

‘Note’ pursuant to the implementation of Economic and Social Council Resolution E/2002/L.22 concerning the economic and social repercussions of the Israeli occupation on the living conditions of the Palestinian people in the occupied Palestinian territory, including Jerusalem, and the Arab population in the occupied Syrian Golan, adopted on 23 July 2002

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Summary

1. Palestinian refugees are one of the largest and longest-standing refugee populations in the world today. Approximately 25 percent of the global Palestinian refugee and displaced person population - 1.6 million Palestinian refugees and displaced persons - reside in the West Bank, including eastern Jerusalem, and the Gaza Strip. The majority of Palestinian refugees residing in the 1967 occupied Palestinian territories are registered for assistance with the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). There is no registration system for internally displaced Palestinians.¹

2. One of the primary characteristics of this refugee and displaced person population is the absence of national and international protection. This phenomenon is referred to as a '*protection gap*.' The protection gap includes:

- (a) lack of physical security and violation of basic human rights²; and,
- (b) lack of respect for the normative framework, set forth in international law and relevant UN resolutions, for crafting durable solutions for this refugee and displaced population.³

3. In addition to the absences of national and international legal protection (*See 2 above*), no international body or mechanism is currently recognized as having an explicit mandate to systematically work for the realization of the basic human rights of this refugee and displaced population, and search for and implement durable solutions. The UN Conciliation Commission for Palestine (UNCCP) – mandated for provide protection and search for durable solutions under UNGA 194(III) – ceased to provide adequate protection and search for durable solutions in the mid-1950s. The UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) has an assistance mandate; the Agency does not have an explicit mandate to provide comprehensive international protection for Palestinian refugees and internally displaced. The 1950 Statute of the Office of the UN High Commissioner for Refugees (UNHCR) (Art. 7C) excludes Palestinian refugees.⁴

4. The United Nations recognizes the protection gap relative to Palestinian refugees; particularly with regard to refugees residing in the 1967 occupied Palestinian territories. Between 1982 and 1993 the UN General Assembly regularly called upon the UN Secretary-General, in consultation with UNRWA, "to undertake effective measures to guarantee the safety and security and the legal and human rights of the Palestinian refugees in the occupied territories."⁵ The UN Joint Inspection Unit has stated, "that this anomalous situation should not and need not continue. ... [T]he problem of protection requires region wide consideration and that innovative and acceptable measures that could applied wherever and whenever warranted should be sought."⁶ Between 1987 and 1993 UNHCR ExComm Conclusions "[e]xpressed concern about the lack of adequate international protection for various groups of refugees in different parts of the world, including a large number of Palestinians, and hoped that efforts would be undertaken within the United Nations system to address their protection needs."⁷

4. Refugees and displaced persons are a particularly vulnerable sector of Palestinian society in the 1967 occupied territories – a status exacerbated by protracted illegal Israeli military occupation. Since the beginning of the second Palestinian *intifada* in September 2000 Palestinian refugees and displaced have been strongly affected by Israel's military and economic policies to suppress the Palestinian uprising. Refugees and displaced, camp refugees in particular, have experienced higher numbers of deaths and injuries, greater destruction and damage to property, and higher

rates of unemployment and poverty. During the reporting period (July 23 – 15 December 2002 - i.e., adoption of E/2002/L. 22 to the present period) refugees and displaced continue to be exposed to physical attack and violation of basic human rights. **(Note on sources)**⁸

Economic and Social Repercussions of Military Occupation - Indicators

5. Deaths and Injuries

Israeli military forces continue to enter and carry out military attacks, including the use of heavy machine guns, tanks, and attack helicopters, on Palestinian refugee camps (RC) which are protected civilian areas. Reported invasions and attacks include Balata RC, Jenin RC, Askar RC, Tulkarem RC, Deheishe RC, Aida RC, and ‘Azza RC in the West Bank, and al-Maghazi RC, Khan Younis RC, Rafah RC and al-Bureij RC in the Gaza Strip. In addition the Israeli military has carried out attacks on Palestinian cities and towns, many of which have a high percentage of refugee residents. This includes Beit Lahya, Deir al-Balah and Beit Hanoun in the Gaza Strip where the percentage of refugees of the total population ranges from 50-99 percent. Recorded deaths of refugees in camps, includes 2 deaths in Askar RC, 1 death in Jenin RC, 2 deaths in Balata RC, 8 deaths in Rafah RC, and 10 deaths in al-Bureij RC. There are no comprehensive figures for the total number of refugees killed during the reporting period, however, previous fieldwork by BADIL and studies by the Graduate Institute of Development Studies of the University of Geneva have found that around 50 percent of those Palestinians killed during the second *intifada* are camp refugees. Similar trends are found with respect to injured Palestinians. Damage also included UNRWA facilities including an UNRWA school during an attack in Rafah (Oct. 17).

