

# Marginalised Community: The Case of Palestinian Refugees in Lebanon

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April 2006



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## Introduction<sup>1</sup>

*I came from there...*

*I have learned and dismantled all the words to construct a single one:*

*Home*

*(Palestinian Poet: Mohmoud Darwish<sup>2</sup>)*

Palestinian refugees in Lebanon are perhaps the most unfortunate and destitute grouping of Palestinian refugees in any Arab host country. They are deprived of almost all civil rights and subjected to various forms of marginalization -- spatial, institutional and economic -- and this marginalization is often linked to exclusion and violence.

Without legitimizing Lebanon's restrictive and exclusive approach towards its Palestinian refugee population, and without 'ignoring history', one should resist the temptation of laying the burden of Palestinian refugees' problems on the shoulders of Lebanon alone as a host country. In this context the US Refugee Committee (1999: 9) pointed out that 'Israel, the United States, and others in International community must also face up to their responsibilities regarding the Palestinian refugees problem, in Lebanon and elsewhere'.

Likewise, the report of the International Mission to Lebanon appointed by the eighth plenary session of the refugee working Group (RWG), held in Geneva in December 1995, had found that 'Palestinian and Lebanese both see themselves, with some justice, as victims of a regional and International power imbalance' (Office of the Special Coordinator, Middle East Peace Process 1999: 36). One may add that Palestinian refugees in general are victims of a 'realpolitik' that has maintained the *status quo* and has perpetuated the refugee issue for about six decades without any hope of a rights-based solution in the near future, in compliance with International Law and relevant UN resolutions, in particular the UNGA resolution No. 194 of 1948, which affirms Palestinian refugee rights to return, restitution and compensation.

## Methodology

A brief glance at the relevant literature since the Oslo Accords, shows that though there is a plethora of research on Palestinian refugees in general and Lebanon's Palestinian refugees in particular, there is a qualitative and quantitative disparity in terms of fields and areas of research. There is also an imbalance in the approaches adopted. It can be observed that greater emphasis has been placed on the political and demographic aspects of the Palestinian refugee issue, relying on needs-based approaches that view them as recipients of humanitarian aid and as a problem and burden for the Arab host countries, especially Lebanon. This approach, of course, serves the interest of the decision-makers and negotiators involved in the peace process. Much lesser emphasis has been placed on rights-based and bottom-up approaches that consider Palestinian refugees as active actors, and view them as a social force that has an impact on policies affecting their rights and livelihoods (Bocco and Farah 1999; Zareik 1996).

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<sup>1</sup> Commissioned as part of the study under the Development Research Centre on Migration, Globalisation and Poverty and carried out in collaboration with the Forced Migration Refugee Studies Program (FMRS) at the American University in Cairo. Funding for this project was provided by the UK Department for International Development (DFID).

<sup>2</sup> Mahmoud Darwish, the prominent Palestinian poet, is the winner of the Netherlands' Prince Claus Fund Award for 2004, the theme for which was asylum and migration. In selecting this theme for 2004, the Prince Claus Fund expressed its 'desire to draw public attention and reflection to the positive contributions of migrants and migration'. See Saith 2004.

This report builds on secondary research, particularly other studies on Palestinian refugees in Lebanon, including my own. It also relies on my own lived experience as a Palestinian refugee myself, who has survived the gravity and bitterness of Nakba (Palestinian dispossession) and exile, and learned his identity through suffering, destitution, intolerance, and harassment. In addition, it will benefit from my observations and acquired knowledge as an activist with the Palestinian civil society in Lebanon and the Palestinian global right of return movement. In this paper I will focus on the current predicament of Palestinian refugees in Lebanon, analyzing their 'ambiguous' status under the Lebanese law, where they are designated foreigners.

The thrust of my analysis will include (a) highlighting the Institutional framework, i.e. the administrative bodies that have been set up by the Lebanese state since 1948 in order to control and regulate the Palestinian presence in Lebanon; and (b) surveying and investigating the existing domestic legislation (laws, decrees, ordinances, administrative decisions) and related state practices, which affect the rights and livelihood of Palestinian refugees in Lebanon, focusing on basic rights such as the right to residency, to work, and to ownership of property. In addition I will provide an overview of the demography of refuge and displacement, and the origin and history of Lebanon's Palestinian refugee community; the international and regional protection regime for Palestinian refugees; Lebanese perspectives and attitudes towards the Palestinian presence in Lebanon; and the role of Palestinian civil society in empowering refugees themselves to access their rights. The right of return will be also considered. In closing, I will develop a general conclusion pertaining to the current and future situation of Lebanon's Palestinian refugees.

### **Lebanon's Palestinian Refugees Community: The Demography and Politics of Refuge and Displacement**

Like other Palestinian refugee communities in the region, Lebanon's Palestinian refugee community was generated in large part before and shortly after the creation of the state of Israel following the first Arab-Israeli war in 1948. While the founding of Israel by the UN provided a Jewish 'homeland' for victimized Jews in Europe, it caused the dispersal of the Palestinian population out of their homeland and resulted in what Robin Cohen calls 'victim diaspora'.<sup>3</sup>

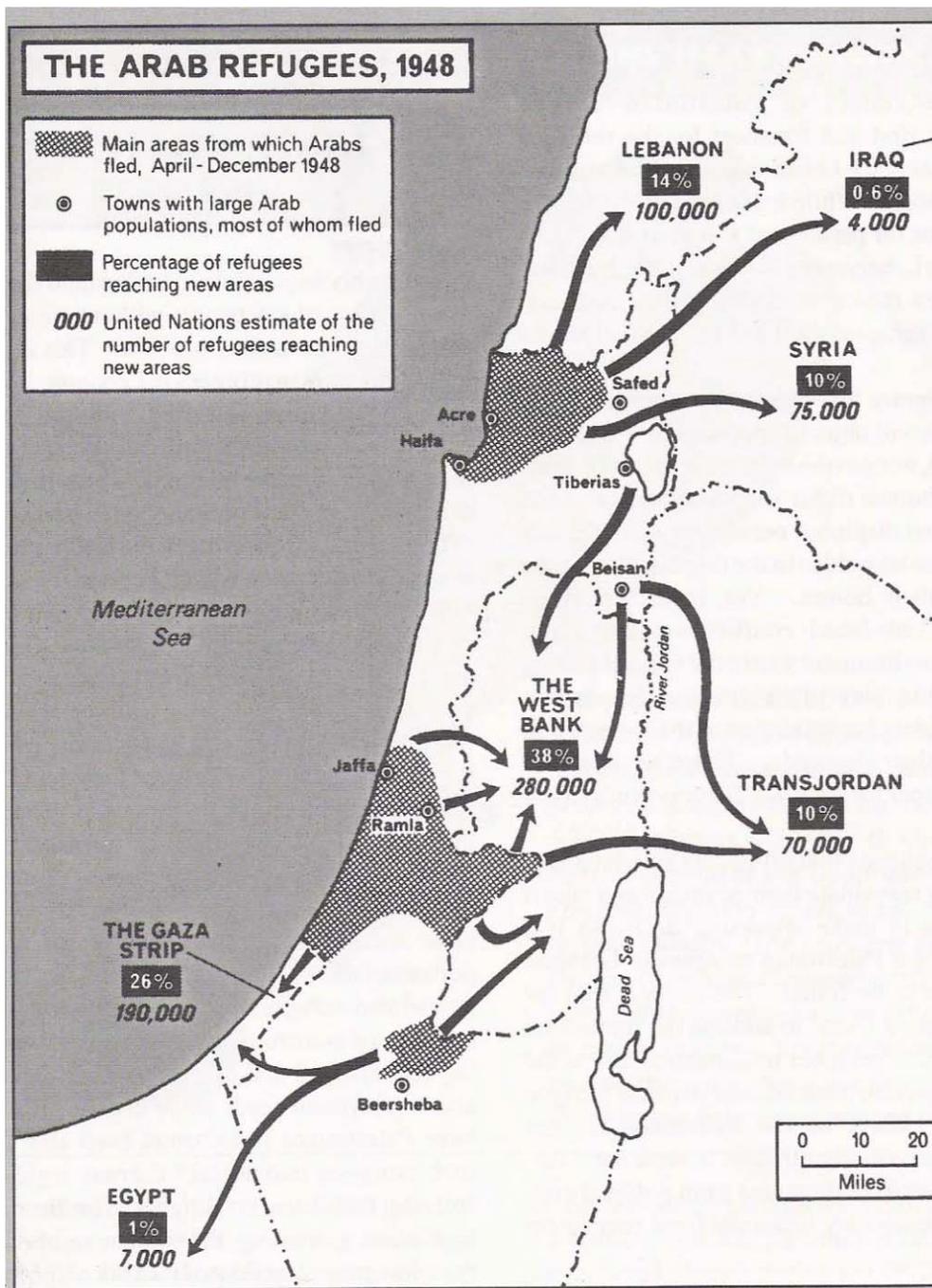
According to United Nations and British government estimates, the number of Palestinian refugees who were displaced from ancestral towns and villages in Mandatory Palestine ranges between 726,000 and 810,000 respectively. Approximately 100,000, mainly from Galilee and the coastal areas, fled to Lebanon. They mainly hail from Galilee and the coastal areas. Map 1 below, based on the UN estimate, shows the areas of origin and patterns of flight of Palestinian refugees in 1948.

