

UNITED NATIONS CONCILIATION COMMISSION FOR PALESTINE

RESTRICTED
COM.GEN./17/Rev.1
15 March 1951
ORIGINAL: FRENCH/ENGLISH

REPORT
CONCERNING THE FUTURE ACTIVITIES
OF THE COMMISSION
AND ITS REFUGEE OFFICE
UNDER THE RESOLUTION OF 14 DECEMBER 1950

Note by the Principal Secretary

This report was submitted to the Commission by the General Committee on 22 February 1951. The Commission approved it at its meeting of 10 March 1951 with certain changes. These changes have been incorporated in the text of the present document.

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GENERAL COMMITTEE

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INTRODUCTORY

The General Committee, at the request of the Conciliation Commission, has undertaken a study of the resolution of 14 December 1950 with reference to the Commission's future activities and to the work of its Refugee Office. The report consists of two parts. Part One is a strict interpretation of the resolution and sets forth the legal consequences of such a strict interpretation. In Part Two the Committee has suggested methods of a practical nature for the application of the resolution, with particular reference to the work of the Commission and the Office in the immediate future. The General Committee believes that these suggested methods, while of a practical and immediate nature, are fully consistent with the letter and spirit of the resolution.

/ PART ONE

Furthermore, the order in which the functions of the new Office have been listed is an indication of the degree of importance given to these functions by the Assembly.

Whereas the payment of compensation came last in the list of functions assigned to the Conciliation Commission by the resolution of 11 December 1948, this problem appears now in the first place in the text of the resolution of 14 December 1950.

The problems of repatriation and resettlement are mentioned in a separate paragraph and are given the following general title: "the other objectives of paragraph 11 of the resolution of 11 December 1948".

Thus, it follows that compensation should be considered as the primary task of the new Office. Repatriation and resettlement, and also the protection of the property of the refugees, fall nonetheless, in various degrees, within the competence of the Office.

Compensation

A. Scope of compensation

The resolution of 11 December 1948 provides that compensation will be payable in two cases:

1) For the property of those refugees who decide not to return to their homes. Two conditions are laid down in this instance for the payment of compensation:

- (a) The refugee must have been the owner of the property at the time of the exodus (date to be determined). That property must have been lost as a consequence of the exodus.

The Government of Israel has always agreed to the principle of the payment of compensation but, in its opinion, it was only to include "cultivated lands" to the exclusion of all movable property. Since the resolution of 11 December 1948 does not define the term property, consideration will have to be given to the various categories of property, both real and personal, which will require definition.

- (b) It would be understood when the refugee receives payment of compensation that he thereby renounces his right to repatriation and abandons any further claims to his property in Israel.

2) For all property lost or damaged when, under principles international law or in equity, that loss or damage should be made good by the governments or authorities responsible.

This case applies to damage caused during hostilities but not of a strictly military nature (plunder, looting, theft). This category of damage cannot be linked up with the question of war damage as such, but should form the subject of a direct settlement between Israel and the claimants. The claimants in this case would be the repatriated refugees. Israel's attitude has always been that repatriated refugees are to be considered as citizens of Israel who have never lost their citizenship.

The task of the Office in this field consists, therefore, not in taking measures - as in the case of refugees who decide to remain in Arab countries, for whom the Office acts as an intermediary - but rather in suggesting to the Government of Israel, pursuant to the terms of paragraph 2 (c) of the resolution of 14 December 1950, the adoption of suitable measures for ensuring that the repatriated refugees receive fair compensation for their damaged property.

B. Functions of the Office

In the field of compensation, the resolution of 14 December 1950 provides that the Office will "make such arrangements as it may consider necessary for the assessment and payment of compensation". It follows therefore that these arrangements would include the assessment of the property, the collection of the necessary funds and the payment of compensation.

1) First phase:

The task of assessment will involve the determination of:

- (a) the nature of the property belonging to the Arab refugees;
- (b) the value of that property.

The assessment would be conducted on an individual basis.

- (a) In order to determine the nature of the property, the Office will have to collect the necessary data from the compensation authorities (appropriate

agencies of the ex-Mandatory power, Israel Custodian of Absentee Property) and from the refugees themselves, on the basis of the old tax and cadastral registers, the documentation of the Israel Custodian of Absentee Property and the title deeds of the refugees.

(b) In order to establish the value of the property for which compensation is to be paid, the Office will have to determine:

- (i) the date to be considered as the time basis for assessment;
- (ii) the currency in which the property is to be assessed.

In this first phase of its operation, the Office should attempt to determine the total value of the property.

2) Second phase:

In the second phase, the task of the Office will be to set up a compensation fund.

- (a) This fund will be separate from the reintegration fund.
- (b) This fund might be administered by a body to be set up at the appropriate time by the Conciliation Commission.
- (c) Within the limits laid down by the Office, contributions to this fund will come from Israel (either directly or through an international loan).

3) Third phase:

This concerns payment.

(a) Individual claims from refugees for compensation will be examined by the Office and payment will be made only on two conditions:

- (i) The claimant must have owned property lost as a consequence of the exodus;
- (ii) He must have chosen not to return to his home.
- (b) The indemnity will be paid on an individual basis.
- (c) As regards methods of payment, the indemnities might be paid either directly by the body administering the compensation fund, or indirectly by the government in whose territory the claimant is residing.
- (d) The method of payment will have to be determined by the Office and may take the form of payment:
 - (i) in cash, either by a lump sum or in instalments over a period of time;

- (ii) in negotiable securities;
- (iii) by integrating compensation with resettlement.