6. Destruction and Damage to Property

Since September 2000 Palestinian refugee camps have increasingly become the targets of Israeli military attacks, including extra-judicial killings. Refugee camps in the occupied territories are particularly vulnerable to damage due to the makeshift, highly built-up nature of the camps, which are less resistant to attack, and because of the location of Israeli military installations, settlements, and bypass roads adjacent to refugee camps, often rendering them into zones of conflict. During the reporting period the Israeli military continued to destroy and damage refugee shelters. In the West Bank during July and August alone Israeli military attacks resulted in damage to 1,887 refugee shelters (UNRWA). Other reported incidents include the destruction of 2 homes in al-Maghazi RC (Sept. 12); 6 homes in Rafah RC (Oct. 23), and 1 home in al-Bureij RC (Dec. 6). Total figures are not available. Since the beginning of the second *intifada* refugee camps have the highest reported incidents of damage to residential and commercial structures. The current reporting period is likely to follow this trend.

7. Military Closure and Curfew

Since the beginning of the second *intifada* military closure and curfew has hit refugees particularly hard. According surveys conducted by the Graduate Institute of Development Studies for the end of 2001 and at the end of the 1st quarter of 2002, 85-95 percent of the refugee population in the West Bank experienced severe mobility problems. Closure and curfew continues to impact Palestinian refugees in camps, particularly in the northern West Bank. Ein Beit al-Ma’ RC, Askar RC, Balata RC, Nur Shams RC, and Tulkarem RC were under curfew between 97-99 percent of the time since 17 June 2002 (OCHA). Jenin RC was under curfew approximately 76 percent of the time, while the Bethlehem-area refugee camps – Aida, ‘Azza,

and Deheishe – were under curfew just under 50 percent of the time. Figures for towns and villages with large refugee populations under curfew are not available.

8. Unemployment and Poverty

High and increasing unemployment and poverty among refugees and displaced persons continues to be a function of Israeli military occupation. Due to the relatively high percentage of unskilled but ‘employable’ labor force among refugees, prolonged restrictions on access to wage labor has a markedly negative impact on Palestinian refugees. The ability of Palestinians to find work within the occupied territories is not only affected by the destruction of local economy (or ‘de-development’ according to UNCTAD); severe restrictions on internal movement imposed by Israel also make it more difficult to find employment. Confined to the fixed locality of a camp, especially under virtual house arrest since 17 June 2002, refugees cannot rely on economic activities in the camps or on the informal economic activities of cities and large towns. Refugees in camps, together with Gazans as a whole, also appear to find it more difficult to change jobs when required to do so. Palestinian refugees, camp refugees in particular, have experienced higher rates of unemployment than non-refugees since the beginning of the second *intifada*. The estimated unemployment rate (UNSCO) for the Palestinian population in the 1967 occupied territories as of mid-2002 (50 percent) is likely higher among refugees, especially among refugees in camps under total curfew and in Gaza camps. The unemployment rate in Gaza camps, for example, was already approaching 50 percent in December 2001.

Refugee households also report higher rates of poverty. The estimated poverty rate – based on \$2 or less consumption per day (UNSCO) – in the West Bank (55 percent) and Gaza Strip (70 percent) is likely higher in refugee camps based on previous trends. Palestinian refugees are particularly vulnerable to higher rates of poverty as a result of negative changes in the economy. According to UNRWA, this is due to a relative lack of accumulated savings and thus no safety net to protect them from a high dependency on wage labor; the lack of access to land-based forms of subsistence, i.e., agriculture or property; and, the large number of dependents per family prevalent in camp populations, which limits the ability of refugee families to absorb drastic and lengthy decreases in income.