It is indisputable that the Palestinian population who became refugees in Lebanon and other Arab countries did not flee voluntarily, but as a result of ethnic cleansing, forcible eviction, massacres, and threat and fear that they would be massacred<sup>4</sup>.

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<sup>3</sup> Cohen (1977: 31, 51) identifies the Jewish, Palestinian, Irish, African and American diasporas as the principal ones that are qualified for the adjective 'victim'.

<sup>4</sup> Tessler (1994) suggests that 'the myth of voluntary exodus became Israel's major argument against accepting even partial responsibility for the refugee problem, not to mention consideration of the refugees' right to repatriation.'



Map 1: Areas of Origin and Patterns of Flight of Palestinian Refugees in 1948

Additionally, the subsequent Arab-Israeli wars (1956, 1967) resulted in further waves of refugees who fled the West Bank and Gaza strip at the outbreak of hostilities, seeking safe refuge in Jordan, Syria and Lebanon. In addition, a few thousands of Lebanon's Palestinian refugee families arrived in the country with the PLO troops following the fight between PLO guerrillas and the Jordanian army in 1970.

It is important to note that the Palestinian refugee population was subjected to continuous homelessness and displacement from one camp or temporary shelter to another on account of

the continuing Israeli invasions (1978, 1982, 1993, 1996) and incursions against Lebanon, as well as because of the Lebanese civil war (1975-1991) including the 'war of the camps' (1985-1989) and its repercussions<sup>5</sup>.

A survey of 4,470 displaced Palestinian families in nearly 90 sites was conducted by two Palestinian NGOs in 1988. The survey found that the majority of these families were displaced because of the 1985-1987 'war of the camps'<sup>6</sup>, and that 75 percent of them have been forced from their houses three or more times (Suleiman 1997).

### *Refugee Population*

There are no accurate or reliable figures for the actual numbers of Palestinians in Lebanon. Because of the country's delicate sectarian structure, any one figure has political implications for its potential impact on Lebanon's 'demographic balance'. Figures are politically loaded and as Yves Besson (1997: 337) said: 'The demographic aspect is obviously at the heart of the Palestinian refugee problem'.

In 1950, Palestinian refugees in Lebanon numbered 127,600, while on 31 December 2005 the figure for registered Palestinian refugee was 404,170 (United Nations 2005: 89, Table 1; UNRWA 2006: 4, Table 1). Some sources, however, suggest that considerably more Palestinians are present in Lebanon, while other sources argue that the actual number of Palestinians residing in Lebanon is less than the figures given by the UNRWA. The Department of Affairs of Palestinian Refugees (DAPR) at the Lebanese Ministry of Interior, for example, estimates the figure at 35,000 higher than that of UNRWA, and this difference is on account of refugees who are registered with DAPR, but not registered with UNRWA.

Thus, the exact number of Palestinian refugees actually residing in Lebanon is not available. According to the FAFO, a moderate estimate would put the figure around 200,000 people (Tiltne 2005). FAFO argues that the moderate population estimate is mostly explained by out-migration. The FAFO survey on living conditions among Palestinian refugees residing in Lebanon, fielded in 1999 found that some 80 percent of the 4,000 households surveyed 'have close kin abroad; half of them have relatives in Europe'. Migration has its impact on the population pyramid whereby 'working-age people and in particular working-age men are lacking. In addition the population pyramid has a rather narrow base caused by low fertility' (ibid.: 11).

In this context, Dorai (2003) points out that since 1980s about 100,000 Palestinians have emigrated from Lebanon to the Gulf countries and Northern Europe, mainly Germany, Sweden and Denmark. Prompted by the Palestinian case Dorai suggests that we should reconsider 'the classical distinction between forced and voluntary migration', arguing that 'migration has to be considered not only as forced, but also as the result of new forms of transnational solidarity between the different scattered Palestinian communities' (ibid.: 23).

As previously stated the number of Palestinian refugees registered with UNRWA was 404,170 (as at 31 December 2005). This figure constitutes about 11.5 percent of Lebanon's population

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<sup>5</sup> Nabatiyeh refugee camp near Tyre was completely destroyed in an Israeli raid in 1974. Three other refugee camps in Eastern Beirut, namely Tal Al-Zatar, Jisr albasha and Dikwaneh, were destroyed and depopulated at the beginning of the Lebanese civil war (1995-1996).

<sup>6</sup> The term 'war of the camps' refers to the conflict initiated by Shiite Amal militia against the remnants of the PLO in the camps after its withdrawal from Lebanon in 1982.

and 9 percent of the total registered refugees in the UNRWA's five fields of operation. About 53 percent of the refugees registered with UNRWA in Lebanon (213,349) live in 12 refugee camps officially recognized by UNRWA, while the rest of them reside in major towns and in 'gatherings' located in rural areas outside the camps (see Map 2).



Map 2: Palestinian Refugee Camps in Lebanon

The following table summarizes the total registered camps population in Lebanon:

**Table 1: Distribution of Registered Camp Population (As at 31/12/2005)**

Area	Camp	Families	Persons
BEIRUT	Mar Elias	179	613
	Burj Barajneh	3,747	15,540
	Dbayeh	1,111	4003
	Chatila	2,006	8265
SAIDA	Ein EL -Hilweh	10,541	54,329
	Mia Mia	1,116	4,509
TYRE	Buss	2,232	9,343
	Rashidieh	5,996	25,967
	Burj shamali	4,286	19,764
TRIPOLI	Nahr EL-Bared	6,525	30,700
	Bedawi	3,612	15,730
BEQAA	Wavel	1,763	7,601
	Dikwaneh*	2,258	9,189
	Nabatieh*	1,654	7,127
UNRWA employess and refugee women married to non registered husbands. Distributed within field camps.		2,534	10,601
Field Total		49,560	213,349

*Source:* Derived by the author from data in UNRWA, Registration Statistical Bulletin (4/2005: 8), Table (2.3)

\* While Dikwaneh and Nabatieh were completely destroyed in the 1970s, a number of refugees originally registered in these camps will still appear in the statistics until UNRWA's new Registration System (RIRS) is developed.

It is worth noting that the majority of the Lebanon's Palestinian refugees were born in exile. According to the FAFO report cited above, about 12 percent of the surveyed population were first-generation refugees born in Mandatory Palestine (Tiltnes 2005: 11). Based on the specific circumstances and nature of displacement and refuge, Palestinian refugees in Lebanon could be grouped into three categories:

**A-** Refugees who are registered with both UNRWA and DAPR. Those are the 100,000 people and their descendants who arrived in Lebanon before and shortly after 1948. More than 90 percent of them originate from the northern part of Palestine. They constitute the main bulk of the Palestinian population, and are often referred to as the '1948 refugees'.

**B-** Refugees who are not registered with UNRWA, but were registered with DAPR in the 1960s and 1970s, according to ministerial decisions. These are genuine refugees registered with UNRWA in its other fields, but they fled to Lebanon, as previously stated, under different circumstances. They are often referred to as non-registered refugees (NR) or '1967 refugees', estimated at 35,000 (official estimates are around half this number).

C- Refugees who are not registered either with UNRWA or with DAPR, and are referred to as 'Non-IDs refugees'. These are the most vulnerable category of Palestinian refugees in Lebanon and are estimated at between three and four thousand<sup>7</sup>.

## International and Regional Protection of Palestinian Refugees

### *International Protection*

This entails protection provided for individuals and groups in international law vis-a-vis that provided under various states' national laws. There are different forms of International protection including protection of refugees and stateless persons. The phrase 'international protection': 'covers the gamut of activities through which refugees' rights are secured, including the implementation of durable solutions' (Sondergaard 2005: xxvi).

