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## Palestinian Refugees in Gaza

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# Palestinian Refugees in Gaza

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## **Abstract**

Events since Arthur Helton's death - including the change in leadership of the Palestinian Authority and the Israeli proposal for disengagement from Gaza make it even timelier to examine some "practical solutions." For improving Palestinian lives in the short term, much can be learned from the approaches taken in other refugee situations. This Article begins with background information on Palestinian refugees in Gaza. It then discusses Israeli plans for disengagement from Gaza. In the following section, the Article reviews options for addressing the problems faced by Palestinian refugees in Gaza, utilizing the broader literature devoted to the integration of refugees and displaced persons in post-conflict and post-occupation societies. It concludes with an agenda of action for the international community, Palestinian Authority, and Israel.

# PALESTINIAN REFUGEES IN GAZA

*Susan Martin,\* John G. Warner\*\* & Patricia Fagen\*\*\**

## INTRODUCTION

Before his premature death in Baghdad, Arthur Helton tackled what has been by far the most difficult and long-standing displacement in recent memory: Palestinian refugees.<sup>1</sup> He was determined to put a more generic refugee lens to the situation of the Palestinians, exploring the options that would be open to solving the Palestinian problem had the U.N. Convention Relating to the Status of Refugees been applicable to their situation. His Essay, "End of Exile: Practical Solutions to the Palestinian Refugee Question," describes the three durable solutions that generally apply in refugee situations: repatriation, local integration, and third country resettlement.<sup>2</sup> His aim was to explore the application of each of these solutions to Palestinian refugees.

U.N. General Assembly Resolution 194 (III) resolves that:

[T]he (1948) refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and 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.<sup>3</sup>

The right of those displaced in the 1967 War was affirmed in

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1. See Gil Loescher, *An Idea Lost in the Rubble*, N.Y. TIMES, Aug. 20, 2004, at A23. For examples of Arthur Helton's work, see, for example, Arthur C. Helton & Dessie P. Zagorcheva, *Globalization, Terror, and the Movements of People*, 36 INT'L LAW. 91 (2002); Arthur C. Helton, *The Mandate of U.S. Courts to Protect Aliens and Refugees Under International Human Rights Law*, 100 YALE L.J. 2335, 2343 (1991).

2. See Arthur Helton, *End of Exile: Practical Solutions to the Palestinian Refugee Question*, 28 FORDHAM INT'L L.J. 1325 (2005).

3. Progress Report of the United Nations Mediator, G.A. Res. 194 (III), U.N. GAOR, 3d Sess., at ¶ 11, U.N. Doc. A/RES/194 (III) (1948).

U.N. Security Council Resolution 237, which called on Israel to “facilitate the return of those inhabitants who have fled the areas since the outbreak of hostilities.”<sup>4</sup> Since then, the international debate has focused primarily on the question of Palestinian return to their places of origin.

This Article does not propose to go over that well trodden ground. Without getting into a discussion here about the “right of return” or the possibilities of local integration or resettlement, we want to focus our attention on the situation of millions of Palestinian refugees who currently reside in territory that is likely to become a Palestinian State in the (hopefully) near future. Many are living in extremely difficult situations, with poor and crowded housing, few economic opportunities, and inadequate security.<sup>5</sup> With Israeli disengagement from Gaza comes an opportunity to improve the living situation of these refugees, before any decisions are made on either the Palestinian State or the final solution to the refugee problem.

Events since Arthur Helton’s death — including the change in leadership of the Palestinian Authority<sup>6</sup> and the Israeli proposal for disengagement from Gaza<sup>7</sup> — make it even timelier to examine some “practical solutions.” For improving Palestinian lives in the short term, much can be learned from the approaches taken in other refugee situations. This Article begins with background information on Palestinian refugees in Gaza. It then discusses Israeli plans for disengagement from Gaza. In the following section, the Article reviews options for addressing the problems faced by Palestinian refugees in Gaza, utilizing the broader literature devoted to the integration of refugees and displaced persons in post-conflict and post-occupation societies. It concludes with an agenda of action for the international community, Palestinian Authority, and Israel.

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4. S.C. Res. 237, ¶ 1, U.N. SCOR, 22d Sess., 1361st mtg., U.N. Doc. S/RES/237 (1967).

5. See Ariel J. Leinwand, *The Palestinian Poverty Problem in the Era of Globalization*, 9 *IND. J. GLOBAL LEG. STUD.* 325, 330 (2001).

6. See Rupert Cornwell, *The Middle East: With Arafat’s Death, Everything Has Changed*, *INDEPENDENT* (London), Feb. 8, 2005, at 5.

7. See Harvey Morris, *Gaza Strip Settlers Dig in Their Heels as Sharon Beats Retreat*, *FIN. TIMES* (London), Feb. 21, 2004, at 6.

## I. PALESTINIAN REFUGEES IN GAZA

The original Palestinian displacement, having taken place prior to the adoption of the U.N. Convention in 1951, has been treated as a special case. The U.N. Relief and Works Administration ("UNRWA") notes:

Under UNRWA's operational definition, Palestine refugees are persons whose normal place of residence was Palestine between June 1946 and May 1948, who lost both their homes and means of livelihood as a result of the 1948 Arab-Israeli conflict. UNRWA's services are available to all those living in its area of operations who meet this definition, who are registered with the Agency and who need assistance. UNRWA's definition of a refugee also covers the descendants of persons who became refugees in 1948. The number of registered Palestine refugees has subsequently grown from 914,000 in 1950 to more than four million in 2002, and continues to rise due to natural population growth.<sup>8</sup>

There are currently over 930,000 UNRWA-registered refugees in Gaza, representing two-thirds of the estimated total number of Palestinians living there.<sup>9</sup> Forty-nine percent of these refugees live in the eight camps located throughout the territory.<sup>10</sup> These camps range in size from 20,000 to more than 100,000 people. About half of the refugees in Gaza are under the age of fifteen.<sup>11</sup>

A few statistics will show the dismal quality of life of Palestinians in Gaza on the eve of Israeli withdrawal. Many of these

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8. U.N. RELIEF AND WORKS ADMINISTRATION ("UNRWA"), WHO IS A PALESTINIAN REFUGEE?, available at <http://www.un.org/unrwa/refugees/whois.html> (last visited Apr. 15, 2005). By contrast, refugees under the mandate of the U.N. High Commissioner for Refugees are defined as persons who are unable or unwilling to avail themselves of the protection of their home countries because of a "well-founded fear of persecution based on their race, religion, nationality, political opinion or membership in a particular social group. Convention Relating to the Status of Refugees, July 28, 1951, 19 U.S.T. 6223, 189 U.N.T.S. 150. Refugees cease to be refugees if they return to their home countries or assume the nationality of another country through local integration or third country resettlement.

9. See U.N. RELIEF AND WORKS ADMINISTRATION, UNRWA IN FIGURES: FIGURES AS OF 30 JUNE 2004 (2004), available at <http://www.un.org/unrwa/publications/pdf/uif-june04.pdf> (last visited Apr. 15, 2005).

