Palestine, and, indeed, at least offer the threat of permanent replacement of the Arab refugees who have been rooted in the land for centuries." *Progress Report of the United Nations Mediator on Palestine*, UN Doc. A/648, 16 September 1948.
- (12) Australia, Brazil, Canada, China, Colombia, France, and New Zealand sponsored the amendment. The UK representative later voiced his support for the joint amendment to remove "all phraseology likely to antagonize the parties directly involved".
- (13) *Yearbook of the United Nations 1948-49*. New York: United Nations Department of Public Information, 1949 [Internet Edition].
- (14) France, Turkey, and the United States, it should be remembered, were also the three members that comprised the Conciliation Commission.
- (15) UNRWA was established to provide assistance for Palestinian refugees. This included implementation of the works programs recommended by the Economic Survey Mission. UNRWA was thus given the mandate to play a functional role once a solution had been facilitated by the Conciliation Commission. The Agency was not accorded a mandate, however, to facilitate a solution for refugees.
- (16) Under Article 38 of the *1951 Refugee Convention*, disputes involving other refugee cases may be referred to the International Court of Justice.
- (17) The Protocol appears as Annex A of UN Doc. A/927, *United Nations Conciliation Commission for Palestine, Third Progress Report*, 21 June 1949.
- (18) The Memorandum on mixed committees appears as Annex III of UN Doc. A/1255, *United Nations Conciliation Commission for Palestine, Sixth Progress Report*, 29 May 1950.
- (19) For the text of the Comprehensive Pattern of Proposals see UN Doc. A/1985, *Progress Report of the United Nations Conciliation Commission*, 20 November 1951.



- (20) Report of the Technical Committee on Refugees appearing as Appendix 4 of UN Doc. A/1367/Rev. 1, *General Progress Report and Supplementary Report of the United Nations Conciliation Commission for Palestine*, 23 October 1950.
- (21) *First Interim Report of the United Nations Economic Survey Mission for the Middle East*, 1949.
- (22) UN Doc. A/1793, *United Nations Conciliation Commission, Ninth Progress Report*, 22 March 1951.
- (23) The reduction of the budget of the Commission, simply to cover the expenses of the Refugee Office, meant that the Commission would be able to provide little protection other than that related to the documentation of refugee properties.
- (24) A more recent study based on the official *Village Statistics from 1944/45* sets the total amount of refugee land at 17,167 sq. km. Salman Abu Sitta, *Palestinian Right to Return, Sacred, Legal, and Possible*. (2nd Revised Edition) London: The Palestinian Return Centre, 1999, p. 17.
- (25) Separate forms were prepared to record land owned by religious bodies. The Office also prepared forms to record land classified as state domain, Jewish-owned land, and other parcels of land not owned by Arabs.
- (26) These records, held in UN archives in New York, filling some 1000 linear feet of shelves and several filing cabinets, have recently been upgraded to an electronic database.
- (27) Laura Reanda, *The Work of the United Nations Conciliation Commission for Palestine*, paper prepared for the International Conference on Palestine Refugees, Paris, 26-27 April 2000.
- (28) The individual assessment, for example, excluded the entire Bir Saba' (Beersheva) district. Sami Hadawi, who was employed as a Land Specialist by the UNCCP, enumerates a series of problems related to the results of the UNCCP: 1) the Land Expert lacked local knowledge required to enable him to understand the Arab mentality, habits, customs, and dealings in matters pertaining to property; 2) Palestinians were not invited to participate in the process; 3) reliance on tax records for determination of ownership is not sufficient or conclusive; 4) the land registration and taxation documents did not include record of buildings on the land; 5) the UNCCP failed in its mandate to protect the rights, property and interests of the refugees, and; 6) the Land Expert excluded land classified as uncultivable nontaxable as outside the realm of Arab ownership. In order to correct these omissions, Hadawi suggested that the Commission's schedules of property ownership be published in refugee camps and other places to give property owners the opportunity to examine them and submit additions, amendments or objections and detail other losses. Sami Hadawi, *Palestinian Rights and Losses in 1948*. London: Saqi Books, 1988, pp. 96-98.
- (29) Under the scheme Israel imposed a 10 percent national loan while significant fees for administration of the accounts were exacted by the Israeli Custodian of Absentees' Property. Other assets released included bonds and contents of safety deposit boxes. For a summary see, Terry Rempel and Dalia Habash, "Assessing Palestinian Property in West Jerusalem," Jerusalem 1948, *The Arab Neighborhoods and their Fate in the War*. (ed. Salim Tamari) Jerusalem: BADIL Resource Center and the Institute for Jerusalem Studies, 1999, pp. 163-64.
- (30) The offer was conditioned upon the right of Israel to choose the location of return inside Israel, and included some 25,000 refugees who had already spontaneously returned, despite Israeli military orders to shoot at all refugees attempting to return, and some 10,000 refugees to be admitted under humanitarian considerations.
- (31) UN Doc. A/838, *United Nations Conciliation Commission, Second Progress Report*, 19 April 1949.
- (32) UN Doc. A/1255, *United Nations Conciliation Commission for Palestine, Sixth Progress Report*, 29 May 1950.
- (33) UN Doc. A/1985, *Progress Report of the United Nations Conciliation Commission*, 20 November 1951.
- (34) *Report of the Special Representative, Joseph E. Johnson*, attached to UN Doc. A/4921, *United Nations Conciliation Commission for Palestine, Nineteenth Progress Report*, 13 October 1961.
- (35) As the Special Representative noted in his 1961 report, "... A failure to gain respect for the decisions or actions of the Organization within the terms of the Charter is often called failure for the Organization'. It would seem more correct to regard it as a failure of the world community, through its Member nations and in particular those most directly concerned, to co-operate in order, step-by-step, to make the Charter a living reality in practical political action as it is already in law." *Ibid*.
- (36) For more details about this reinterpretation based on plain language, drafting history, and applicable canons of statutory construction see endnote 2 above.