Repatriation, Resettlement and Economic and Social Rehabilitation

The second function entrusted to the Office by the resolution of 14 December 1950 concerns "the other objectives of paragraph 11" of the resolution of 11 December 1948. Repatriation, resettlement and economic and social rehabilitation are the principal objectives referred to.

According to the terms of the resolution of 14 December 1950, the Office must "work out" arrangements for the implementation of these objectives. It will study the possible solutions and make suggestions but will not, as in the case of compensation, have responsibility for putting into operation plans which have been agreed upon.

A. Repatriation

The Conciliation Commission itself intends to take up this question with the Government of Israel, in order to reach an agreement of principle. When such agreement has been obtained, the Office will have the task of elaborating a detailed plan for repatriation, bearing upon the number of refugees who will be permitted to return to their homes, the criteria according to which the selection will be made, and the place of settlement.

B. Resettlement

Following an agreement reached between the Conciliation Commission and UNRWA, the latter Agency, which administers a reintegration fund, is mainly responsible for this problem, particularly with regard to the study and implementation of resettlement projects. The Conciliation Commission reserves the right to discuss this question on the political level with the governments concerned.

C. Economic and social rehabilitation

The "assistance" which the Office might provide in the settlement of this question would take the form of making recommendations to the Government of Israel and to the Arab Governments. These recommendations would concern, for example, the rights of minorities, the personal and legal status of the refugees, labour legislation and social security and any other similar questions.

Protection of the Rights, Property
and Interests of the Refugees

Finally, the Office is charged, by the provisions of paragraph (c) of the resolution of 14 December 1950, with continuing consultations with the parties concerned regarding measures for the protection of the rights, property and interests of the refugees.

. This clause concerns the negotiations initiated by the Conciliation Commission with the parties on various matters related to the protection of the rights and property of the refugees.

1) The objective is to ensure that the refugees, whether repatriated to Israel or settled in Arab countries, will enjoy the same rights as those of the nationals of the countries where they will henceforth reside.

2) The question will also arise as to the measures needed for the protection of the property interests of the refugees.

At the time of the Lausanne meetings, the Conciliation Commission entered into negotiations with the Government of Israel on various matters such as the reunion of Arab families in Israel, the maintenance of orange groves, Wakf property, blocked accounts etc. Of these, only the last-named is at present under discussion.

The present status of the problem of blocked accounts should be studied, with particular emphasis on the necessity of obtaining Israel's agreement to fixing a date earlier than that of the peace settlement for the reimbursement of the Arab States for the advances which they will have made to the holders of blocked accounts.

Although the problem of blocked accounts falls within the purview of the Office by virtue of the provisions of the resolution of 14 December 1950, the Conciliation Commission, which has been studying the matter for a considerable period of time, intends to continue its negotiations in this field with the governments concerned.

PART TWO

In Part One above the General Committee has undertaken a study of the implications of the General Assembly's resolutions of 11 December 1948 and 14 December 1950. The conclusions reached are based on a strict reading of the texts of those resolutions and, aside from other considerations, are, in the opinion of the Committee, correct and equitable conclusions. The Committee is impressed, however, with the fact that in order to put into effect the conclusions contained in Part One, more time would be needed and a greater administrative machinery required than are at the disposal of the Commission and the new Office. To undertake a complete appraisal of all individual property claims, in order to arrive at the total amount of compensation due the refugees, will require months of work by an expert staff of investigators. The Commission would be unable to report by the time of the next General Assembly any progress in facilitating the payment of compensation, other than such progress as is involved in the setting up of administrative machinery. It is desirable, in the opinion of the General Committee, that progress should be made in reaching agreement with the Government of Israel and the Arab States on the principle of a compensation payment and the total amount. In the absence of such an agreement prior to or during the next General Assembly, the political repercussions of further delay in arriving at a settlement of the compensation question will greatly lessen the likelihood of reaching any agreement at a later date. It is important, therefore, that the Conciliation Commission should consider what kind of political agreement on the question of compensation should be negotiated prior to the Commission's report to the General Assembly. Without prejudice to later arrangements with the Head of the Refugee Office, the Commission should consider the procedures to be followed during the next few months prior to the arrival of the Head of the Office, to prepare for a major effort by the Conciliation Commission itself to arrive at an agreement with the governments concerned.

In this connection, the General Committee recommends that the Commission consider taking the following steps :

(1) To proceed immediately, as the first order of business, with the establishment of an estimated total value of refugee property abandoned in Israel to be compensated for, and to instruct the experts attached to the Commission to prepare such an estimate on the basis of the best records available. Such a figure would be a starting point for subsequent negotiations. It would not be anticipated that the experts would examine individual claims at this stage, but they would restrict themselves to a survey of official records, the survey to be completed within a specified time, e.g. two months.

(2) To begin consideration of means of collecting funds equal to the estimated value of the refugee property. The Commission should instruct its experts to begin immediately with the study of the financial potential of Israel and the possibilities of obtaining international assistance in the underwriting of a compensation fund.

(3) To formulate plans for the integration of compensation and resettlement, and, at the appropriate time, to discuss such plans with the Relief and Works Agency. The Commission should instruct its experts to produce plans which would make it possible for the resettlement authorities to make use of compensation funds. Such plans should be ready for the Commission's consideration within a specified time.

(4) To establish plans for repatriation based on the best interests of the refugees as well as on possible benefits of an economic and social nature to the State of Israel. The Commission should instruct its experts to present such plans for its consideration within a specified time.
