



# Chatham House

## 'The Regional Dimension of the Palestinian Refugee Issue'

### Simulation Exercise Report

23-25 June 2008

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**This report summarizes a simulation exercise held at Eynsham Hall in Oxfordshire in June 2008. The workshop was organized as part of the Chatham House project 'The Regional Dimension of the Palestinian Refugee Issue'. The meeting was held under the Chatham House Rule and the views expressed are those of the participants. At best, this report serves as an *aide memoire* to those who took part, and looks to provide a general summary of discussions for those who did not.**

## Introduction

On 23-25 June 2008, Chatham House convened a simulation on the Palestinian refugee issue at Eynsham Hall, in Oxfordshire. The meeting was part of a broader three-year project on the regional dimension of the Palestinian refugee issue, supported by the European Union and the International Development Research Centre (Canada). The simulation was intended to explore the bilateral, regional, and international issues involved in reaching an agreement on the refugee issue, as well as the challenges of implementing such an agreement once it had been reached.

More than thirty-five participants took part in the simulation, including researchers, journalists, activists, former officials, and officials (acting in non-official capacities) from the Middle East, Europe, and North America.

## The Simulation Scenario and Mechanics

The simulation scenario was set in a hypothetical near-future of October 2008. It was designed to establish conditions under which participants could engage the substance and mechanics of a possible refugee deal, and was not necessarily intended to be a 'realistic' projection of current events. Specifically, the simulation presumed three sets of initial parameters:

1. The cloud of legal indictment had been lifted from Israeli Prime Minister Olmert, thereby reducing the threat of new Israeli elections or of a change in Kadima party leadership.
2. While Fateh retained control of the Palestinian Authority apparatus in the West Bank, Gaza remained under the control of Hamas. The respective popularity of the two groups remained unchanged from the summer of 2008. A shaky ceasefire endured across the Gaza border, punctuated by occasional outbreaks of violence.
3. Against all expectations, Israeli and Palestinian negotiators have produced a draft peace agreement, the text of which has leaked to the press before it could be finalized. This draft agreement calls for:
  - A phased Israeli withdrawal from 95% of the West Bank. Israel would retain major settlement areas near the Green Line, and in exchange, the Palestinian state would be compensated with an equivalent area adjoining the southern West Bank and eastern Gaza. A 'safe passage' would link the West Bank and Gaza.

- Jerusalem, Palestinian-majority neighbourhoods and the Haram al-Sharif would fall under Palestinian sovereignty, and Jewish-majority neighbourhoods and the Western Wall under Israeli sovereignty. The subsurface of the Haram al-Sharif/Temple Mount would fall under joint sovereignty.
- Israel would retain transitional security control over a 3km security zone along the Jordan River for a period of five to ten years. An international force would be deployed to support security efforts and assist in the implementation of the agreement. The Palestinian state would be permitted a robust gendarmerie, but would not be equipped with heavy weapons.
- Implementation of the agreement would follow fulfillment of the major clauses of phase one of the 2003 Quartet 'Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict'.

Simulation participants were provided with the full text of the refugee section of the draft agreement (Appendix 1). This was based largely on the Clinton Parameters (December 2000), together with language inserted from the Israeli draft Framework Agreement on Permanent Status (2000), the Israeli and Palestinian positions at the Taba negotiations (January 2001), the unofficial Geneva Accords (2003) and other Track Two refugee projects.

Nineteen different actors and teams were represented in the simulation:

- Israel
- Israeli opposition
- Palestinian Liberation Organization/Palestinian Authority
- Hamas
- Palestinian refugees
- Jordan
- Syria
- Lebanon
- Egypt
- United States

- United Kingdom
- Switzerland
- Canada
- Arab League
- European Union/European Commission
- UN/UNRWA
- Arab media
- Israeli media
- International media

The Israeli, Palestinian, and US teams were each assigned a dedicated room with office facilities. Other actors shared a fourth room with access to similar facilities. Additional rooms were available as private meeting or working spaces.

The media, and some other actors, were provided with a mobile phone. All actors were provided with an email address, and wireless internet access was available throughout the facility. Most participants were equipped with laptop computers.

