

UNITED NATIONS CONCILIATION COMMISSION FOR PALESTINE

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SUMMARY RECORD OF THE TWO HUNDRED AND THIRTIETH MEETING

held at the Hotel de Crillon, Paris, on Friday,
7 September 1951, at 11 a.m.

Present:

Mr. Palmer	(United States)	-	Chairman
Mr. Marchal	(France)		
Mr. Aras	(Turkey)		
Mr. de Azcarate		-	Principal Secretary
Mr. Andersen		-	Head of the Refugee Office.

Report of the Refugee Office

At the request of the Chairman, Mr. ANDERSEN (Head of the Refugee Office) presented to the Commission the report of the Refugee Office.

Mr. Andersen recalled that it was in pursuance of the General Assembly resolution of 14 December 1950 that the Conciliation Commission had established its Refugee Office to carry out, under the direction of the Commission, certain specific tasks. Those tasks, as set forth in the resolution of 14 December 1950 and in the terms of reference given to the Office by the Commission, had fallen into three main categories, and the report now submitted had been drawn up in three corresponding parts.

Part One, Chapter I: It had been felt desirable, before studying the various specific problems, to define as clearly as possible the term "refugee" as used in the General Assembly resolution of 11 December 1948. The result of that study was given in Chapter I. The Head of the Office recalled that the Commission itself had discussed the definition of a

refugee in several meetings in Jerusalem. It was on the basis of the views expressed at that time by the members of the Commission that Article 3 of the definition (page 8) had been drafted, after discussion with the competent services of the United Nations High Commissioner for Refugees. In that article account had been taken of the principle of equity, in accordance with the provisions of the General Assembly resolution of 11 December 1948. He hoped that the inclusion of Article 3 would meet the wishes of the Commission.

Mr. Andersen drew attention to what might appear to be a contradiction between the definition of a refugee given in Chapter I of the first part of the report and that used in Chapter II of the second part, dealing with the legal status of refugees. However, he stressed that it was only an apparent contradiction, as in the first case it was necessary to define a refugee having a right to compensation or repatriation, and in the second case a refugee entitled to claim the legal and political protection of international authorities.

Part One, Chapter II: The Head of the Office then turned to Chapter II, dealing with the principal task of the Office: the evaluation of abandoned Arab property in Israel. He recalled that in May 1951 the Commission had decided, after several discussions on the basis of working paper W/63 prepared by the Land Specialist, on the method which it considered the most appropriate for the purpose of arriving, within a reasonable period of time, at a global estimate of the value of such property. It was naturally in accordance with that decision of the Commission that the Office had set about its task. The difficulties inherent in the task would probably be obvious from the text of the report, which was based, on the one hand, on the most thorough research which had been possible and, on the other hand, on the very great knowledge possessed by the Land Specialist concerning the question in all its aspects.

Mr. Andersen pointed out that the global estimate given on page 34 of Chapter II was made in Palestine pounds as at 29 November 1947, at which time the Palestine pound was linked to, and freely interchangeable at par with the pound sterling. In converting the valuation figure, therefore, the Palestine pound should be reckoned as equivalent to the pound sterling.

Chapter II was not quite complete on one particular point - the sum estimated as representing the value of immovable property abandoned by Arabs in the Israel-controlled part of Jerusalem. Great difficulty had been experienced in that connection, and it was only in the middle of August that a certain amount of co-operation had finally been given by the services of the Custodian of Absentee Property in Jerusalem. An addendum would be submitted in the very near future by the Land Specialist to complete the report. Mr. Andersen was, however, able to state that, so far as could be foreseen, the figure still awaited for Jerusalem property would not seriously affect the total estimate given on page 34.

In connection with the Office's work of evaluation, Mr. Andersen stated that shortly after his first conversation with the Foreign Minister, the Government of Israel had appointed a committee of experts under the chairmanship of Dr. Meron, Director of the Economic Division of the Israel Foreign Ministry, to maintain liaison with the Office, and that several meetings had been held with that committee. The Israel experts had replied fully to certain questions asked by the Office, but insofar as the work of evaluation done by the Government of Israel was concerned, they had declined to give the information requested, stating that it concerned the purely internal affairs of Israel.