There is no single International agency mandated to provide protection for all Palestinian refugees. Palestinian refugees are distinct from other world refugees who fall within the UNHCR mandate in the sense that a special protection regime was established for them. It comprises three UN organizations: the United Nations Conciliation Commission for Palestine (UNCCP), the United Nations Relief and Work Agency for Palestinian Refugees (UNRWA) and United Nations High Commissioner for Refugees (UNHCR).

The UNCCP was created by UNGA Resolution 194 (III) of 11 December 1948 to protect Palestinian refugees displaced during the 1948 war. The UNCCP was established with a dual mandate: (a) to conciliate the parties to find, in accordance with UNGA Resolution 194, a permanent solution to the Palestinian refugee problem; (b) to provide protection to the refugees by safeguarding their rights to return and other related rights, including their right to property. In practice the UNCCP failed to carry out its mandate due to the unwillingness of the parties to implement UNGA resolution 194 under which it was operating. By the early 1950s it restricted its operations to property identification and documentation (Sondergaard 2005: 43-45).

UNRWA was created on the recommendation of the Economic Survey Mission as a subsidiary organ of the General Assembly, by UNGA Resolution 302 (IV) of 8 December 1949, 'to carry out in collaboration with local governments the direct relief and works program as recommended by the Economic Survey Mission' (Article 7a). In this context the General Assembly recognized that without prejudice to the provisions of paragraph 11 of UNGA resolution 194 'continued assistance for the relief of the Palestine refugee is necessary to prevent conditions of starvation and distress among them and to further conditions of peace and stability' (Article 5).

The UNRWA does not have an explicit mandate to provide Palestinian refugees with legal protection. The refugees falling within UNRWA's definition of 'a Palestine refugee' are entitled to receive education, health and social services<sup>8</sup>. The provision of such services may be considered as a type of 'relief protection', which in part affords Palestinian refugees

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<sup>7</sup> Recently, significant attention has been paid to this category of refugees, through some surveys and studies that highlighted their legal situation and their socio-economic conditions; see [http://www.flygting.dk/fileadmin/uploads/pdf/English\\_site/drc\\_survey.pdf](http://www.flygting.dk/fileadmin/uploads/pdf/English_site/drc_survey.pdf): 'Falling through the Cracks', a case study of unrecognized refugees in Lebanon, conducted by Frontiers (Ruwad)/Lebanon and funded by the Embassy of Finland (Damascus).

<sup>8</sup> '[Palestine refugee] shall mean any person whose normal place of residence was Palestine during the period 1 June to 15 May 1948 and who lost both home and means of livelihood as a result of the 1948 conflict'. For an interpretation of this definition see Takkeberg 1998: 77-79.

fundamental economic and social rights. This type of protection, however, is not commensurate with general standards concerning refugees protection worldwide.

UNHCR was created by UNGA resolution 428(V) of 14 December 1950. It has a mandate to provide protection to refugees worldwide and to search for durable solutions. In conjunction with the 1951 convention relating to the status of refugees and its Protocol of 1967, Palestinian refugees displaced in 1948 were excluded from its mandate according to paragraph 7C of UNHCR Statute and Article 1D of the 1951 Refugee Convention. Paragraph 7C stipulates that competence of UNHCR shall not extend to a person 'who continues to receive from other organs or agencies of the United Nations protection or assistance'.

Whereas, the first paragraph of Article 1D states that 'This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nation other than the UNHCR protection or assistance', the second paragraph suspended exclusion of Palestinian refugees under Article 1D, as it states that 'When such protection or assistance has ceased for any reason without the position of the refugees being definitively settled in accordance with relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention.'

It is argued that the UNHCR was mandated to serve as alternative, or a safety net, in the event protection or assistance provided by UNCCP and UNRWA would 'cease for any reason', in order to ensure continuity of protection for the Palestinian refugees (Sondergaard 2005: 42).

According to UNHCR's recent interpretation of Article 1D, the 1948 and 1967 Palestinian refugees who are residing outside UNRWA's areas of operation may enjoy the 'Convention Status' under Article 1D, and may benefit from the protection afforded by UNHCR. Also Palestinian refugees who are neither 1948 nor 1967 refugees, and are outside the Palestinian territories occupied by Israel since 1967, and unable or unwilling to return there owing to a well-founded fear of persecution, fall within the scope of 1951 Convention under Article 1A(2)<sup>9</sup>.

It is of importance to note that some fundamental refugee rights mentioned in the 1951 Convention such as the right to work, to education, to housing, to non-discrimination, are explicitly enshrined in the Universal Declaration of Human Rights (1948), which is considered the cornerstone of International Human Rights Law, and in most international legal documents that constitute that law such as the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966) and the two International Conventions relating to the status of stateless persons and the reduction of statelessness (1954, 1961). It is worth mentioning that many of the provisions of these universal human rights instruments are relevant to the case of Palestinian refugees, including those residing in Lebanon, keeping in mind that Lebanon has ratified the two 1966 covenants, in addition to the 1965 Convention on the Elimination of all forms of Racial Discrimination.

To sum up, the collapse of UNCCP protection, the limited protection provided by UNRWA, and inadequate and limited protection afforded by UNHCR resulted in serious protection gaps for Palestinian refugees with respect to systematic protection of day-to-day rights and the search

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<sup>9</sup> *UNHCR Note on the Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestine Refugees* (October 2002). For a critical analysis of the revised UNHCR interpretation of the status of Palestinian refugees under international law see Badil Resource Centre, 'More International Protection for Palestinian Refugees', a memo published on 24/11/2002.

for durable solutions. This means that approximately one-third of the world's total refugees are left without systematic and adequate international protection.

### *Regional Protection*

There is no regional refugee convention in the Arab World. The 1992 Declaration on the Protection of Refugees and Displaced Persons in the Arab World, which delineates a wide scope of protection rights still has no binding force. Arab states have been reluctant to accede to the 1951 Convention because it does not address the specificity of Palestinian displacement. For Palestinian refugees '*refoulement*' is not the issue, because they want to return home, but they are denied the right of return to their homes in accordance with UNGA resolution 149.

The Protocol on the Treatment of Palestinians adopted by the Council of Ministers in 1965 in Casablanca addresses the issue of temporary protection of Palestinian refugees in Arab host states. It is considered as one of the earliest regional experiments in refugee protection. According to Takkenberg (1998: 66) the Arab states were afraid that, when included under the UNHCR statute, the Palestinian refugees 'would become submerged [with other categories of refugees] and would be relegated to a position of minor importance'. The main concern in this respect was that the Palestinian refugee problem would not be adequately addressed if UNHCR's durable solutions were applied to Palestinian refugees, such as resettlement to a third country or settlement in the first country of asylum.

In its five articles, the Casablanca Protocol stipulates that Palestinian refugees, while keeping their Palestinian nationality, shall be accorded the same treatment as nationals of Arab League states with respect to the right to work and employment; the right to leave the territory of the state in which they reside and to return to it, issuance and renewal of travel document; and the freedom of residence and movement between the Arab league states. Together, the standards set forth in the league of Arab States Council and the 1965 Casablanca Protocol 'have afforded Palestinian refugees, in theory if not always in practice, a type of temporary protection in Arab league member states with the expectation that refugees will return to their homes of origin' (Akram and Rempel 2004). However, experts argue that the rights accorded to Palestinian refugees under the Casablanca Protocol are fewer and narrower in scope than that provided under the 1951 Convention. It is noteworthy that Lebanon is amongst the Arab states that have ratified the Protocol subject to reservations in respect of its first three articles pertaining to the rights to work, to leave and return and to enter and leave the territory of the state in which refugees reside (Takkenberg 1998: 374-376).

### **The Institutional Framework: An Overview**

In Lebanon as in other Arab host countries the Palestinian presence is governed largely by a number of presidential or ministerial decrees or ordinances, and administrative orders, as well as related state practices. At the time Palestinian refugees arrived in Lebanon, the Lebanese government set up a specific administrative apparatus to govern the Palestinian presence in the country. This apparatus has evolved over the years as follows:

- *The Central Committee for Refugee Affairs (CCRA)*: It was created by a presidential decree (No. 11657 of 26/4/1948) issued by the Lebanese President Bshara AL-Khuri. This was the first Lebanese intervention to regulate Palestinian refugee status. At that time the prevailing impression was that the Palestinian refuge would be temporary and not

protracted. The task of the central committee was to administer the Palestinian presence with respect to statistics, accommodation, relief and health care<sup>10</sup>.