The simulation was monitored and moderated by a three-person Control group, in a dedicated room. Control maintained a website for the simulation on which it posted scenario information (including the draft refugee agreement), other resources (including the previous negotiating texts for actual permanent status negotiations in 2000-01), and links to external resources on the refugee issue.

The website was also used to post simulated news stories during the event, produced by one of three methods: generated by Control; issued as press releases by the participants; or filed by one of the three simulation journalists. This allowed Control to create realistic reactions and feedback to actions and statements by the various actors during the simulation. A total of 77 such items were posted on the website during the simulation.

Participants in the simulation were given a variant of the following instructions (modified, as appropriate, for each actor):

*'You have been assigned as a member of the Israeli policy team for the Chatham House simulation exercise. You are not asked to play the role of*

*a specific major policymaker. Instead, your team is composed of unnamed analysts, diplomats, and/or policy advisors and it is tasked with providing the Israeli government with recommendations for responses and actions. You need not be tied to any one role or position. The aim is that the policy team as a whole will be inclusive of different views and will provide realistic advice based on its collective knowledge of the Israeli polity and in response to the circumstances faced during the exercise.*

*As the simulation begins on Monday afternoon, news of an impending Palestinian-Israeli peace agreement has just leaked to the press – including a working draft of a possible agreement on the refugee issue. For the purposes of this exercise, only the refugee element of the agreement should be considered. All other issues should be ignored. In response to the leaked agreement, your team is asked to do the following:*

- 1. Suggest what areas of the draft agreement concerning the refugee issue may be in most need of revision before a final agreement is reached. You may do this either by i) suggesting negotiation priorities to the government (in which case these may or may not be achieved at the negotiating table), or ii) pre-negotiating and agreeing changes with the Palestinian Authority team (in which case they are very likely to be reflected in a final agreement).*
- 2. Identify, and suggest appropriate Israeli responses to, domestic, regional, and international reactions to such an agreement.*
- 3. Brief the international diplomatic community on Israeli views and concerns.*
- 4. Develop and implement an appropriate public relations strategy, through briefings/press conferences with the simulation media participants, and by drafting statements to be made by Israeli leaders.*
- 5. Recommend other actions to the Prime Minister and Israeli government, as needed.*
- 6. Maintain a record of your debates, actions, and policy recommendations, for discussion in the final (post-simulation) plenary on Wednesday morning.'*

## Simulation Events

Once the simulation began, several simultaneous dynamics were quickly evident.

The Palestinian and Israeli teams immediately met to try to refine and improve the draft agreement. The **Palestinians** (PLO/PA) were unsatisfied with the draft, which they felt tilted too heavily towards Israeli positions. Consequently, they sought to obtain a number of changes, including: a stronger and less constrained recognition of the right of return; a clearer statement of Israeli responsibility for the refugee issue; a broader definition of the term 'refugee'; and attention to issues of property restitution as well as compensation. They also opposed the termination of UNRWA on a rapid timetable.

The **Israeli** (government) side was more satisfied with the draft, but identified a number of areas that they would prefer to see revised. These included an assertion of Arab co-responsibility for creation of the refugee issue, invoking Arab attacks against the nascent Israeli state in 1948. They also sought to have Israel's contribution to refugee compensation tied to the level of contributions received from other states. In internal policy analysis, the Israeli team expressed concern that the Israeli opposition parties would use the language in the draft – regarding implicit Israeli responsibility, the admission of Palestinian refugees to Israel, and Israeli funding of refugee compensation, as well as the absence of any resolution of the claims of Jewish refugees from Arab countries – as issues on which to attack the agreement and the government.

While engaged in negotiations with Israel, the Palestinian team also sought to reach out to both Hamas and the Palestinian refugee community in an effort to win their support, or at least their acquiescence, in the negotiations. However, these initiatives had only a limited effect.

The **Hamas** team, while initially adopting a wait-and-see attitude, also sent private reassurances to Israel, through Egypt, of their desire to maintain the Gaza ceasefire. Eventually, however, Hamas issued a strongly-worded communiqué condemning the draft agreement as failing to meet the 'minimum basic rights of the Palestinian people in general and refugees in particular.' In Hamas' calculation, the agreement was likely to prove sufficiently unpopular among refugees as to strengthen its own political position. Among the **Palestinian refugees** themselves the draft deal was indeed unpopular. They felt that both the scope of, and language regarding,

the right of return was insufficient. There was discussion within the refugee team as to how best to mobilize to change the deal, or even oppose it.