10. See *id.*

11. See Michael R. Fischbach, *The West Bank and Gaza: A Population Profile*, Population Reference Bureau, at <http://www.prb.org/Template.cfm?Section=PRB&template=/ContentManagement/ContentDisplay.cfm&ContentID=6035> (2002) (last visited Apr. 15, 2005).

refugees (both in Gaza and West Bank communities) are highly dependent on assistance from the international community. As UNRWA describes, “[i]t is estimated that more than 50% of the population is out of work — putting 50%-60% of the population under the poverty line with an income of below [U.S.]\$2 a day.”<sup>12</sup> The U.N. Office for Co-ordination of Humanitarian Affairs reports in its Consolidated Appeal for funding in 2005,

64% of Gazans are poor and around a quarter live in deep poverty, unable to meet adequately their food needs even with aid. Health standards have also been falling since 2000: Palestinians have reduced both the [sic] quality and quantity of food, public sanitation has been degraded, and the sick are frequently unable to reach or afford medical care. Growth in the number of jobs has not been sustained in 2004, and unemployment is rising again.<sup>13</sup>

In September 2002, a U.S. Agency for International Development funded study reported, “the prevalence of acute malnutrition in the Gaza Strip is considered a humanitarian emergency at 13.3%.”<sup>14</sup> A follow-up survey in 2003 found “children registered as refugees were statistically more likely to be chronically malnourished (12.4% versus 9.4%, and worse in Gaza Strip refugee children compared to West Bank refugee children (13.2% versus 10.6%).”<sup>15</sup> A 2004 report by World Food Program analysts determined that “over a million Palestinians [in Gaza and the West Bank] are food-insecure, and another 975,000 are at risk of becoming so.”<sup>16</sup>

More than 125,000 families in Gaza receive emergency food aid from the United Nations. The 2004 U.N. World Food Pro-

12. UNRWA Emergency Appeal, *available at* <http://www.un.org/unrwa/emergency/index.html> (last visited Apr. 15, 2005)

13. U.N. OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS, OCCUPIED PALESTINIAN TERRITORY 2005, *available at* [http://ochadms.unog.ch/quickplace/cap/main.nsf/h\\_Index/CAP\\_2005\\_oPt/\\$FILE/CAP\\_2005\\_oPt\\_SCREEN.PDF?OpenElement](http://ochadms.unog.ch/quickplace/cap/main.nsf/h_Index/CAP_2005_oPt/$FILE/CAP_2005_oPt_SCREEN.PDF?OpenElement) (last visited Apr. 15, 2005).

14. ZIAD ABDEEN ET AL., NUTRITIONAL ASSESSMENT OF THE WEST BANK & GAZA STRIP 17 (Sep. 2002), *available at* [http://nutrition.tufts.edu/conferences/childhood/genmicro/nutritional\\_assessment\\_wbg.pdf](http://nutrition.tufts.edu/conferences/childhood/genmicro/nutritional_assessment_wbg.pdf) (last visited Apr. 15, 2005).

15. CARE INT’L, NUTRITIONAL ASSESSMENT OF THE WEST BANK AND GAZA STRIP, at 3 (2003), *available at* [http://www.usaid.gov/wbg/reports/FSANS\\_FINAL\\_04Oct.pdf](http://www.usaid.gov/wbg/reports/FSANS_FINAL_04Oct.pdf) (last visited Apr. 15, 2005).

16. Jean-Luc Siblot et al., *Food Security in the Occupied Palestinian Territory*, Humanitarian Practice Network, at 25, *available at* <http://www.odihpn.org/report.asp?ID=2673> (Nov. 28, 2004) (last visited Apr. 15, 2005).

gramme assessment “also showed that there is a greater dependence on external aid in the Gaza Strip than in the West Bank. Humanitarian assistance constitutes the major part of the household food basket in Gaza, whereas in the West Bank employment and casual labor still constitute the main source of household income and food.”<sup>17</sup>

The deep economic crisis in Palestine is among the worst in modern history. Between the third quarter of 2000 (before the al-Aqsa *Intifada* started) and the fourth quarter of 2004, the unemployment rate in Gaza rose from 10.0% to 35.2%.<sup>18</sup> By December 2004 roughly half of the Palestinian households lost more than 50% of their usual income, and about 16.1% of them “suffered from highly critical living conditions.”<sup>19</sup> Since the beginning of the *Intifada*, the median monthly wage in Gaza has declined from 1700 to 1000 Israel New Shekels (worth about U.S.\$390 and U.S.\$230 respectively as of May 10, 2005) and 77.3% of households were reported to be living below the poverty line.<sup>20</sup> These numbers represent an improvement in the situation since the middle of 2002, but they by no means represent a recovery.

While separate statistics have not been released for the refugees in Gaza, the fourth quarter 2004 Palestinian Central Bureau of Statistics survey on economic conditions in Palestinian households indicates that 54.9% of households visited were provided assistance by UNRWA.<sup>21</sup> If the households visited by the survey accurately represent the demographic makeup of Gaza, this number corresponds to over eighty percent of registered refugees. The negative impact on the refugees is not confined to loss of jobs and income alone though. Since UNRWA and the Palestinian National Authority (“PNA”) have had to redirect funds to provide food and in-cash assistance, programs to develop and maintain health and education services, and infra-

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17. *Id.*

18. See PALESTINIAN CENTRAL BUREAU OF STATISTICS, LABOUR FORCE SURVEY 3 (Oct.-Dec. 2004), available at [http://www.pcbs.org/press\\_r/labour\\_q4e.pdf](http://www.pcbs.org/press_r/labour_q4e.pdf) (last visited Apr. 15, 2005).

19. See PALESTINIAN CENTRAL BUREAU OF STATISTICS, IMPACT OF THE ISRAELI MEASURES ON THE ECONOMIC CONDITIONS OF PALESTINIAN HOUSEHOLDS, 11TH ROUND 5 (Oct.-Dec. 2004), available at [http://www.pcbs.org/press\\_r/economic\\_11e.pdf](http://www.pcbs.org/press_r/economic_11e.pdf) (last visited Apr. 15, 2005).