- *The Department of Affairs of Palestinian Refugees (DAPR)*: This office of the Ministry of Interior was created by a presidential decree (No 42 of 31/3/1959) issued by General Fuad chehab. Simultaneously Decree No. 927 was issued to define the tasks of DAPR. Decree No. 42 and its supplement (927) were the first bits of Lebanese legislation that provided a legal and institutional framework for the Palestinian presence in Lebanon. However, it had become evident then that there were no signs of a just or quick settlement for the Palestinian refugee issue, through implementing the UNGA resolution 194 of 1948. And the tasks of DAPR were delineated by Decree No. 927 as follows:
- *Article (1)*: The DAPR, shall undertake the following tasks: (i) Contacting the International Relief Agency in Lebanon [UNRWA] to ensure relief, shelter, education, and health and social services for the refugees; (ii) Receiving applications for passports, the study of these applications, submission of comments and subsequent transfer to the relevant departments of the General Security (Surete Generale); (iii) Registering personal documents relating to birth, marriage, divorce, marriage annulment, death, change of residence, and change of sect or religion, following confirmation of validity, as per the relevant regulations of the Law Governing Registration of Personal Documents dated 7 Dec. 1951; (iv) Approving applications for the reunion of dispersed families as per the texts of the Arab League resolutions and after consultation with the Armistice Commission; (v) Approving, in the case of incoming persons from Palestine for purposes of family reunification, as per the stipulations of the previous items, exemption from customs duties on their personal or household belongings; (vi) Designating the localities of the camps and undertaking transactions for lease or ownership of properties required from them; (vii) Allocating permits allowing transfer of residence from one camp to another where circumstances so dictate in the estimation of the Department; (viii) Transferring residency of refugees from one camp to another where security considerations so require; (ix) Approving applications for marriage submitted by any male or female refugee residing in Lebanon seeking marriage with a refugee from another Arab country; (x) Approving transfer of frozen or incoming funds to beneficiary refugees by the way of the Bank of Syria and Lebanon; (xi) Rectifying errors that inadvertently occur in personal identification cards regarding names, identities and age of the refugees.
- *Article (2)*: The Ministers of state shall provide the DAPR with technical assistance and facilitate the Department's exercise of this power.
- *Article (3)*: This Decree shall be published and announced when and where required (Said 2001: 129-130).

Pursuant to decrees No. 42 and No. 927 the Lebanese government issued the Decree No. 2867 of 16/12/1959, which identified the DAPR structure and the tasks of its General Director. The structure incorporates Liaison officers in various provinces of Lebanon, whose tasks were mainly managing security through monitoring the refugees' political activities and reporting on political and social unrest that may be caused by them. It is not surprising that the Lebanese government entrusted the DAPR with these security functions, because this was consistent with the hostile and aggressive policy adopted by Chehab's regime towards Palestinians. Wadi'a Said (2001: 130) rightly pointed out: 'While the Decree (927) seems somewhat innocuous, detailing a mere bureaucratic function, it in fact serves a more sinister purpose. By

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<sup>10</sup> The Decree was published in the official Gazette, No 18, p. 207, 5/5/1948. Quoting Al-Natour, Said incorrectly mentions that the CCRA was established in 1950. See Said 2001: 129, Al Natour 1997.

entrusting the DAPR with these functions, the Decree ensures that the Lebanese state has an accurate profile of each refugee and thus assess the security risk that he/she presents'.

Compared with Decree No. (11657) of 1948, the Decrees (42, 927) are to be considered a setback with respect to the responsibility of the Lebanese state towards Palestinian refugees residing in Lebanon. According to Decree No. (927) (Article 1:1), the Department of Affairs for Palestinian Refugees pledges merely to liaise with UNRWA to 'ensure' that it provides them with basic social services, without actually committing the Lebanese government to provide these services, leaving this responsibility to UNRWA, based on the assumption that the International community represented by UN should carry this burden.

- *The Higher Authority of Palestinian Affairs (HAPA):* This government agency was created by the presidential Decree No. (3909) of 26/4/1960 under the supervision of the Ministry of Foreign and Repatriate Affairs. According to Article (1) of the decree, this authority includes: The Director General of the Ministry of National Defence and officers of 'Deuxieme Bureau', the General Director of DAPR at the Ministry of Interior, the Chief of the Israel Boycott office in the Ministry of National Economy and Tourism, and the Chief of the Palestine Division in the Ministry of Foreign and Repatriate Affairs. The HAPA was authorized to fulfil the following tasks: gathering all information pertaining to political, military, economic, and other aspects of the Palestinian cause; studying all aspects of the Palestine Question, monitoring its developments and drafting solutions in response to it; and confronting the Zionist propaganda abroad (*DARP Archives*: unpublished document). The decree stressed that the above mentioned tasks should not overlap with the tasks of the DAPR according to Decree No. (927). Thus, the tasks granted to the HAPA by virtue of Decree No. 3909 dated 26/4/1960 were to a great extent political rather than socio-economic, with implied national security perspectives. We do not know what the motives were behind launching such an additional government agency at that time. However, what we are sure of is that the HAPA has never been activated.

To sum up, the oppressive security approach of the Lebanese state towards the Palestinian presence continued through the period 1958-1969 until the Cairo agreement had been signed with the Palestinian Liberation Organisation (PLO), launching a new era in Lebanese-Palestinian relations.

In November 2000 the Lebanese government passed Decree No.4082 which renamed the 'Department of Affairs of Palestinian Refugees' as 'Department of Political Affairs and Refugees' (DAPR). Thus there ceased to be a department regulating the status of Palestinian refugees, and they became subsumed with other refugees, despite the fact that the renamed department continued to carry out the same tasks. It is important to note that the DAPR was administratively downgraded by virtue of the new decree. Earlier, it had been a General Directorate administered by a General Director, and now it became a department affiliated to another directorate, with few prerogatives remaining in the hands of the Director. This step was perceived by the Palestinian refugees as a downgrading of their legal status. The International Federation of Human Rights (FIDH) commented: 'The Lebanese government does not want this official status of Host State for the Palestinian refugees any more', arguing that 'the government's hostility against the Palestinian refugee has taken the form of an openly hostile legal policy' (International Federation of Human Rights 2003:12). The Lebanese officials with whom I discussed this decree have denied any sinister purpose behind it. However, they have not been able to provide a reasonable explanation or justification for renaming the DAPR.

## Legal Framework: Lebanese Legislation Relating to Palestinian Refugees' Basic Rights

Despite the fact that Decree No. 927 refers specifically to 'Palestinian refugees', Lebanese legislators make no attempt to distinguish them from foreigners. Ordinance No. 319 of 2 August 1962 regulating the situation of foreigners in Lebanon issued by the Minister of the Interior considers Palestinian refugees as one of five categories. Its Article 1 classifies them in category No. 3: 'Foreigners who do not carry documentation from their countries of origin, and reside in Lebanon on the basis of resident cards issued by the Directorate of Public Security, or identity card issued by the General Directorate of the Department of Affairs of the Palestinian Refugees in Lebanon (DAPR)'<sup>11</sup>.

Thus, Lebanese law treats Palestinians as foreigners, or rather as a 'special category of foreigners', despite their protracted residence in the country. In effect, the legislation denies Palestinian refugees basic rights granted to its nationals, while at the same time not guaranteeing them the refugee rights accepted and recognized in relevant international instruments. As Said (2001: 132) observes: 'The distinction between International Law norms for refugees and those stipulated in Lebanese law is striking. There is no provision granting any sort of preferred status to foreigners who have resided in Lebanon for more than three years... Lebanese Law does not afford a separate legal status to them or even define the term "refugee".'

Below, I will investigate the drastic effect of various Lebanese legislation (laws, decrees, ordinances, administrative decisions) as well as related state practices on the livelihoods and rights of Palestinian refugees, focusing on some basic rights.

### *Residency, Travel and Freedom of Movement*

As in other Arab host countries Palestinian refugees in Lebanon are eligible for an identification card / residency card and a special travel document. Different kinds of documents are issued distinguishing between the three different categories of Palestinian refugees we previously mentioned: (a) refugees who are registered with both UNRWA and DAPR are afforded permanent residency cards and a renewable travel document with a validity of five years; (b) refugees not registered with UNRWA, but registered with DAPR, are afforded the same residency card but a different type of travel document (Laissez Passer) with a validity of one year, renewable three times; (c) refugees not registered either with UNRWA or DAPR are not afforded any kind of documents at all and are designated as Non-ID refugees.