After arriving at a global estimate, the Office had compared its figure with those reached by Israel and Arab experts respectively. A study of all available estimates had shown that the Refugee Office's figure was somewhere between the highest estimate made by Israel experts and the lowest

estimate made by Arab experts.

Mr. Andersen felt that the global estimate arrived at by the Office, while it could naturally only be approximate, was a reasonable one in view of the short time available for the work.

Part One, Chapter III: Although there were enormous difficulties involved in estimating the value of immovable property abandoned in exceptional circumstances, it was indisputable that the difficulties were immeasurably greater in the case of movable property. If it had been impossible to make an evaluation on an individual basis for immovable property, it had obviously been even more impossible to evaluate the movable property individually. The Office had therefore limited itself to studying certain aspects of the matter and suggesting possible methods of procedure. Mr. Andersen drew attention to the procedure which had been adopted for the indemnification of the Turkish population at the time of the exchange of population between Greece and Turkey, which was in many ways a comparable operation (page 4). It was naturally for the Commission to decide which of the possible methods it felt would be most appropriate.

Part One, Chapter IV: The Office had, by its terms of reference, been charged with preparing a plan for the distribution of compensation funds. Mr. Andersen wished to stress that the refugees themselves were unanimous in their desire to receive individual payment of compensation and would strongly oppose any plan for payment by which a lump sum would be handed for distribution to some authority in the host country.

It was thus by following carefully the instructions of the Conciliation Commission, and taking into account the unanimous wish of the refugees, that the observations given in Chapter IV had been worked out. It was suggested in that chapter that as soon as the problems involved in the first phase of the compensation operation - evaluation and financing - had been solved, one

or more special bodies should be set up under United Nations auspices to administer the compensation fund and to fix the amount to be paid to each individual owner.

That question was of particular interest to UNRWA owing to the relationship which existed between compensation and reintegration, and it was obvious that the closest collaboration between UNRWA and the proposed new body or bodies would be essential. It was also clear that if it were desired to proceed to the establishment of a plan for payment of compensation on an individual basis, the co-operation of the refugees themselves and of the Arab Governments would also be necessary.

The Head of the Office drew attention to the reference on page 6 of this chapter to the Office which had been set up by the League of Nations in 1923 to deal with similar problems in Greece and whose work had been so successful. That precedent had been thought particularly significant in view of the fact that the number of refugees dealt with by that body had been approximately five times as large as it would be in the case of the Palestine refugees, estimated on the basis of an enquiry which UNRWA had carried out some months ago.

While the principle of individual payments of compensation had been recognized, it had not been overlooked that there was an undoubted relationship between compensation and reintegration, and pages 7-9 of the chapter under review were devoted to that aspect of the question.

Part One, Chapter V: The Office had also been charged by the Commission with preparing a study on the question of damages to the property of refugees returning to Israel and with making recommendations as to the methods to be adopted for the evaluation and payment of indemnities therefor.

The question had been discussed during a meeting with the Israel committee of experts, and the members of the Office had referred to the provisions of the General Assembly resolution of 11 December 1948 providing

that "compensation should be paid for ... loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible". Dr. Meron had replied that as it was a case of refugees returning to Israel, the question could not arise, as such refugees would by the fact of their return become Israel citizens. Mr. Andersen here pointed out that as far as he was aware no nationality law had yet been passed in Israel. Dr. Meron had added that Israel declined all responsibility for damage caused by the hostilities; that if the damage claimed for had occurred before the proclamation of the State of Israel on 14 May 1948 his Government could accept no responsibility for it and that, further, Israel could not accept a general liability for any such damage which had occurred after 14 May 1948; and finally that any such damage which had occurred after 14 May 1948 and which did not come under the category of war damage could be claimed for by the returning refugees through the medium of the Israel law courts, in the same way as any other Israel citizen would be able to claim for similar damage. If any special arrangements were made for returning Arab refugees, that would involve granting them preferential treatment over other Israel citizens, which the Government would not permit.

The Head of the Office pointed out that the General Assembly resolution of 11 December 1948 had posed the principle of the compensation of that category of refugees. Any study of the question subsequent to that date should be based on the relevant provisions of international law, which naturally took precedence over national legislation. In Chapter V an attempt had been made to deal with the problem on the basis of precedents in international law, and the task had not been an easy one (pp. 5-7). The Office had set forth its views based on those precedents, and had made certain recommendations as to the method which might be adopted in due course for settling this question.