20. See *id.* at 13.

21. See *id.*

structure projects such as sewerage and road maintenance have not received the financial support necessary.<sup>22</sup> Moreover, military incursions into Gaza have repeatedly damaged sewerage, road systems, electrical grids, water treatment plants, telephone networks, and other municipal infrastructure in both the camps and the towns and cities, leaving them irreparable under the current funding crisis.<sup>23</sup>

According to the World Bank, the “economic crisis has been caused by restrictions on the movement of Palestinian people and goods, or ‘closures,’ which the Government of Israel [“GOI”] regards as essential to protecting Israeli citizens from attacks by militants.”<sup>24</sup> The regime of closures entails the closing of borders, widespread curfews, sometimes lasting days at a time, internal movement restrictions through permanent checkpoints, roadblocks, flying checkpoints, road gates, earth mounds, trenches, and boulders and the besiegement of certain towns and villages by cutting off all access routes to and from them.<sup>25</sup> Borders and checkpoints are only open during certain restricted hours and the need to use alternate routes to avoid roadblocks delays is both inefficient and expensive for the movement of labor and goods.<sup>26</sup> When the movement of goods is permitted from Gaza to Israel, the “back-to-back” exchange method is used (offloading goods off one truck, inspecting them, and loading them back on another truck on the other side of the border), which drastically increases transport times.<sup>27</sup> The “safe passage”

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22. See *Palestinian Refugee Agency Still Faces Major Challenges as Situation in Occupied Territories Worsens*, M2 PRESSWIRE, Oct. 31, 2003.

23. See Ken Ellingwood, *Refugees Return to Destruction at Camp in Gaza*, L.A. TIMES, May 25, 2004, at A3; see also Javid Hassan & M. Ghazanfar Ali Khan, *Palestinian Mission Launches Donations Campaign*, MIDDLE EAST NEWSFILE, May 2, 2002.

24. WORLD BANK, *Disengagement, The Palestinian Economy and the Settlements i* (2004), available at [http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/Disengagement+Paper/\\$File/Disengagement+Paper.pdf](http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/Disengagement+Paper/$File/Disengagement+Paper.pdf) (last visited Apr. 15, 2005) [hereinafter WORLD BANK, *Disengagement*].

25. See, e.g., Ewen MacAskill, *Shelve Israel trade deal, say MPs: Commons group condemns damage to Palestinian economy and calls for suspension of EU agreement*, GUARDIAN, Feb. 5, 2004 (mentioning Israel’s “curfews, checkpoints and other restrictions — including its security wall along the West Bank — for choking the Palestinian economy”). See *Letter from Doug Willbanks, Israel’s right*, NEWSDAY, June 9, 2004, at A38.

26. See, e.g., Ruth Morris, *Israel Blockades Gaza Amid Terror Alert*, L.A. TIMES, May 13, 2003, at 3; Lee Hockstader, *Israel Puts Tanks and Troops in Gaza City*, WASH. POST, Feb. 21, 2002, at A17.

27. See James Bennet, *3 Israelis and 2 Palestinians Are Killed in Separate Shootings*, N.Y. TIMES, Apr. 26, 2003, at A8 (explaining the process of the “back to back” procedure).



rate between Gaza and the West Bank of Gazan labor to Israel, Israeli settlements, and Israeli industrial parks ("ISI") has dropped due to closures from over 15% of the labor force in 1989-1990 to 0.4% in the fourth quarter of 2004.<sup>28</sup>

## II. ISRAELI DISENGAGEMENT FROM GAZA

In February 2004, Ariel Sharon, the Prime Minister of Israel, announced his decision to remove 8000-plus settlers and military personnel and installations from the occupied Palestinian territory of the Gaza Strip.<sup>29</sup> The *Disengagement Plan* was passed by the Knesset on October 26, 2004, and approved by the Israeli cabinet on February 20, 2005.<sup>30</sup> The *Disengagement Plan* encompasses the complete withdrawal of Israeli settlers from the Gaza Strip and four settlements in northern West Bank.<sup>31</sup> The Israeli Defense Force ("IDF") is to pull back from all "evacuated" areas, dismantle all military installations, and redeploy outside these areas.<sup>32</sup>

The seventeen settlements in Gaza to be evacuated occupy 15% to 20% of the land and by the end of 2003 consisted of 1,500 to 2,000 houses.<sup>33</sup> Roughly 32 square kilometers are allocated to agriculture, and 160,000 square meters are occupied by buildings.<sup>34</sup> Neveh Dekalim, a small industrial zone inside the Katif Settlement Block, comprises 18 enterprises providing employment for around 200 persons.<sup>35</sup> The Palestinians will also regain control of the Gaza aquifer, the only fresh water source in Gaza, which has a sustainable yield of roughly ninety-six million

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28. PALESTINIAN CENTRAL BUREAU OF STATISTICS ("PCBS"), LABOUR FORCE SURVEY 17 (Oct.-Dec. 2004).

29. See PRIME MINISTER'S OFFICE OF THE GOVERNMENT OF THE STATE OF ISRAEL, REVISED DISENGAGEMENT PLAN (2004), available at <http://www.mfa.gov.il/MFA/Peace+Process/Reference+Documents/Revised+Disengagement+Plan+6-June-2004.htm> (last visited Apr. 15, 2005) [hereinafter REVISED DISENGAGEMENT PLAN].

30. See Nina Gilbert, *Knesset Approves Disengagement Plan*, JERUSALEM POST, Oct. 27, 2004, at 1; see also Harvey Morris, *Israel Agrees Evacuation of Gaza*, FIN. TIMES (London), Feb. 21, 2005, at 9.

31. See Eric Silver, *Sharansky Quits Over Gaza Withdrawal*, INDEPENDENT (London), May 3, 2005, at 25.

32. See REVISED DISENGAGEMENT PLAN, *supra* note 29, §§ 3(i) & 4; see also Arieh O'Sullivan, *This Way Out*, JERUSALEM POST, Apr. 1, 2005, at 8; WORLD BANK, DISENGAGEMENT, *supra* note 24, at 23.

33. See WORLD BANK, DISENGAGEMENT, *supra* note 24, at 14.

34. See *id.*

35. See *id.*

cubic meters per year.<sup>36</sup>

The IDF will remain in occupation of the Philadelphi Route inside Gaza, the border area between Gaza and Egypt, and will continue to control Gazan airspace, coastline, and borders.<sup>37</sup> Israel is currently negotiating the relocation of the Gaza-Egypt crossing to the “three borders” area, which would probably mean the Israeli side, leaving Gaza with no international border crossings other than with Israel.<sup>38</sup> This disengagement is planned in four stages to be completed by the end of 2005.<sup>39</sup>

Clause 1.6 of the *Revised Disengagement Plan* states that “[t]he completion of the plan will serve to dispel the claims regarding Israel’s responsibility for the Palestinians in the Gaza Strip.”<sup>40</sup> This statement seeks to relieve Israel of its legal obligations on the premise that, once the settlers are removed and the Israeli Defense Force is withdrawn, Israel is no longer the Occupying Power under international law. However, as John Dugard, the U.N. Special Rapporteur to the Palestinian territories, has noted, Israel’s disengagement from Gaza will not end its control over it.<sup>41</sup> As presented in the *Revised Disengagement Plan*,

Israel will guard and monitor the external land perimeter of the Gaza Strip, will continue to maintain exclusive authority in Gaza air space, and will continue to exercise security activity in the sea off the coast of the Gaza Strip . . . . Israel will continue to maintain a military presence along the border between the Gaza Strip and Egypt (Philadelphia Route).<sup>42</sup>

Israel will control all labor movement and trade from Gaza by land, air, or sea, all means of travel to and from foreign countries, and all aspects of security.<sup>43</sup> The plan does not allow any foreign security presence to enter Gaza without Israel’s approval and also reserves the right for military intervention at any time.<sup>44</sup>

36. *See id.*

37. *See id.* at 5; *see also* REVISED DISENGAGEMENT PLAN, *supra* note 29, § 3(i).