The first two categories of refugees are considered legal residents in Lebanon, while the refugees classified under the third category are seen to be illegally residing in the country. Some of them hold just a paper issued by the General Security which serves as an identification card.

It is paradoxical that the second category of refugees are not eligible for a similar travel document as those of the first category, because it means that the Lebanese government does not consider its own records while endorsing the UNRWA registration records and definition of refugees, keeping in mind that the UNRWA definition of Palestinian refugees is an operational one, and not consistent with other definitions such as that in the 1951 Convention.

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<sup>11</sup> See, for instance, Said 2001: 136. Takkenburg 1998: 163 for complete French text of Article 1

It is notable that Palestinian refugees right to residency and travel is subject to 'arbitrary' implementation and changes in the political atmosphere. For example, in September 1995 the Libyan leader Colonel Gaddafi took a decision to expel all Palestinians from Libya in a move designed to protest against the Oslo Accords and the Israeli-Palestinian peace process. In reaction to this decision, the Lebanese government prevented the 15,000 Libya-based Palestinians with Lebanese residence (including any other Palestinians who happened to be outside Lebanon at the time) from returning to Lebanon without a special re-entry visa. On 22 September 1995, the Lebanese Minister of the Interior Decree No. 478 Regulating Entry and Exit of Palestinians into and out of Lebanon. Article 2 of the Decree states: 'Those Palestinians outside Lebanese territory will have to obtain an entry visa to Lebanon through the Lebanese missions in the countries where they are. The visa is given after approval by the General Directorate of Public Security Via the Ministry of Foreign Affairs' (Said 2001: 136). However the new measures did not apply to those who had left the country after 1 June. In addition, the new measures required that Palestinian refugees who were willing to leave the country must obtain an exit / re-entry visa.

The issuance of Decree No. 478 increased the suffering of Lebanon's Palestinian refugees. Thousands of them were stranded in airports or trapped along the borders and held in an inhumane and humiliating conditions. A report of the US Committee for Refugees (USCR) referred to the contribution of the decree to Palestinian unemployment in Lebanon stating that 'because they face labour restrictions in Lebanon, many Palestinian residents of the country have traditionally sought employment abroad (...) Lebanese visa restrictions prevented Palestinian with Lebanese travel documents from returning to jobs in the Gulf states at a time when Palestinians were slowly being allowed back. The Gulf states reportedly were reluctant to grant visas to Palestinian with Lebanese laissez-passer' (USCR 1999: 14).

The previously mentioned FIDH report emphasized that this decree set a precedent in discouraging both Palestinian refugees to seek employment abroad, and the Gulf states to grant them visas in case 'a new text would impose a return visa to Lebanon, with all the risks this implies' (FIDH 2003). This decree, however, was revoked on 12 January 1999 by the government headed by Salim Al-Hoss.

Decree No. 487 constituted a clear violation of Article 9 of the Universal Declaration of Human Rights (UDHR) to which Lebanon had acceded. The article states that no one shall be subjected to arbitrary arrest, detention or exile. Said (2001: 137) argues that 'the denial of re-entry permit *de facto* forces Palestinian refugees who reside abroad into arbitrary exile from Lebanon. While Lebanon is not their country of citizenship, the Palestinians reside there legally and any attempt to deny them their right of residency without due process of law is "arbitrary exile" for the purposes of the UDHR'. Said also emphasizes that 'the denial of the right of entry could also constitute cruel, inhuman, degrading treatment in this case, which is forbidden by the UDHR' (ibid.: 138). Decree No. 487 was also inconsistent with Lebanon's obligations as a member of the Arab league, with special reference to the Casablanca Protocol of 1965.

### *Right to Work and to Social Security*

In their capacity as foreigners under Lebanese law, Palestinian refugees' right to work and to social security has been regulated by Decree No. 17561 of 18/9/1962. This decree incorporates three restrictive principles with regard to the right of Palestinian refugees to work and employment in Lebanon: a) obtaining of a work permit; b) national preference; c) reciprocity of rights and obligations. Article (25) of this decree states that: 'A foreigner, other

than an artist, is prohibited from carrying in Lebanon any work or occupation unless permitted to do so by the Ministry of Labour and Social Affairs under valid laws and regulations'. Additionally, Article 17 of the same decree directly refers to the national preference principle, as it states that: 'The work permit shall be cancelled at any time, if it is revealed that any document is incorrect or as may be required in the interest of Lebanese labour'. Further, according to Article 9 of the same decree, the Minister of Labour is entitled to enumerate and list the jobs and trades that are restricted to Lebanese nationals and to yearly update the list in line with the needs arising in the Lebanese labour market. For instance, on 15 December 1995, the Minister of Labour, Asa'ad Hardan, issued a Ministerial Decision No. 621/1 in which he enumerated a list of about 50 jobs, trades and independent professions in the private sector which would prefer nationals. The list is long and includes both manual and clerical jobs in administration and banking, laboratories and pharmacies, electronics, mechanics and maintenance, teaching, also included the jobs of concierge, guard dyer, cook, butler and hairdresser, as well as other independent professions in the private sector like trade business (all categories), engineering (all categories), patisserie, printing and publishing and car maintenance (Danish Immigration Service and Danish Refugee Council 1998: 95, Annex 7). This ministerial decision was an update of the Ministerial Decision No. 1/289 issued on 18 December 1982.

As for the remaining unskilled jobs and manual labour Palestinian refugees must get a work permit in order to occupy them and they have to compete with other permitted foreign refugees and Syrian workers who do not need work permits.

Article 2 of the Ministerial Decision of 1995 exempted some foreigners from the obligation of the Decision of Article 8 of Decree No. 17561 of September 1962 if the foreigner is: a) residing in Lebanon since birth; b) of Lebanese origin or his/her mother is Lebanese; c) married to a Lebanese female for more than one year. However, the Minister is entitled to give final approval in any of the above-mentioned cases (*ibid.*: 95). Thus, the exemptions are conditional and pending the personal attitude and goodwill of the minister himself, assuming that the exemptions could be applicable at least to considerable numbers of Palestinian refugees, especially the second and third generation Palestinian refugees who were born in Lebanon after 1948, and who constitute about 90 percent of the Palestinian refugee population, according to FAFO estimate (Tiltnes 2005: 11).

Usually, it is not easy for Palestinian refugees to obtain work permits. According to some statistics, in 1999 the Lebanese Ministry of Labour issued some 18,000 work permits to Egyptian workers and only 350 work permits to Palestinians (Sondergaard 2005: 15). Furthermore, the granting of work permits does not entitle Palestinians to benefit from the Lebanese social security system, though they have to make their social security contributions as other workers. The right to social security for Palestinians is also dependent on the reciprocity of treatment. Article 9 (4) of the Lebanese social security law states: 'Foreign labourers working on Lebanese soil are not subject to the provisions of this law, and therefore are not entitled to the benefit of any and all sections of social security, except if the country of their origin afford its Lebanese residents the same treatment as its own citizens with regard to Social Security' (Said 2001: 134). And according to the previously mentioned FIDH report, Palestinian refugees are not considered foreign nationals of a state bound to Lebanon by reciprocity (FIDH 2003: 12).

Thus, UNRWA has become the main agency that legally provides Palestinian refugees with skilled employment (2934 posts) (Public Information Office 2005). Palestinian and INGOs

working in the camps employ a significant numbers of skilled and semi-skilled workers and provide job opportunities through running some micro-credit and income-generating projects within the refugee camps. Some Palestinians operate small enterprises within and around the camps. In addition, Palestinians can work in sectors not requiring work permits such as agriculture, animal husbandry, and construction. Some skilled Palestinians (engineers, technicians, physicians) have to work illegally in the Lebanese private sector for low wages, and without any social security provisions.

Looking back on the period when PLO power reached a peak before its withdrawal from Lebanon in 1982, Palestinian refugees were accorded the right to work under the 1969 Cairo Agreement, which was unilaterally abrogated by the Lebanese Parliament in 1987. PLO made no serious efforts at that time to pressure Lebanon to issue domestic legislation in order to enforce the Cairo Agreement provisions on Palestinian refugees' social and economic rights. In other words, PLO preferred the *de facto* rather than the *de jure* language.