Upon receiving news of the draft agreement, members of regional teams and the international community immediately began a range of consultations. **Jordan** highlighted its concerns regarding the draft agreement directly to the Palestinian and Israeli teams, notably the perceived weakness of the provisions regarding refugee and host country compensation. In general, Jordan was quite supportive of the ongoing negotiating process. **Lebanon** expressed serious concerns about the draft to fellow Arab states and to the international community, especially regarding the weakness of the clauses concerning the right of return and host country compensation. Lebanon feared that the country would continue to host a large refugee population after the agreement. **Syria** – still engaged in its own indirect peace talks with Israel according to the simulation scenario – was initially quite circumspect in its reactions to the leaked draft agreement. **Egypt** expressed general support for the negotiations even as it sought to play a leading role in building an Arab consensus. The **Arab League** sought to develop a coordinated Arab position on the issue.

Within the broader international community, the **United States** held meetings with both primary parties to identify outstanding issues and areas where international support would be important. **Canada** also convened a meeting of all donor countries to discuss the draft. During these discussions, several countries (including the **UK** and **Switzerland**) expressed concern that the parties, and possibly the US, had unrealistic expectations about the level and types of international support that would be forthcoming for an agreement. In particular, much of the donor community expressed a reluctance to contribute to a compensation fund for refugees, arguing that Israel – which had seized refugee properties after 1948 – ought to bear the responsibility for this. On the other hand, many of the donors did express a willingness to participate fully in providing development assistance for a Palestinian state, for host countries, and for former refugee communities and camps.

As the simulation continued, refugee criticism of the deal mounted. This was quickly highlighted by the Arab and international media. Demonstrations against the proposed agreement took place in **Jordan** (where they were quickly contained) and in **Lebanon** (where a number of **UNRWA** facilities were occupied by protesters). The Lebanese government in particular grew alarmed both at refugee protests and at the domestic Lebanese political reaction. Some Lebanese politicians warned that the agreement might lead to

*tawtiin* – the (unwanted) permanent settlement of refugees in the country. **Syria**, feeling excluded from the negotiations, began to increasingly coordinate its position more closely with Palestinian opponents of the draft agreement. It warned that 'it is unacceptable that decisions relating to the fate of our Palestinian brethren, so long welcome guests in our states, should be made behind the backs of those authorities who for so long have assured the well-being of those whose full and legitimate rights the Israelis have consistently failed to recognise.' **Jordan** also repeatedly expressed the need for the parties to consult with host countries. In consultations with Arab states, the **Palestinian team** reiterated its concerns regarding the draft.

The result of all of this was a shift to stronger language regarding the Palestinian 'right of return' in Arab and **Arab League** positions, in part to signal concern and in part to assuage domestic constituencies. While statements were typically framed with continued reference to the 2002 Arab peace initiative (and were thereby intended to signal a degree of continued flexibility), **Israel** tended to perceive such statements as a more dramatic hardening of Arab positions.

Israeli and Palestinian meetings on the text of the draft agreement continued, until they were eventually discontinued and the two sides made recommendations to their respective leaderships on changes they might seek in a final agreement.<sup>1</sup> To a certain extent, both of the primary parties were increasingly losing control of the public framing of the issue and agenda, as critics of the proposed deal mobilized opposition and made skilful use of the media. The **Israeli opposition** focused in particular on the draft clause on limited refugee return to Israel, arguing that this was a back-door to the demographic destruction of the Jewish state. A major opposition rally convened in Tel Aviv to condemn the deal provoked a smaller rival demonstration by pro-agreement groups, and some violence was reported.

Palestinian Islamic Jihad (encouraged by **Syria**) announced that they would no longer be bound by the Gaza ceasefire, citing the draft agreement as a

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<sup>1</sup> The simulated bilateral negotiations reached such a degree of seriousness and realism that some members of the Palestinian team grew concerned that they might be misunderstood as deliberate second-track or backchannel negotiations, especially given the presence of current or former officials in the simulation. As a result, they decided to focus their efforts instead on exploring implementation issues in more detail.

major reason for this move. Hamas made no substantial effort to prevent periodic PIJ rocket attacks from Gaza.