38. *See* WORLD BANK, DISENGAGEMENT, *supra* note 24, at 23, 25.

39. *See* REVISED DISENGAGEMENT PLAN, *supra* note 29, § 14.

40. *Id.* § 1(vi).

41. *See* John Dugard, *Report of the Special Rapporteur of the Commission on Human Rights, John Dugard, on the situation of human rights in the Palestinian territories occupied by Israel since 1967*, U.N. ESCOR, 61st Sess., at ¶ 19, U.N. Doc. E/CN.4/2005/29 (Dec. 7, 2004).

42. REVISED DISENGAGEMENT PLAN, *supra* note 29, §§ 3(i)(1) & 6.

43. *See id.* §§ 3(i)(1)-6, 10, 12.

44. *See id.* §§ 3(i)(3) & 5. Arguably, the disengagement plan does not end Israel’s

A World Bank technical paper has identified several distinct types of settlement assets: (1) public infrastructure (electricity, gas, roads, sewerage, telecommunications, water); (2) public buildings (fire stations, health and community centers, schools); (3) private houses; (4) productive assets (agricultural businesses, manufacturing and industrial enterprises); (5) military installations; and, (6) land.<sup>45</sup>

What to destroy and what to transfer over have not been decided, and it depends largely on the judged competency of the receiving agency. Military installations assuredly will be completely dismantled, and the GOI has already stated that places of worship will not be left standing.<sup>46</sup> Other structures will be transferred “to a third, international party that will use them for the benefit of the Palestinian population.”<sup>47</sup> The nature of this “third party” has yet to be determined, but it is certain to work very closely with the PNA to coordinate this transfer.

Presently, the uses for assets from the settlements have not been determined.<sup>48</sup> An arrangement for dealing with ownership claims on land should be decided first. Public infrastructure will almost certainly be handed over to a governing body, whether local or national. Greenhouses, agricultural land, industrial equipment, and other productive assets can be sold, held as public assets, or partitioned off. Houses and residential assets, if they remain, can be disposed of in numerous ways.

In an excerpt taken from the PNA document, “Reintegration and Development of Evacuated Areas,” considering the po-

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obligations as an occupying power. The Hague Regulations’ definition of occupation was developed in order to determine when occupation ends. See Ardi Imseis, *On the Fourth Geneva Convention and the Occupied Palestinian Territory*, 44 HARV. INT’L L.J. 65 (2003). An argument can be made that the legal regime of occupation is not dependent on whether the occupying power exercises effective control over the territory, but whether it has the ability to exercise such power. See *id.* at 92-93. Therefore, since Israel will not only have the ability to exercise such power, but also effectively control Gaza economically and militarily, Israel will remain the Occupying Power under international law. See *U.S. v. Wilhelm List*, 11 TRIALS OF WAR CRIMINAL BEFORE THE NUREMBERG MILITARY TRIBUNALS UNDER CONTROL COUNCIL LAW NO. 10 1230 (1948).

45. See WORLD BANK, TECHNICAL PAPER IV—SETTLEMENTS, STAGNATION OR REVIVAL? ISRAELI DISENGAGEMENT AND PALESTINIAN ECONOMIC PROSPECTS 1 (2004).

46. See REVISED DISENGAGEMENT PLAN, *supra* note 29, §§ 2-4; see also O’Sullivan, *supra* note 32.

47. REVISED DISENGAGEMENT PLAN, *supra* note 29, § 7.

48. See Molly Moore & John Ward Anderson, *Israel Has Few Assurances for Gaza Settlers: As Pullout Nears, Relocation Plans Remain Unclear*, WASH. POST, Apr. 13, 2005, at A11.

tential uses for settlement areas, the Palestinian refugees are not mentioned as specific recipients of these assets.<sup>49</sup> The PNA appears to intend to dispose of settlement assets in a way that complements the *Medium Term Development Plan 2005-2007*, as developed by the PNA's Ministry of Planning.<sup>50</sup>

### A. Lessons from Other Refugee Cases

Although not under the protection of the U.N. High Commissioner for Refugees ("UNHCR"), Palestinian refugees share characteristics of other refugee groups. The majority of the world's refugees are recognized collectively to be *ad hoc* or *prima facie* refugees.<sup>51</sup> Their refugee credentials are not reviewed individually unless they are selected for possible resettlement, nor are they given the right to settle locally.<sup>52</sup> They remain in a refugee-like status that precludes integration, housed in camps or

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49. See PALESTINIAN NATIONAL AUTHORITY, REINTEGRATION AND DEVELOPMENT OF EVACUATED AREAS, in *Palestinians Consider Uses for Settlements after Disengagement*, 15 FOUNDATION FOR MIDDLE EAST PEACE REPORT ON ISRAELI SETTLEMENTS IN THE OCCUPIED TERRITORIES 3 (Jan.-Feb. 2005), available at <http://www.fmep.org/reports/2005/Jan-Feb/v15n1.pdf>.

50. PALESTINIAN NATIONAL AUTHORITY, MEDIUM TERM DEVELOPMENT PLAN 2005-2007 (2005), available at [http://www.mop.gov.ps/en/docs\\_archive/MoP/MTDP%20Executive%20Summary%20Final%20031204.pdf](http://www.mop.gov.ps/en/docs_archive/MoP/MTDP%20Executive%20Summary%20Final%20031204.pdf) (last visited Apr. 15, 2005).

51. States that have no national legislation setting forth the criteria for recognition of refugees and that have not acceded to international conventions regarding the recognition of refugees (like the 1951 U.N. Refugee Convention) generally recognize refugees on an *ad hoc* basis. See, e.g., Chris Lewa, *The Situation of Burmese Refugees in Bangladesh*, Regional Conference on the Protection for Refugees from Burma, available at <http://www.forumasia.org/downloads/Arakan/Chiang%20Mai%20Paper.doc> (Nov. 6-7, 2003) (last visited Apr. 15, 2005). Because the *ad hoc* refugee has no official status from the host State's perspective, the refugee is in legal limbo, in contrast to a refugee who is legally recognized by a host government, as in the case of a person who has been granted asylum. See *id.* Some States have enacted legislation or acceded to international agreements whereby certain groups of people (people arriving from a specific State, for example) are presumed *prima facie* to be refugees. See Zachary Lomo et al., *Refugee Law Project Working Paper No. 1: The Phenomenon Of Forced Migration In Uganda: An Overview Of Policy And Practice In An Historical Context*, at 9, available at <http://www.refugeelawproject.org/papers/workingpapers/RLP.WP01.pdf> (June 2001) (last visited Apr. 15, 2005). Generally such refugees, even though recognized by the host State, are not integrated into the host State's society and are in no better a position than *ad hoc* refugees. See *id.*; see also JEFF CRISP, CENTER FOR COMPARATIVE IMMIGRATION STUDIES, NO SOLUTION IN SIGHT: THE PROBLEM OF PROTRACTED REFUGEE SITUATIONS IN AFRICA I (2002), available at <http://repositories.cdlib.org/cgi/viewcontent.cgi?article=1010&context=ccis> (Nov. 22, 2004).