In the aftermath of former Prime Minister Rafiq Al-Hariri's assassination in February 2005, Lebanon has witnessed a 'positive' atmosphere with regard to Palestinian civil rights in the sense that the deliberately forgotten issue of refugees can now be approached in a more rational manner. In June 2005, Lebanon's Minister of Labour, Trad Hamadeh, issued a Ministry Memorandum No. 67/1, permitting Palestinian refugees who were born in Lebanon and registered with DAPR to work legally in manual and clerical jobs previously unavailable to them, but the ban on Palestinians seeking professional employment has remained in place. When asked about these limitations Minister Hamadeh replied: 'Permitting the Palestinians to work in all fields and without any specific permits is not part of my prerogatives'<sup>12</sup>. He said these decisions need the approval of the Parliament.

In fact the said memorandum is in line with Decree No. 17561 of 1962, including its modification, especially Article 9, which entitles the Ministry of Labour to list the jobs and trades that are restricted to Lebanese nationals. Also, it is based on Article. 2 of Decision No. 621/1 of 1995, which may exempt some foreigners from the provisions of this decision, where they meet the requirements shown in Article 8 of the same decree.

Thus, this memorandum should be interpreted narrowly as it does not constitute a change to the Lebanese legislation regulating the labour of foreigners in Lebanon, including Palestinians, as was represented in the media. It is not more than a ministerial decision to organize by law the work of thousands of Palestinians who are illegally working in these manual and clerical jobs. However this move has economic motives, as it is proposed that Palestinians can fill the cheap-labour vacuum, left by the withdrawal of the Syrian labour force.

Generally speaking, this government initiative does not change the situation on the ground but is of symbolic significance. It is perceived by Palestinian refugees in the camp as a positive gesture and a first step towards further recognition by Lebanon of the Palestinian refugees' civil rights.

The Lebanese legislation and state practices with respect to Palestinians violate Lebanon's obligations under the CERD and ICESCR through discrimination between people on the basis of their nationality as in the case of its Palestinian refugees population, who are *de jure* discriminated against because of their national origin. Article 5 of the CERD stipulates that

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<sup>12</sup> See *Daily Star* (Beirut), 6/8/2005.

state parties undertake to prohibit and to eliminate all forms of racial discrimination and to guarantee the right of every one, notably in the enjoyment of the following rights: '(e) Economic, social and cultural rights, in particular:... (i) The rights to work, to free choice of employment, to just and favorable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favorable remuneration;... (vi) The right to public health, medical care, social security and social services'.

Whereas Article 6 of the ICESCR recognizes 'the right to work which includes the right of every one to the opportunity to gain his living by work which he freely chooses or accepts', Article 9 of the ICESCR recognizes the right of everyone to social security (Amnesty International 2003: 8-10). It is noteworthy that Article 2(3) of the ICESCR allows developing countries discretion in determining the extent to which non-nationals are guaranteed economic rights. However, according to Amnesty International, the discrimination levied against Palestinian refugees in Lebanon with regard to the right to work and to social security is not 'a distinction between citizens and non-citizens but between different groups of non-citizens on the basis of nationality (Palestinian) and descent. It is therefore in contravention of Article 5 of the convention [CERD]' (ibid.: 10).

### *Right to Own and Inherit Property*

Lebanese legislation imposes many restrictions on foreigners' freedom to buy property. In their capacity as foreigners, Palestinians were (until 3 April 2001) bound by the stipulations of Legislative Decree No. 11614 of 14/1/1969 relating to the acquisition of immovable property by foreigners in Lebanon. Article 1 of this decree stipulates that foreigners willing to acquire property have to obtain a special license granted through a decree issued by the council of Ministers of Cabinet, based on the recommendation of the Minister of Finance. Article 3 of the decree made a distinction between foreigners based on their citizenship, granting Arab citizens including Palestinians, the right to acquire property without prior license, on a limited scale, up to 3000 m<sup>2</sup> in Beirut and up to 5000 m<sup>2</sup> in the rest of Lebanon.

Accordingly, Palestinians in Lebanon are entitled to acquire immovable property, but as foreigners they have to pay higher fees. Whereas Lebanese nationals pay a settlement fee equal to 6.7 percent of the value of the property, foreigners including Palestinians have to pay a supplementary fee of 10 percent, i.e. the sum of 16.7 percent of that value (al Natur 1997: 373).

On 3 April 2001, the Lebanese parliament passed the law No. 296, which amended the first article of decree No. 11617 of 1969 regarding non-Lebanese acquisition of property<sup>13</sup>. The amended clause states: 'It is prohibited to any person who is not a national of a recognized state, or anyone whose ownership of property is contrary to the provisions of the Constitution relating to 'Tawteen' to acquire real-estate property of any kind' (unofficial translation).

It is evident that the new amended law targets Palestinian refugees in Lebanon, where the double condition which is implicit in the new law mainly refers to them. First, because they are not citizens of a recognized state or are 'stateless'. Second, because the fear of re-settlement of Palestinians in Lebanon is institutionalized in the foundation of the Lebanese legal system. Paragraph (I) in the preamble of the Constitution amended by the Taef agreement of 22 October 1989 (introduced by the Constitutional Law of 21 September 1990) states: 'Lebanese territory is one for all Lebanese. Every Lebanese shall have the right to live in any part thereof

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<sup>13</sup> The Law was published in the *Official Gazette*, No. 15, 5 April 2001.

and to enjoy the rule of law wherever he resides. There shall be no segregation of the people on the basis of any type of belonging, and no fragmentation, partition, or settlement of non-Lebanese in Lebanon' (Danish Immigration Service and Danish Refugee Council 1998: 93-94).

Thus, the constitutional clause of 'Tawtin' was used for the first time to place new restrictions on Palestinian refugees' right to own property. In fact it was merely a pretext under which to pass the new law with the purpose of encouraging foreign investment in Lebanon, a policy adopted by the late prime Minister Rafiq Hariri. Paradoxically, on 19 April 2001, ten deputies amongst those who had voted in favour of the amended law, brought an appeal to the Lebanese Constitutional Council (LCC), arguing that the new amended text was not in compliance with the Lebanese Constitution and the UN Charter, and contravened the Universal Declaration of Human Rights. They brought a bill to the Parliament with the purpose of modifying the law (No. 296), but that bill was deliberately neglected and it has never been put forward for discussion in the Parliament. And on 10 May 2005 the LCC rejected the appeal and affirmed the constitutionality of the text, arguing that the new legislation safeguarded what it called the 'supreme interest'<sup>14</sup>.

The amended law not only prevents Palestinians from acquiring property, but it also prevents them from inheriting property or registering real estate which they had bought or were buying in instalments. This situation obliges Palestinian refugees either to be trapped in the over-populated refugee camps deprived of their human right to 'adequate housing' or to pay a high price for renting an apartment outside the camps, which the majority of refugees cannot afford.

It is noteworthy that restrictions imposed by the Lebanese army on building in some of the camps, as well as prohibition by successive Lebanese governments on the reconstruction of Palestinian refugee camps totally destroyed during the Lebanese civil war (Tal EL-Zatar, Jisr EL-Basha, Nabatiya, and upper Meih Meih), or building new houses on empty lots outside camps, deprive Palestinian refugees adequate housing and contribute to the deterioration of their living conditions.

The amended law clearly violates Lebanon's obligations under Article 5 of the International Covenant on the Elimination of All Forms of Racial Discrimination CERD (acceded in 1971). Article 5 states: 'In compliance with the fundamental obligations laid down in Article 2 of this Convention, State Parties undertake to prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights... (d) other civil rights, in particular... (v) The right to own property alone as well as in association with others, (vi) The right to inherit,...'. Likewise, Decree No. 11614 of 1969 as amended by law No. 296 of 2001 discriminates between people on the basis of their nationality, which actively violates the provision of Article 5 of the CERD.

Amnesty International argues that the discrimination against Palestinians with regard to the rights to own and inherit property, when taken in conjunction with the inadequate housing conditions in the refugee camps, 'creates a situation whereby Palestinian refugees are discriminated against in their enjoyment of the right to adequate housing', which violates Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR; acceded in 1976) (Amnesty International 2003: 8).

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<sup>14</sup> See *AL-Nahar Daily*, 11/5/2001.

### *Other Rights*

In addition to the previously mentioned rights I will provide a brief view of other basic rights such as right to health, to education and to freedom of association.