Meanwhile, a preparatory conference was convened of potential participants in the proposed **International Commission for Palestinian Refugees (ICPR)**, where delegates voiced concerns and put forward ideas regarding implementation of the refugee component of a peace deal. The **United Nations** suggested that, given its expertise and extensive experience, it could play a leading role in implementing a refugee agreement. This might be done by participating in multilateral consultations; through UN General Assembly endorsement of the ICPR and its mandate; and by assuming a leading role in actual implementation of the development, repatriation, and compensation components. UNRWA might even be 're-badged' as a UN refugee resolution agency. UNRWA noted that it had long viewed its facilities as assets which would eventually be transferred to the refugees and that it had designed its programmes so as to allow a smooth hand-over to host countries. It was also suggested that UNSCO could contribute through the political and operational coordination of various UN agencies in the field.

The **Palestinians**, **Arab host countries** and the **Arab League** expressed concern about the premature wind-down of UNRWA, arguing that it should only be terminated upon the full implementation of a deal. **Refugee representatives** noted that so many promises had not been kept in the past and so many deadlines missed, that refugees would be fearful that the 'safety blanket' of UNRWA might be terminated before their issue had been truly resolved.

The **United States** noted that it was a political imperative that UNRWA's existence should not be open-ended. At the same time, issues of transfer of services were likely to be politically and psychologically sensitive for refugee populations.

A number of delegations expressed concern that the mandate, structure, and processes of the ICPR were unclear and suggested that resolving these could be time-consuming and difficult. Some international donors suggested that, because of this, there was a need for a longer implementation period.

There was also considerable concern about the availability of resources, both for refugee compensation and for development activities. The **UK** highlighted the importance of equitable burden sharing, and some donors again reiterated their reluctance to finance compensation for refugee properties

seized by Israel. The **US** stressed that where political will existed, resource mechanisms might be found.

The simulation ended with the draft agreement still under negotiation, and the international community still discussing how such an agreement might best be implemented. Palestinian refugee criticism of the agreement had grown, especially in the diaspora, causing increasing concern on the Arab side. Within Israel, the opposition had achieved significant success in framing the agreement in negative terms, and had used it to mobilize popular sentiment against the broader peace deal.

## Lessons Learned

In a subsequent discussion on the 'lessons learned' from the simulation, a substantial majority of the participants characterized it as a valuable experience. Some participants felt that a tighter simulation timetable would have been more useful, since it would have pressed participants to achieve certain tasks by preset times. Others appreciated the flexibility that the simulation format allowed. There was some discussion as to whether certain actors had been insufficiently constrained, or insufficiently creative, in their roles. There was also a suggestion that it would have been interesting to have explored two 'what-if' scenarios, positing pro-Israeli and pro-Palestinian agreements respectively.

Several participants commented on the extent to which the meeting had provided an opportunity to network and to engage stakeholders in discussion on substance, data, and perspectives.

With regard to the Palestinian refugee issue itself, participants noted the following:

- The exercise highlighted the importance of communication and perception, and stressed the need to market ideas to stakeholders. This is something that both legal and policy advisors underestimate, especially when they get inside the 'negotiation bubble.' One participant noted that 'It was frighteningly easy to quote the agreement out of context to rally opposition.' A journalist commented that 'I was shocked by the way the press was dealt with.... If you don't have a communication strategy, others will steal the march and you will lose control.' It was generally agreed that there is a vital need to sell an agreement to both publics, and that not enough of this had been done during the simulation.