52. See, e.g., Susan Akram & Terry Rempel, *Temporary Protection as an Instrument for Implementing the Right of Return for Palestinian Refugees*, 22 B.U. INT'L L.J. 1, 87 (2004); Lomo, *supra* note 51, at 9.

temporary settlements.<sup>53</sup> Because employment opportunities are few and their movements outside of their assigned areas are restricted, they depend on international assistance.

Whether in refugee camps or settlements in poor countries, or with time-bound permission to remain in developed countries, *prima facie* refugees are being sheltered on the assumption that solutions will be found for them when peace has been restored. There are international legal obligations on host countries to protect refugees but not to assimilate them.<sup>54</sup> Consequently, when wars persist for decades, when refugees remain fearful of return, and when governments in the countries of origin will not allow return, refugees and their children find themselves with no firm place of residence. In Africa, at least three million refugees are in protracted refugee situations, often having spent more than a decade in refugee camps.<sup>55</sup> This is essentially the situation in which many Palestinian refugees find themselves.

There are three internationally recognized "durable solutions" for refugees: firm resettlement offered by a third country, local integration that occurs when the first refugee haven permits the new arrivals to remain as legal residents and potential citizens, and repatriation in safety and dignity when the conditions that caused flight presumably have changed.<sup>56</sup>

*Firm resettlement* allows refugees who are temporarily in one country to be relocated for permanent residence to another, upon selection by the government in the latter.<sup>57</sup> Resettlement benefits a minority, identified by the resettlement country as persons who have ties to that country, who are at special risk where they are, or who are seen as desirable immigrants. The UNHCR refers some refugees for resettlement when they are at risk and

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53. See Mark Hetfield, *NGO Statement on Resettlement*, Presentation to the UNHCR Global Consultations on International Protection, Geneva, Switzerland (May 22-24, 2002), available at [http://www.refugeecouncilusa.org/ngoresetst05\\_02.html](http://www.refugeecouncilusa.org/ngoresetst05_02.html) (last visited Apr. 15, 2005) (arguing for increased resettlement of refugees to complement asylum process).

54. See Akram & Rempel, *supra* note 52, at 86-95.

55. See CRISP *supra* note 51, at 1. The most recent figures are from the end of 2001, available at <http://www.unhcr.ch>.

56. See *id.*

57. See JOANNE VAN SELM, MIGRATION POLICY INSTITUTE, *STUDY OF FEASIBILITY OF SETTING UP RESETTLEMENT SCHEMES IN EU MEMBER STATES OR AT EU LEVEL* (2003).

in need of protection.<sup>58</sup> The system discriminates against refugees lacking ties to any destination country, and impedes onward movement by refugees accepted by a resettlement country, even when there are family or professional ties in a different country.

The option of *local integration*, in different forms, was once the most common option for refugees. In Africa and Latin America, regional agreements and custom supported the practice of welcoming such persons.<sup>59</sup> During the nineteenth and twentieth centuries, numerous political exiles settled for as long as necessary in neighboring countries.<sup>60</sup> In more recent times, large groups forced to flee their countries were allowed to settle where they chose or, more often, they were settled in camps where there was sufficient land to farm and to establish a fair measure of self-sufficiency.<sup>61</sup> Local integration options, however, have lost ground due to several factors. In the past two decades the frequency and size of mass refugee flights, the protracted nature of refugee emergencies, security concerns, and the decline in international resources to help sustain the refugees in the country have discouraged governments from welcoming refugees generously.<sup>62</sup>

*Repatriation* is the durable solution most likely to be available to refugees today in large part because it is the only solution available. This means that refugees often return to places lacking in physical and economic security. Sometimes they return voluntarily, wishing to re-establish themselves at home or recognizing there are no alternatives.<sup>63</sup> At times, return may be coerced, with host governments reducing the level of assistance and protection available in camps.<sup>64</sup>

When the solution to refugee crises depends on local inte-

58. United Nations High Commissioner for Refugees ("UNHCR") has asked for resettlement for 78,642 cases in 2004; this does not represent the actual need for resettlement services but rather the number of cases UNHCR can reasonably process given its limited resources. See VAN SELM, *supra* note 57, at 17.

59. See CRISP, *supra* note 51, at 1-2, 21-22.

60. See *id.*

61. See *id.*

62. See *id.*

63. See *id.* 1-8, 21-22.

64. See, e.g., *Congo Expels Refugees Along Burundi Border*, N.Y. TIMES, Nov. 18, 1997, at A12; *UN Refugee Agency to Pull Out Staff*, CHIC. TRIB., Nov. 12, 2004, at 7 (mentioning Sudan's effort to forcibly remove Darfur refugees); *Florida Worries About Crime Wave as Federal Funds for Refugees Ends*, N.Y. TIMES, June 3, 1982, at D18.

gration or repatriation to countries coming out of conflict or occupation, attention must be placed on reconstruction as well as reintegration of the refugees. During the past decade, there has been progress in resolving some refugee situations while there have been setbacks resolving others. Two cases in particular, Central America and Timor Leste, provide lessons for Gaza. These cases are instructive not because there is a very close political or contextual resemblance between either of these and Gaza-based Palestinians, but rather because they are positive cases that illustrate a continuing difficulty in the international community to establish integration packages that encompass relief and development needs over an extended period.

### B. *Reintegration, Peace, and Reconstruction: Central America*

For well over a decade, internal conflicts raged in El Salvador, Guatemala, and Nicaragua.<sup>65</sup> During the 1980s, these became proxy wars rooted in east-west ideological competition, and defied efforts on the part of regional leaders to achieve peaceful resolution of the conflicts.<sup>66</sup> Only at the close of the decade and the end of the Cold War was it finally possible to achieve both regional and international consensus in support of a peace process in this ideologically divided area.<sup>67</sup> The governments in the region collectively sought and obtained international agreement for tying their compliance with peace arrangements to assurances of outside humanitarian aid and development assistance.<sup>68</sup> The result was a comprehensive plan for regional reconstruction, the CIREFCA<sup>69</sup> Plan of Action of 1989.<sup>70</sup> The CIREFCA Plan was specifically intended to find durable solutions to the problems of uprootedness within the framework of national development and as an integral part of

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65. See, e.g., Juan J. Walte, *Refugees Flee Civil Strife, Bad Economies At Home*, USA TODAY, Mar. 10, 1989, at 6A; Akram & Rempel, *supra* note 52, at 106-07.