Recommendations⁹

9. ECOSOC should issue a call for a protection presence in the 1967 occupied Palestinian territories. Numerous other UN bodies and agencies have already made such a call. ECOSOC, in its overall supervisory capacity for the UN human rights system, is particularly well situated to issue such a call.

10. ECOSOC should mandate a professional study of implementable mechanisms of protection for the population of the 1967 occupied Palestinian territories in accordance with international law. Full study of such a topic might require the consideration of involvement of both UN and non-UN agencies. Due consideration of all the international law principles concerning the obligation of the international community to provide protection to refugees would be extremely relevant to such a study.

Finally, it would be highly relevant to study the “root causes” of the conflict prevailing in the 1967 occupied Palestinian territories, including Israel’s massive, ongoing violation of the rights of Palestinian refugees and displaced persons. Israel’s violation of the international law-guaranteed rights of the refugees to return, restitution and compensation in the context of a

durable solution to their refugee exile situation is based purely upon discriminatory grounds. This systematic, state-sanctioned discrimination is also seen in Israel's treatment of its Palestinian citizens. Such systematic, state-sanctioned discrimination is categorically prohibited by international law. In addition, a study of root causes would necessarily also have to include a study of Israel's belligerent military occupation, in violation of the Palestinian people's fundamental human right to self-determination, as well as Israel's settlement policy, which is in complete violation of international law and which the International Committee of the Red Cross has categorically labeled a war crime.

ECOSOC should make note of this important **linkage** between Israel's international law violations and the need for protection in the first place. Cessation of the former would obviate the need for the latter. Israel's compliance with international law would immediately bring the conflict to an end and there would no longer be any need for protection whatsoever.

¹ On the creation of a comprehensive registration system, *see* UNGA Resolution 37/120 J (I), 16 December 1982 and *Report of the United Nations Secretary General*, 12 September 1983, UN Doc. 1/38/382.

² In addition to serious violations and grave breaches of international human rights law and international humanitarian law, the protection gap includes lack of respect for the civilian character of Palestinian refugee camps in the 1967 occupied Palestinian territories. No international body or mechanism is responsible for ensuring respect for the civilian character of Palestinian refugee camps and the protection of the civilian population residing in these camps. It is important to emphasize that the presence of an individual combatant within a civilian population, including refugee camps, does not deprive the population of its civilian and protected status (Art. 50, Protocol I, Fourth Geneva Conventions).

³ In addition to the lack of respect international respect for the right of return and right to housing and property restitution, there is no international body to assert these rights; access international mechanisms to claim and promote these rights; and preserve and promote individual as well as collective rights in the context of a future negotiated peace agreement.

⁴ The 'protection gap' vis-à-vis Palestinian refugees outside UNRWA areas of operation was addressed by UNHCR in 2002. *See* UNHCR Note on the Applicability of Article 1D of the 1951 Convention Relating to the Status of Refugees to Palestinian Refugees (November 2002). The Note, however, does not resolve the legal and institutional protection gap vis-à-vis Palestinian refugees and displaced persons in the 1967 occupied Palestinian territories. BADIL commentary on the UNHCR 'Note' is available on the BADIL website.

⁵ UNGA Resolution 37/120 J, 16 December 1982.

⁶ UN Joint Inspection Unit, 'Rerpot on UNRWA', July 1983, UN Doc. JIU/REP/83/8, A/38/143, 42.

⁷ *See, most recently*, ExComm. Conclusion No. 71 (XLIV) – 1993.

⁸ Due to the absence of an international protection mechanism, statistics on social and economic repercussions on Palestinian refugees in the 1967 occupied Palestinian territories are of uneven quality and incomplete. The statistics included in this note should therefore not be regarded as comprehensive. Sources include UNRWA, UNSCO, the Graduate Institute of Development Studies – University of Geneva, and news reports.

⁹ *See* NGO Letter to ECOSOC dated 3 July 2001, Re: Recommendation to ECOSOC by Committee on Economic, Social and Cultural Rights for 'Protection' for Population of the Occupied Palestinian Territories.