- More work is needed on implementation issues – this would be a worthy area for further meetings and discussions. Several participants noted that the simulation itself had been one of the very few occasions on which the international community had engaged in any discussion as to how an agreement might be implemented. One long-time aid official commented, 'It is rather a shame that after 17 years we still have these gaps – and in the meantime, we have failed the people on the ground.' The failure of knowledge management within foreign ministries and aid agencies was also highlighted as a serious obstacle to institutional learning and preparedness. One Israeli participant stated 'I also came to the conclusion that we have overestimated the willingness and ability of the international community to implement the agreement.'
- Another participant noted that simulation had highlighted the tensions between the primary parties and the international community, with the international community treading especially warily for fear of upsetting the process. Participants who had played donor and host countries in the simulation highlighted the extent to which – as in real life – it had proven difficult to get the primary negotiating parties to share information while negotiations were underway. One participant noted, 'The exercise highlighted the problem of excluding regional and international actors, and then expecting them to fall into line.' There was a tendency amongst the Israelis and Palestinians (and to some extent the US) to simply assume the goodwill and cooperation of the international community.
- One Palestinian participant noted that there may be some value in a bottom-up approach, rather than dealing with the sensitive meta-issues first. On the other hand, a former donor official warned that donor countries sometime tend to focus on resources and technical questions, and underestimate the normative, emotional, and symbolic aspects of the issue.
- A real problem was encountered in that the refugees on the ground were, and felt, excluded from the process.
- The issues designing and implementing a compensation system, and of financing such a system, are extremely important. With regard to donors, there are also issues financing compensation versus development – with many noting a preference for the latter over the former.

- Expertise is needed, and participants felt that experts should be brought on board as early as possible. Some also suggested that there was need to develop agreed databases on issues such as who is a refugee, the magnitude of property claims, and so forth.
- The simulation highlighted the challenge of the multilateral aspect of the refugee issue, and the need to engage host states and international donors more effectively. Is there a need for another Refugee Working Group, or similar mechanism?
- The response of host countries is likely to influence refugee attitudes to any agreement, and vice-versa. The issue of Palestinian refugees in Lebanon will be especially sensitive.
- One Palestinian participant noted that refugees usually insist on UNGAR 194, but most are also realistic that, after 60 years, not everyone will return to Israel. They therefore understand the difference between the principle and the implementation of 'the right of return.'
- Timelines are a problem, since they have been so rarely met throughout the Middle East peace process. For that reason, refugees and host countries would not want UNRWA to vanish until the deal is fully implemented.
- One Israeli participant suggested that it might be useful think of a gradual implementation process on the refugee issue – even longer than 5-7 years, possibly implemented in connection with other issues – rather than attempting to resolve everything at once.
- In how much detail should a refugee agreement spell out the structure and processes of the implementation mechanisms? On the one hand, adding greater detail and complexity to the agreement might slow down and complicate negotiations. On the other hand, there is a danger that, if design of implementation mechanisms is left until after the agreement, the whole process could be derailed by the delay in establishing them and the consequent problem of unmet expectations.
- One participant noted the importance of not distinguishing between flowery rhetoric in public statements and the underlying nuance, suggesting that Israel often misread Arab statements by focusing on the former and not the latter.

Overall, the simulation provided, in the words of one participant, an 'overwhelming and fascinating' opportunity to look at complex and interrelated refugee issues in a multidimensional way

## Appendix: The 'St. James's Accord'

### CHAPTER X: THE REFUGEE ISSUE

1) A just resolution of the refugee problem is necessary for achieving a just, comprehensive and lasting peace.

2) The parties recognize that conflict has been a source of pain and suffering to individuals and communities on both sides. They acknowledge, and profoundly regret, that forced displacement of civilian population has occurred during the conflict. The parties agree that forced displacement constitutes an unacceptable practice, and a violation of both human rights and international law. They are also mindful of the need for the peoples of the region to move beyond the painful legacies of the past, and to build relations of peace and cooperation between the State of Israel (as the homeland for Jewish people) and the State of Palestine (as the homeland of the Palestinian people).

3) The parties call upon the international community to assist in resolution of the refugee issue through supporting the full implementation of this agreement. To that end, an International Commission for Palestinian Refugees (ICPR) shall be established. Canada, the European Union, the host countries (Jordan, Syria, Lebanon, and Egypt), Japan, Norway, the State of Palestine, the Russian Federation, the United Nations, the United States and Israel shall be invited to participate therein. The ICPR will terminate upon full implementation of this agreement.

### DEFINITION

4) A Palestinian refugee is any Palestinian who was prevented from returning to his or her home after November 29, 1947, as well as his or her spouse and descendants. UNRWA registration shall be considered as rebuttable presumption (*prima facie* proof) of refugee status.