66. See Tim Golden, *After the Cold War: Views From Latin America Sweeping Political Changes Leave Latin Poor Still Poor*, N.Y. TIMES, May 30, 1992, at 1.

67. See Akram & Rempel, *supra* note 52, at 106-07.

68. See *id.*

69. The name CIREFCA is derived from "International Conference on Refugees of Central America," the conference where the plan was created.

70. *Declaration and Concerted Plan of Action in Favour of Central American Refugees, Returnees and Displaced*, U.N. GAOR, 44th Sess., Annex 1, Agenda Item 110(b), at 19, U.N. Doc. A/44/527 (1989) [hereinafter *CIREFCA Plan of Action*].

efforts toward democracy and peace.<sup>71</sup> To this end it targeted 1.8 million uprooted people throughout the region.<sup>72</sup> All the governments in the region participated in CIREFCA and benefited from projects whether or not the wars had been fought on their territories, because the displacement and violence generated by the fighting had affected them all.

Through CIREFCA, the major donors in Europe, Japan, and North America worked with several U.N. agencies, the governments of the six CIREFCA member countries, and non-governmental organizations in each country to channel humanitarian assistance funds to the diverse populations uprooted by war.<sup>73</sup> Beyond serving as a channel for humanitarian assistance, CIREFCA was designed as a forum of reconciliation and cooperation among national leaders, between and among opposing groups, between former refugees and governments, and between governments and non-government organizations.<sup>74</sup>

To bring about durable solutions, the process aimed to link the relief projects needed for immediate survival with longer-term economic revitalization, capacity building, and rebuilding. The signature assistance mode of CIREFCA was the "quick impact project," or "QIP." QIPs are short term, one time, donor infusions to enable local groups to collectively select and implement needed economic and social infrastructure projects or productive enterprises.<sup>75</sup> Donors in Central America found QIPs to be very attractive since they seemed to promote community development without requiring long term donor involvement. The results of thousands of these small-scale projects, however, were mixed, and often disappointing.<sup>76</sup>

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71. See UNHCR, Review of the CIREFCA Process, May 1, 1994, ¶ 1, available at <http://www.unhcr.ch>.

72. *CIREFCA Plan of Action*, *supra* note 70, at § II.8.

73. See Patricia Weiss Fagen, *Peace in Central America: Transition for the Uprooted*, in *WORLD REFUGEE SURVEY* 30-39 (1993).

74. See *id.*

75. See UNHCR, Quick Impact Projects (QIPs): A Provisional Guide (May 1, 2004), available at <http://www.unhcr.ch>; see also Susan Martin et al., *Temporary Protection: Towards a New Regional and Domestic Framework*, 12 *GEO. IMMIG. L.J.* 543, 565 (1998). Recommended strategies for QIPs in and beyond CIREFCA are outlined in UNHCR, *Assistance Policies and Strategies for the Promotion of Durable Solutions: Achieving Sustainable Reintegration*, U.N. Doc. EC/1995/SC2/CRP.4 (Jan. 22, 1995), available at <http://www.unhcr.ch>.

76. See IAN SMILLIE, *RELIEF AND DEVELOPMENT: THE STRUGGLE FOR SYNERGY* ch. 1 (1998).



While these initiatives did serve to promote dialogue, reconciliation, and short-term economic improvements throughout the region, they did not often link with or lead to wider development efforts. Hence, once the actions were completed — if they were completed — there was no assured follow-on, and the results were rarely sustainable.<sup>77</sup> The CIREFCA model provided a framework for addressing displacement comprehensively. However, CIREFCA neither solved nor significantly alleviated the pervasive poverty and inequality in Central America, nor did it resolve serious flaws in governance in the affected countries. The long-term benefits of the process lay in contributing meaningfully to lasting peace in the region and promoting a broadly based, enduring, and serious discussion about social and economic change in the region.<sup>78</sup>

### C. Nation Building After War: Timor Leste 1999-2002

Timor Leste is the most dramatic example of a durable solution following a tragic series of events. Having voted for independence from Indonesia in 1999, the entire population came under attack by irregular Indonesian and pro-Indonesian forces.<sup>79</sup> The already poor territory was devastated and an estimated two-thirds (over 500,000 people) of the 750,000 population were driven from their homes; about half the people (approximately 240,000) who fled from the violence of 1999 crossed into West Timor as refugees.<sup>80</sup> They consisted of those escaping life-threatening reprisals and destruction, and others who, it is likely, had facilitated the violence in some way.<sup>81</sup> When East Timor (now Timor Leste) achieved independence and the U.N. mission oversaw the creation of a new State in May 2002, the refugees along with those who had fled to remote internal loca-

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77. See Jeff Crisp, *Mind the Gap! UNHCR, Humanitarian Assistance and the Development Process*, J. OF HUMANITARIAN ASSISTANCE, (Nov. 2001), available at <http://www.jha.ac/articles/u043.htm> (Nov. 21, 2004) (last visited Apr. 15, 2005) (citing UNHCR acknowledgement to this effect).

78. For an early critical assessment of CIREFCA, see ALDOLFO AGUILAR ZINSER, GEORGETOWN UNIVERSITY HEMISPHERIC MIGRATION PROJECT, CIREFCA: THE PROMISES AND REALITY OF THE INTERNATIONAL CONFERENCES ON CENTRAL AMERICAN REFUGEES (1991).

79. See *In Timor, Separatists Attached By Militias*, N.Y. TIMES, Apr. 18, 1999, at 4.

80. See Kathy Marks, *Trapped By Fear: The Forgotten Refugees Of East Timor*, INDEPENDENT (London), June 14, 2004, at 27.

81. See Philip Sherwell, *Widows' Grief Overshadows East Timor Independence*, SUNDAY TELEGRAPH (London), May 19, 2002, at 28.

tions were able to return as full citizens of their own country. Nearly all the refugees returned.<sup>82</sup>

The U.N. Transitional Administration for East Timor (“UNTAET”) oversaw both the rebuilding of the country and the creation of what would be the national institutions of government between October 1999 and May 2002.<sup>83</sup> The U.N. approach in Timor Leste was to move gradually toward handing over administrative responsibilities to national and local authorities.<sup>84</sup> Elections were scheduled late in the process and, in the interim, efforts were made to enhance local capacities in all areas of governance.<sup>85</sup>

Under U.N. oversight and presently with its own government, Timor Leste has made admirable progress politically and economically.<sup>86</sup> Nevertheless, it will long remain a war-torn country with a fragile economy in need of assistance. Critics of the U.N. process — which all agree was fundamentally well-conceived and executed — also have called attention to an overly accelerated movement from humanitarian relief to development assistance.<sup>87</sup> Rather than a planned transition that maintained assistance for basic needs (shelter, help for vulnerable sectors, health care) as required — for example, as people gradually returned from West Timor — the donors and UNTAET replaced emergency aid in favor of efforts to prepare the country for self-government in accordance with UNTAET’s mandate.<sup>88</sup> As of

82. See Marks, *supra* note 80. Return was not automatic, however. The presence and power of the militia groups in West Timor first prevented refugees from returning for a considerable period, then proved decisive in facilitating; second, the militia members not only were able to return with the refugees, but negotiated an amnesty from prosecution for war crimes they may have perpetrated. Consequently, former militia groups effectively controlled many villages. Other members of the militias remained in West Timor with their families and they are unlikely either to return or to face sanctions of any kind. See Sherwell, *supra* note 81.