Palestinian refugees have no access to Lebanese government hospitals or other related health services. Therefore UNRWA, the Palestinian Red Cross Society (PRCS) and other NGOs are the main providers of health services for Palestinian refugees, though the care they provide is hardly adequate. For instance, the UNRWA Health Program does not provide complete hospital care. Some costly treatment such as open-heart surgery or magnetic resonance imaging (MRI) are not fully funded, and the refugees are left to pay the high cost of such care.

Unlike the right to health services, Palestinians in Lebanon are not denied access to government schools and the Lebanese University, with some restrictions. In their capacity as foreigners, Palestinians are entitled to benefit from the ten percent of places reserved for foreigners at government secondary schools. However, in practice, this right is only accessible under the national preference principle. However, access to government vocational training schools is exclusively restricted to Lebanese nationals. Beyond that, some faculties in the State university such as the Faculty of Arts are reserved for Lebanese students.

Although UNRWA's mandate is to provide only elementary and preparatory education, it exceptionally operates five secondary schools in Lebanon, given the difficulties young Palestinians encounter in accessing secondary schooling. It also runs a program for university education funded by some UNRWA donors in the international community.

Regarding the freedom of association in Lebanon, foreigners including Palestinians may only create associations under the condition of reciprocity.

There are two main types of NGOs active in the Palestinian community in Lebanon, each requiring a special license: (a) NGOs licensed by means of attestation and declaration granted by the Ministry of the Interior; (b) Foreign NGOs operating in Lebanon, which obtain a license by means of a presidential decree. In addition, there is a third type of NGO comprising religious associations affiliated to the Muslim Waqf, which does not need to be licensed by the Ministry of the Interior, but may work by means of a 'legal deed' given by a Muslim court directly under the Prime Minister's office. The legal status of the first type of NGOs is 'ambiguous' for while they are legally Lebanese, they are in reality Palestinian. While the nominal administrative committees and the general assembly are largely constituted by Lebanese citizens (about 80 percent), the executive bodies of these NGOs are composed of Palestinian activists.

Thus, 'Palestinian NGOs' are liable to legal restrictions because of their uncertain status. This situation makes clear the need to secure the legal cover necessary for the continuation of these NGOs as institutions, which often has been made at the expense of developing its structure and democratizing its internal relations and its relations with the Palestinian local community<sup>15</sup>.

### **The History of the Lebanese-Palestinian Relationship**

Notwithstanding their differences, Palestinians and Lebanese do have a 'common story'. As Michael Hudson suggests, 'In addition to social, cultural and ethnic similarity and intermingling,

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<sup>15</sup> For details about the socio-economic, political and legal framework in which Palestinian NGOs in Lebanon operate, see Suleiman 1997 and 1999 (a and b).

they have both fallen within the same adversaries and suffered common adversity. But every commonality seems to carry with it a contradiction' (Hudson 1997: 245). Julie Peteet emphasizes the notion of commonality and integration, arguing that Palestinian refugees who fled to Lebanon in 1948 'share language and culture with their Lebanese hosts. The two communities have a long history of inter-marriage and economic trade' (Peteet ??:??). In order to conveniently tell this common story and highlight the history of the Palestinian-Lebanese relationship, we will divide the history of the Palestinian presence in Lebanon into the following six phases<sup>16</sup>:

*1. Adaptation and Hope (1948-1958):* This phase began with a welcoming stance toward Palestinians seeking refuge in Lebanon both by the Lebanese government and the population at large. It was also characterized by a relatively acceptable level of freedom of expression and political activity. Palestinians were perceived as a cheap labour force that could contribute to economic prosperity.

*2. First Crackdown and Covert Activities (1958-1969):* This phase began with the coming to power of General Chehab. Chehab's regime initiated an aggressive policy toward Palestinians, subjecting the camps to tight control. The phase ended with the Cairo agreement signed by the PLO and the Lebanese government in November 1959<sup>17</sup>.

*3. Overt Activity and Institutional Building (1969-1982):* The Cairo agreement resulted in a sharp increase in the building of social, economic and cultural institutions, in addition to political, military and organizational activity. The power of the PLO continued to grow until its departure following Israel's 1982 invasion, at times constituting a 'state within a state'.

*4. From PLO Departure to Ta'if (1982-1989):* In the aftermath of the PLO's departure from Lebanon, Palestinian refugees survived many harrowing experiences. The first was the Sabra and Chatila massacres, where in September 1982 Lebanese right-wing Christian militia, aided by Israel's militia, brutally murdered hundreds of Palestinian and Lebanese civilians. The second was the shrinkage of social, educational and medical services once provided by the various PLO institutions which had collapsed after 1982. This collapse coincided with a split within the PLO, and had a profound impact on the overall situation of Palestinians in refugee camps. The third bitter experience was the 'war of the camps' wherein the Amal militia launched a war against Palestinian camps in Beirut and Southern Lebanon in mid-May 1985, ostensibly to liquidate all pro-Arafat Palestinian forces remaining in the camps. Amal's unrelenting siege, during which the targeted camps were almost destroyed and hundreds of Palestinians were killed, continued until 16 January 1988, when it was finally lifted shortly after the beginning of the first Intifada in the occupied territories<sup>18</sup>. This phase, which culminated in the abrogation of the Cairo agreement in May 1987, resulted in severe difficulties and constraints with respect to employment, and freedom of movement and association.

*5. Deliberate Neglect: Ta'if, Oslo and Beyond (1989-2005):* The current phase, which begins with the return of civil harmony to Lebanon, is marked by three landmark political events that

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<sup>16</sup> For a further discussion on the history of the Palestinian presence in Lebanon see Hudson 1997: 243-260, Suleiman 1999b: 60-80 and Khalidi 2001: 1-8

<sup>17</sup> The Cairo agreement granted Palestinians the right to employment, to form local committees in the camps, to manage their own affairs, and sanctioned the Palestinian armed struggle against Israel from Lebanon, among other things.

<sup>18</sup> According to one estimate 2500 people were killed, and 80 percent of homes in Chatila, and 50 percent of homes in Burj al-Barajneh were demolished.

had a profound impact on the Palestinian scene in Lebanon: The Ta'if agreement, which put an end to the Lebanese civil war in 1989; the Madrid peace conference, which brought together the major parties to the Arab-Israeli conflict in October 1991; the Israeli-PLO Oslo Accords of September 1993 and its subsequent relevant agreements.

This period witnessed resumption of the official Lebanese-Palestinian dialogue after years of lack of contact. The first official meeting took place at the Arab Foreign minister's meeting in Cairo in mid-May 1991 between Lebanese foreign minister Faris Buwayz and the PLO Political Department head, Faruq al-Qaddumi. A ministerial committee headed by Minister of Defence, Muhsin Dalul, was created to take charge of the dialogue. As a result, a three-point agenda was discussed: (a) the Palestinian military presence in Lebanon, (b) the security situation in the camps, and (c) the social and civil rights of Palestinians in Lebanon. According to the Palestinian version of events, an agreement, never published, was reached whereby the Palestinians would hand over their heavy and medium weaponry, in exchange for the Lebanese government's agreement to grant the Palestinians civil and social rights. Palestinian weapons were handed over and in June 1991 the Lebanese army took up position around the Palestinian refugee camps in the south.

In the wake of these developments a new Lebanese ministerial committee composed of Minister of Labour and Social Affairs, Abdallah al-Amin, and Minister of Agriculture, Shawqi Fakhuri, was formed to conduct the dialogue. The Palestinians, meanwhile formed a new unified delegation representing the PLO and the opposition Palestinian factions. At the first meeting in September 1991, the Palestinian delegation submitted to the ministerial committee a memorandum entitled 'The Civil and Social Rights of the Palestinian People'<sup>19</sup>, but the Lebanese committee requested more time to study the Palestinian demands, and the dialogue was suspended. It has been suggested that the indefinite suspension of the talks may be attributed to the Lebanese government's desire for not making what it considered unjustified concessions pending a regional settlement within the framework of the Madrid conference, which formed a multilateral 'Refugee Working Group' to deal with the Palestinian refugee issue.

Following the Ta'if agreement, the PLO managed to resume dialogue with the Lebanese state represented by the new Lahoud regime. The PLO executive committee member As'ad Abd al-Rahman, who used to hold the refugee portfolio in the PLO, made several visits to Beirut. Following a meeting with President Lahoud on 20 April 1999, Minister Abd al-Rahman submitted to the Lebanese Cabinet member charged with Palestinian affairs, the Minister of Telecommunications Isam No'aman, a memorandum, calling on the government to propose a parliamentary legislation granting Palestinians in Lebanon civil and social rights<sup>20</sup>. At that time this step appeared to represent a new openness to dialogue with the PLO, but the Lebanese official response to the Palestinian demands was disappointing. As on prior occasions, however, the demands were neglected and the dialogue remained frozen for several years before it was resumed in the aftermath of AL-Hariri's assassination on February 2005.