Part One, Chapter VI: The Head of the Office recalled that the Commission had taken a special decision, at its meeting on 1 June 1951^x, to charge the Office with the preparation of a preliminary study of Israel's financial capacity to pay the amount assessed as compensation, such study to be made in consultation with the Israel authorities.

In this instance, Mr. Andersen stated, a considerable measure of co-operation had been forthcoming from the Israel authorities. Chapter VI contained various economic and financial information which would strongly influence Israel's financial capacity and thus the realization of the payment of compensation. The conclusions were given on pages 46 et seq.

Mr. Andersen wished to refer in that connection to a conversation which he had had with Mr. Horowitz of the Israel Ministry of Finance some time ago. Mr. Horowitz had said that he envisaged two possibilities of financing the payment of compensation: by an international loan on which Israel would pay no instalments or interest for at least ten years; or, alternatively, a situation in which Israel would obtain partial or total satisfaction of her claims against Germany. In the latter case some difficulties might be envisaged, as the amount which Israel could pay as compensation would depend to some extent on what proportion she received of her claims against Germany.

Part Two, Chapter I: The second part of the report corresponded to the tasks given to the Office in part II of its terms of reference: to submit recommendations concerning the repatriation of refugees, and their economic and social rehabilitation.

Chapter I dealt with the possibilities of repatriation. The Head of the Office wished first to stress that it was clear that the Israel attitude to the question had not changed since the Foreign Minister had expressed it before the Ad hoc Committee at the 1950 General Assembly. Israel categorically refused to accept the return of any great number of refugees. However, as the question figured in the terms of reference of the Office, it had been

^x see SR/224.

felt necessary to make certain observations concerning the possibility of a very restricted solution of the problem. In that connection a working paper^x which had been prepared by the Commission's secretariat had been found useful, and the two suggestions formulated at the conclusion of that document had been discussed in Chapter I. After consideration, the Office had felt that the first - that of limited repatriation by trades or professions - was not possible. The second - that of some measure of repatriation by villages - had been developed. Mr. Andersen expressed the view that even the most modest realization of repatriation along the lines of the second suggestion would constitute a recognition of the principle which had been so often stressed in the decisions of the General Assembly. That, however, was a political question outside the competence of the Refugee Office.

Part Two, Chapter II: This chapter, concerning the economic and social rehabilitation of the refugees, was divided into two sections, relating respectively to minority rights and the legal status of refugees not returning to their homes. The first section, although it might not appear to be particularly useful, as any refugees who returned would presumably be integrated into the social and economic life of Israel, had been included because the question had been specifically referred to in the terms of reference of the Office, and also in the General Assembly resolution of 14 December 1950. The essential point of the second section was the question of the authority which was to assume the legal and political protection of the refugees. At the present time it was clear that, while it had not been specifically charged with the task, the Conciliation Commission was exercising that protection on behalf of the United Nations, and also that the Relief and Works Agency had been obliged to exercise certain of the functions of such a protection authority, for instance when issuing travel papers to refugees.

^x w/69.

Part III: In conclusion, Mr. Andersen referred to the last part of the report, dealing with the protection of the rights, property and interests of the refugees. It had been difficult for the Office to define exactly what that phrase included, but the question had been studied in many aspects. The Office had tried to include the most complete and useful information available, so that the Commission itself would be able to decide which aspects of the question should be studied in greater detail and which had no immediate interest.

The Head of the Refugee Office hoped that the Commission would find the report a useful one. The members of the Office had made every effort to make it as complete as possible in the short time available to them.

The CHAIRMAN thanked the Head of the Refugee Office for his presentation and explanation of the report. Speaking personally and on behalf of the Commission, he wished to express appreciation of the way in which Mr. Andersen had carried out his task. He felt that the confidence which the Commission had placed in Mr. Andersen had been fully justified and that without his reasonable approach and guiding touch the work of the experts - however excellent - could not have been to such good purpose.

A further meeting to consider the report of the Refugee Office was fixed for the following afternoon.

The meeting rose at 1.30 p.m.