83. *Yusril: Untaet Should Not Delay Setting Up Govt In E. Timor*, ANTARA (Indonesia), Sept. 10, 2000.

84. See U.N., East Timor — UNTAET Background Chronology, at <http://www.un.org/peace/etimor/Untaetchrono.html> (last visited May 17, 2005).

85. See U.N., East Timor — UNTAET Mandate, at <http://www.un.org/peace/etimor/UntaetM.htm> (last visited May 17, 2005).

86. See *U.N. Success Story; East Timor Comes Back From The Brink* SAN DIEGO UNION-TRIB., May 21, 2002, at B8.

87. See LAN SMILLIE & LARRY MINEAR, HUMANITARIAN FINANCING: DONOR BEHAVIOR; SOME PRELIMINARY OBSERVATIONS FOR THE MONTREUX RETREAT 15 (2003), available at <http://hwproject.tufts.edu/pec/pdf/montreux.pdf> (last visited Apr. 15, 2005).

88. See East Timor — UNTAET Mandate, *supra* note 85.

March 2001, the emergency funding that had been obtained from the Consolidated Appeal Process ("CAP"), was exhausted.<sup>89</sup> The initial CAP had successfully mobilized generous amounts of emergency funding, but with short time frames for execution. Given the dire conditions in Timor Leste and the continuing return of people to their homes, there remained serious need for international relief in various forms thereafter.<sup>90</sup>

This pattern of ample but short-term emergency aid that prematurely ends is all too common in post-conflict rebuilding. What makes the repetition of the pattern particularly troublesome in the case of Timor Leste is that in so many ways, the rebuilding process was exemplary in its adoption of lessons gleaned from other experiences.

The hand-over from U.N. supervision to a new Timor Leste government in May 2002<sup>91</sup> was a satisfying conclusion to a long struggle against the 1975 forced annexation of the territory. Nevertheless, the newly independent Nation's future prospects are still tenuous due to the previous neglect under Indonesian rule, the scars of the destruction produced by the Indonesian militia in 1999, and the inexperience of much of the new leadership. As affirmed by Christopher McDowell, in his 2003 case study of Timor Leste, the country will require the security provided by an international military presence, as well as financial aid for some years to preserve the gains achieved and permit it to progress.<sup>92</sup> In February 2005, U.N. Secretary General Kofi Annan recommended extending the U.N. peacekeeping mission in Timor Leste for yet another year.<sup>93</sup>

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89. See *East Timor: U.N. Mission Chief Calls For Funds In Final Stretch Before Independence*, June 14, 2001, available at <http://www.un.org/apps/news/>; *Rebuilding a city which was burned and trashed*, IRISH TIMES, Sept. 2, 2000, at 11. (stating "[t]he international community's promise to rebuild East Timor has been long on promise. . . but short on money").

90. See Christopher McDowell, *Displacement, Return and Justice in the Creation of Timor Leste*, in *CATCHING FIRE* (forthcoming).

91. See *East Timor — UNTAET Background Chronology*, *supra* note 84; see also *East Timor Celebrates*, FIN. TIMES (London), May 20, 2002, at 34.

92. See generally CHRISTOPHER McDOWELL, *DISPLACEMENT, RETURN AND JUSTICE* (2003).

93. See U.N. "Must Extend East Timor Stay", BBC NEWS, Feb. 24, 2005, available at <http://news.bbc.co.uk/2/hi/asia-pacific/4293131.stm>.

III. *OPPORTUNITIES FOR THE FUTURE IN GAZA*

Israeli disengagement could immediately affect Palestinian refugees, and indeed all Palestinians, in Gaza in several ways. A best-case scenario would have the following components: Firstly, it will remove all internal movement restrictions, allowing the transport of goods to occur unimpeded within the territory. This should decrease transportation costs, thus lowering the cost of goods. Secondly, incomes should rise with the end of curtailed work hours due to curfews and travel restrictions. Thirdly, the extra financial capital will create more demand for goods, thus creating more employment. Fourthly, with households able to support more of their needs themselves, UNRWA, the PNA, and other providers of civil and social services will be able to concentrate more funding on communications, education, health, infrastructure, and sanitation.

However, as the World Bank report, *Disengagement, the Palestinian Economy and the Settlements*, points out, the conclusion of internal closures will likely not be enough to pull the economy out of the recession;<sup>94</sup> without a major reform of the closure regime, however, the Palestinian economy will not revive and Israel's security gains may not be sustainable. By itself, Israel's Disengagement Plan will have very little impact on the Palestinian economy and Palestinian livelihoods, since it proposes only a limited easing of closures. A focus on the over-arching issue is essential if disengagement is to deliver long-term benefits. Indeed, were it accompanied by the sealing of Gaza's borders to labor and trade or by terminating supplies of water and electricity to Gaza, disengagement would create worse hardships than are seen today.<sup>95</sup>

The dangers posed by the disengagement are obviously significant. For most of the post-1967 period, the Palestinian trade deficit amounted to twenty-five to thirty percent of the Gross Domestic Product,<sup>96</sup> indicating a severe trade imbalance in a period when borders were far more open. The Oslo plan for Palestinian economic development relied on four connected processes: (1) ensuring international aid to stimulate investment in public

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94. See WORLD BANK, *DISENGAGEMENT*, *supra* note 24, at i.

95. See *id.*

96. See WORLD BANK, *DEVELOPING THE OCCUPIED TERRITORIES: AN INVESTMENT IN PEACE* tbl. 32 (1993).

infrastructure; (2) development of close relations with Israel to facilitate access to Israel's markets and trade infrastructure; (3) accessing foreign markets beyond Israel; and (4) attracting significant foreign investment to contribute to the growth of the Palestinian private sector.<sup>97</sup> Should the disengagement involve the sealing of Gaza's borders, all four processes would be severely curtailed.

The general economic well-being of the Palestinian refugees in Gaza depends most upon border control with Israel and their access to international markets. Until the outbreak of the *intifada*, ISI labor markets provided employment for over fifteen percent of the Gazan labor force at higher wages than local jobs.<sup>98</sup> This has fallen to 0.4% and once disengagement is accomplished, the settlements will no longer be a source of employment.<sup>99</sup> In the short term, access to the Israeli labor markets will be a key ingredient in resolving the economic crisis in Gaza. A World Bank study has made important suggestions for practical solutions that would satisfy Israel's security concerns and, at the same time, ease restrictive measures on movement.<sup>100</sup> These include the use of sniffer technology for explosives, imaging systems for inspecting loads, tamper-proof seals, weapons detectors, and document recognition technology.<sup>101</sup> In the longer term, the reestablishment of a Gaza-West Bank passage and international air and sea gateways in Gaza are necessary to encourage private investment in the territory.<sup>102</sup> Palestinian refugees will reap the benefits and share the hazards of all residents of Gaza during this transition period.