5) In the event of a dispute over a claim refugee status, the issue shall be determined by the ICPR.

6) Palestinian refugee status will terminate upon full implementation of this agreement.

### RESIDENCE

7) As part of a comprehensive resolution of the refugee agreement, refugees shall be presented with a number possible permanent residential options:

a) The parties agree that all Palestinian refugees have an inherent right of return to the State of Palestine. In no way shall this right be abridged.

b) Israel shall, as a matter of its sole and sovereign discretion, facilitate the phased entry of a limited number of Palestinian refugees to its territories on humanitarian grounds over a five year period. In doing so, it shall give first consideration to first generation refugees, and those currently residing in Lebanon.

c) Some present host countries may wish, as a matter of their sole and sovereign discretion, to grant citizenship to non-citizen Palestinian refugees currently residing in their territories. The parties encourage them to do so as a valuable contribution to regional peace.

d) The parties call upon the international community to provide opportunities for third country resettlement for refugees preferring this option.

8) The ICPR shall establish programs to assist refugees in applying for admission to the State of Palestine, Israel, citizenship in their host country, or third country resettlement. Such programs will in no way impinge upon the sole and sovereign control of each state over its admission and citizenship policies.

9) The ICPR shall also establish programs to assist, and defray the cost of, relocation for refugees choosing to repatriate to the state of Palestine.

## **COMPENSATION AND DEVELOPMENT**

10) In recognition of their pain, suffering, and material and other losses, the ICPR shall establish a Fund for Refugee Compensation and Development ('the Fund'). The Fund shall be financed by international contributions. Israel's obligation to this fund shall take the form of a lump-sum contribution of \$7.5 billion, paid over five years.

11) The ICPR shall design and implement a compensation program based on the following principles:

a) All refugees shall be entitled to a lump-sum payment, in recognition of their experience of displacement and forced displacement.

b) In addition, claimants able to show documented property losses, to which they are legal heir, may apply for either fixed-sum compensation (for claims below a certain level), or evaluated compensation (for amounts above a certain level). Eligibility of a claimant for property compensation shall be

proportionate, limited by and subject to, the resources accumulated by the Fund.

c) Fixed sum compensation shall be paid first, on a simplified fast-track basis, before larger claims are evaluated.

d) Transfer of compensation to a claimant shall be conditioned by such claimant's waiver of further proprietary claims.

e) The ICPR shall endeavour to process lump-sum payments within one year of its establishment, fixed-sum compensation within three years, and evaluated compensation within five years.

12) The ICPR shall support, whether through resources available from the Fund or by the mobilization and coordination or other donor resources, social and economic development of refugee populations and camps.

13) The ICPR shall support, whether through resources available from the Fund or by the mobilization and coordination or other donor resources, the social and economic development of host countries, thereby recognizing their historic role in providing shelter and assistance to the refugees. In mobilizing such assistance, due attention will be paid to the historic and continuing role of the host country in resolving the refugee issue.

14) Although the issue of compensation to former Jewish refugees from Arab countries is not part of the bilateral Israeli-Palestinian agreement, in recognition of their suffering and losses, the parties pledge to cooperate in pursuing an equitable and just resolution to the issue.

## **UNRWA**

15) The phased termination of UNRWA shall be in accordance with a timetable to be agreed upon between the parties, and shall not exceed five years. The scope of UNRWA's services should change appropriately as the implementation of this agreement proceeds (whereby the first phase shall include the transfer of the service and administrative functions of UNRWA to host countries and the State of Palestine).

16) The parties call upon donors to provide transitional funding to the host countries and the State of Palestine for a period of a period of five years after the termination of UNRWA, to offset the cost of assuming former UNRWA functions.

### **FINAL RESOLUTION OF THE REFUGEE ISSUE**

17) The two sides consider this agreement to be a full and final settlement of the refugee issue in all its respects, in accordance with UNGAR 194, UNSCR 242 and 338, and as called for by the Arab League peace initiative of 28 March 2002. No additional claims or demands arising from this issue will be made by either party upon the full implementation of the permanent status agreement, nor shall there be any further commitment or obligation upon the parties emanating from the refugee issue beyond those specified in this Agreement.