The lesson of countries in political transitions is that the transition for refugees to a stable, secure future is neither easy nor quick. Gaza is unlikely to transform its economy any more quickly than the Central American countries, Timor Leste, or

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97. See generally David P. Fidler & Fadi G. Harb, *Palestinian Economic Development in the Era of Globalization*, in PALESTINE AND INTERNATIONAL LAW: ESSAYS ON POLITICS AND ECONOMICS (Sanford R. Silverburg ed., 2002).

98. See WORLD BANK, FOUR YEARS — INTIFADA, CLOSURES AND PALESTINIAN ECONOMIC CRISIS: AN ASSESSMENT 3 (2004).

99. See *id.* at 2 fig. 1.2.

100. See World Bank, *Technical Paper I — Borders and Trade Logistics*, in STAGNATION OR REVIVAL? ISRAELI DISENGAGEMENT AND PALESTINIAN ECONOMIC PROSPECTS (Dec. 1, 2004).

101. See *id.* at 5-6.

102. See *id.* at 9-12.

any number of other countries that have emerged from conflict in the past two decades. As in these other cases, the international community can play an essential role in facilitating reconstruction, heeding the lessons of previous transitions.

First, donors should continue to provide generous humanitarian relief while paving the way for economic development. The residents of Gaza, and particularly the refugees, will likely continue to need food aid, shelter, and healthcare for some time after disengagement. As the Timor Leste case shows, premature end to relief can be devastating for households who do not yet have access to solid livelihoods. On the other hand, delayed development consigns too many refugees to a life in limbo.

Unfortunately, virtually all long-range programs that could link humanitarian and development assistance are underfunded. Although there have been initiatives within governments and the financial institutions to facilitate technical assistance and funding for post-emergency countries still in transition, the programs are still too small to have meaningful impacts. Donors were not receptive in 2000 to a promising proposal from UNHCR, the World Bank, and the U.N. Development Program ("UNDP") for commonly formulated and agreed operational responses to span relief to development transitions.<sup>103</sup> The proposal was largely abandoned. Subsequently, UNHCR has established a framework for Durable Solutions that brings together issues related to development assistance to refugees, a "4 Rs" approach to repatriation, reintegration, rehabilitation, and reconstruction, and development through local integration.<sup>104</sup> A September 2003 document explaining the framework<sup>105</sup> underscores the need for comprehensive planning with partners representing development agencies. The "4 Rs" are an integrated approach with other international organizations and agencies for joint implementation and resource mobilization strategies. In this model, UNHCR (or in this case, UNRWA) would focus on its traditional strengths, but would engage with a range of humanitarian and development partners and donors from the outset to strengthen

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103. See Crisp, *supra* note 77.

104. See UNHCR, *Framework for Durable Solutions for Refugees and Persons of Concern*, U.N. Doc. EC/53/SC/INF.3 (2003).

105. See *id.*

burden-sharing, development, and capacity-building components for refugees and other similarly affected populations.

This is a positive and sensible approach. However, whether the long-term international resources needed to support it will be forthcoming is a decision for the international community and, particularly, the major donors. The strong World Bank involvement in Gaza and the West Bank now is encouraging.

The major reason for inadequate international resources and commitments seems to be that when emergencies occur, donor governments neither anticipate nor plan for long-term multifaceted forms of involvement. It is well understood that international funding alone is insufficient to induce meaningful political, economic, and social reforms or to assure that people who have been uprooted can remake their lives safely and productively. Likewise, aid professionals know that a large and long-standing international presence is almost sure to stifle local initiative. Nevertheless, there are all too many indications that governments will opt for too *little* funding and will continue to insist on timeframes too short to fulfill stated objectives. Progress inevitably occurs more slowly in some sectors than in others. The argument for multi-agency integrated planning and transition strategies and for “staying the course” is that realities on the ground — not prefabricated projects and previously established timeframes — should determine the nature of international interventions and the funding needed for these interventions.

Second, as part of a reconstruction strategy, governance will need sustained attention. Donors historically have not been as forthcoming with resources for this purpose as for quick-yield projects.<sup>106</sup> However, attitudes internationally appear to be changing with greater recognition that security and sustainable development depend on well-functioning transparent government structures.<sup>107</sup> Donors are very much aware that the success of internationally backed programs in Palestine can fail if the well-known problems of corruption, personalism, and lack of democratic procedures are not corrected. In the World Bank and regional financial institutions, and in the United Nations,

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106. See David P. Fidler, *Foreign Private Investment in Palestine: An Analysis of the Law on the Encouragement of Investment in Palestine*, 19 *FORDHAM INT'L L.J.* 529, 541-44, 550 (1995).

107. See Steven Weisman, *Donors Consider Large Rise in Aid to Palestinians*, *N.Y. TIMES*, Dec. 17, 2004, at A1.

good governance support and training are being systematically incorporated into many aid programs. The World Bank Institute has an Anti-Corruption Unit that incorporates capacity building and good governance training.<sup>108</sup> The UNDP portrays its Capacity Development Program as a process that “entails the sustainable creation, utilization and retention of . . . capacity, in order to reduce poverty, enhance self-reliance, and improve people’s lives.”<sup>109</sup>

Third, long-term stability requires an end to violence. The root causes of the Palestinian-Israeli conflict are much debated and, while it is not the purpose of this Essay to review the various arguments, it is fair to say that leadership from elected officials in both Palestine and Israel will be essential to any efforts to curb longstanding tensions. Here too, the international community can play an important role in facilitating peace and security for all parties. Measures such as preventive diplomacy, preventive deployment, early warning systems, small arms control, norms creation, and the establishment of credible deterrents can be effective conflict prevention tools.

### CONCLUSION

Israeli disengagement from Gaza provides both opportunities and challenges to improve the situation of refugees who are now living in intolerable circumstances. The success or failure of disengagement will be measured not only by its role in the peace process but also by its impact on the lives of the people of Gaza. Given the high proportion of the Gazan population who are refugees, they will be the true test of disengagement. Arthur Helton was correct in pointing out that Palestinian refugees share many things in common with other refugees. This Article has sought to draw the lessons of other transitions from conflict to peace to identify ways that the international community can help ensure a successful end to disengagement.

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108. See WORLD BANK, REFORMING PUBLIC INSTITUTIONS AND STRENGTHENING GOVERNANCE: A WORLD BANK STRATEGY, IMPLEMENTATION UPDATE 29 (April 2002).

109. United Nations Development Program (“UNDP”), *Capacity Development*, at <http://www.capacity.undp.org> (last visited Apr. 15, 2005).