During this period the Lebanese state's restrictive and exclusivist approach continued, manifested the above mentioned decree No. 478 of September 1995 and law No. 296 of April 2001, among others. The phase ended with the assassination of the former Prime Minister

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<sup>19</sup> The memorandum was signed by 'The United Palestinian delegation' and dated 12 August 1991. It addressed the following topics: residency, work, freedom of movement, education and professional training, institutions, trade unions, reconstruction of the camps, displaced persons, and democratic freedoms.

<sup>20</sup> This document entitled 'Memorandum Concerning a New Palestinian-Lebanese Relationship', dated 25 April 1999, has incorporated and summarized the details of the previous dialogue and its implications.

Rafiq Al- Hariri, the political ramifications of which changed the atmosphere in Lebanon as regards the Palestinian presence there.

*6. Lebanese-Palestinian Relationship: A New Era:* This new era is characterized by greater public and official Lebanese willingness to discuss Palestinian refugees' rights in a more rational though critical manner. Currently it is obvious that this issue is on the agenda of Lebanese elites. This change has been expressed in many manifestos made by various Lebanese parties, debates in the media as well as amongst civil society activists and university students. This has also coincided with a change in the official Palestinian discourse on the refugee issue.

This was preceded and certainly enhanced by a number of developments on the Palestinian, Lebanese and regional scene which took place during the period 2004-2006, such as the death of president Arafat and the new Palestinian leadership of PLO/PA and Hamas coming to power; the assassination of the former Prime Minister Rafiq Al-Hariri and its consequences including the UNSC resolution 1559 and Syrian withdrawal from Lebanon, as well as the Gaza disengagement and the impasse in the peace process.

The current phase is marked by specific features with regard to the Palestinian refugees file: increased contact between the PLO/PA and Lebanon; obvious activity amongst Palestinian and Lebanese NGOs and the emergence of some non-governmental and semi-official initiatives and campaigns in regard to Palestinian refugees' rights.

i. Official Contacts: On 8 December 2004 the newly elected Palestinian President Mahmoud Abbas (Abu Mazin) paid his first visit to Lebanon since the departure of the PLO in 1982 and met with president Lahoud, Prime Minister Fouad Siniora and the head of the Parliament Nabih Berri. Abu Mazin also appointed Abbas Zaki as a special PLO envoy to be charged with the Palestinian refugees file in Lebanon. During his visit Abu Mazin emphasized the need to respect Lebanese sovereignty and affirmed the PLO rejection of permanent settlement (*Tawtin*) of Palestinian refugees in Lebanon. This and similar subsequent statements contributed to confidence building.

The PLO envoy made several visits to Beirut in August and November 2005 and met with high-level Lebanese officials and other principal actors on the Lebanese refugee scene. A Lebanese committee headed by Amabassador Khalil Makawi was formed directly under the Prime Minister's office, to conduct direct dialogue with a counterpart Palestinian committee on: Palestinian refugees' civil rights, Palestinian representation in Lebanon and the issue of Palestinian weapons in the camps, among others. So far, this dialogue has resulted in the approval of the Lebanese government to reopen the PLO office in Lebanon, which has been closed since 1982. This step will help create a Palestinian institutional framework to address Palestinian refugees' rights in Lebanon.

ii. Civil Society Initiatives: In this context I will mainly refer to two initiatives campaigns that coincided with the official Lebanese-Palestinian dialogue<sup>21</sup>:

Campaign for 'Civil Rights in Support of the Right to Return': This campaign was initiated by the PLO Department of Refugee Affairs in Lebanon under the slogan of 'Civil Rights until Reaching the Right of Return'. On 30 April 2005 the Department called for a workshop on Palestinian

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<sup>21</sup> I participated in the two initiatives as a researcher and activist.

refugees' civil and social rights. It was attended by more than 20 local and International NGO representatives, UNRWA's officials, Lebanon's members of the Palestinian National Council-PNA, and journalists. The workshop came out with comprehensive recommendations on Palestinian refugees' rights in Lebanon, which were included in a memorandum distributed in the name of the 'Civil Rights Campaign' to concerned members of the Lebanese cabinet and MPs, as also the PLO leadership. A follow-up committee was also formed to launch an awareness campaign amongst Palestinian refugees in various camps and gatherings.

The memorandum emphasized that 'the granting of Palestinian refugees' civil and social rights does not entail settlement or naturalization, but allows a dignified life for refugees until they return to their homeland'. It called upon the Lebanese government to positively respond to Palestinians' civil and social rights, as this would 'enhance their confidence in the future, increase their insistence on their right to return, and their resistance to naturalizations plans'.

The memorandum tackles a number of items including<sup>22</sup>: the right to employment and social and health insurance; the right to syndicate and union membership; the right to own real estate property and registration; the right to benefit from health, electricity and adequate infrastructure services; the right to launch non-governmental organizations; the right to reconstruction and building inside the camps, and the right to obtaining another nationality without cancelling the Lebanese travel documents afforded to Palestinians refugees legally residing in Lebanon.

The PHRO Debate: What Do Palestinian Refugees in Lebanon Want?: The Palestinian Human Rights Organization (PHRO), in cooperation with the Palestinian Association for Human Rights (Witness) and the General Union of Palestinian Jurists, Lebanon, jointly held a Palestinian debate meeting entitled: 'What do Palestinian Refugees in Lebanon Want?' (30 September 30-3 October 2005). The meeting was attended by representatives from Palestinian civil society associations, popular and syndicated unions, and the Palestinian National Council, representatives from UNRWA / Lebanon Field, as well as intellectuals and journalists. It aimed at deepening dialogue between different groups acting in the Palestinian refugee community in Lebanon with the purpose of developing a 'vivid Palestinian vision' of all issues laid on the table, assuming that such a vision would pave the way for a Lebanese-Palestinian dialogue in order to find effective solutions for pending problems.

Participants in the meeting discussed the following three questions: First, what do we want from ourselves, with respect to the right to return and self determination; social security in the camps, and unified political reference? Second, what do we want from others, as regards the Lebanese Authority, UNRWA and International Community? And finally, civil society and its role in promoting all topics were discussed.

Through its four working days the meeting came out with a series of issues and positions that are significant for both Palestinians and Lebanese, and could be summarized as follows<sup>23</sup>.

- The Palestinian refugees' right to return to their homes and properties according to UNGA resolution 194 is a sacred and inalienable right. It is an individual and collective right and cannot be relinquished in return for the establishment of a Palestinian state.

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<sup>22</sup> The main items included in this memorandum were quoted from previous memoranda: the 'Unified Palestinian Delegation' memorandum of August 1991 and the 'Memorandum Concerning a New Palestinian- Lebanese Relationship' of April 1999.

<sup>23</sup> For the final statement issued by the debate meeting see [www.palhumanrights.org](http://www.palhumanrights.org).

- All active actors in the Palestinian community, including Palestinian factions, are requested to confront threats to social security through establishing effective popular committees on a democratic basis that would create an adequate social safety valve to immunize Palestinian society and protect it from social ills and behavioural delinquency.
- The role of the PLO in Lebanon needs to be activated. Therefore participants recommend the establishment of a unified Palestinian referential authority in Lebanon that enjoys transparency and credibility and is able to express the interests of Palestinian refugees without making any compromises on their basic rights.
- Recognizing that the policy of the Lebanese government toward Palestinians should be framed on the basis of mutual rights and duties, participants call for: developing a joint vision that rejects settlement and expulsion schemes and ensures Palestinian refugees right of return, ensuring civil, economic, social and cultural rights enshrined in international law; ending the security measures around refugee camps, and finding a solution to the issue of Palestinian weaponry through constructive dialogue; reopening the PLO office in Lebanon; and respecting all regional and international instruments relevant to Palestinian refugees' rights to which Lebanon is signatory;
- It is required to improve UNRWA's performance through increasing its services to keep pace with the rapid growth in the refugee number and to meet their needs;
- International community should enforce the role of regional and local NGOs that are concerned with human development by ensuring necessary funding according to the needs and priorities as stated by the refugees themselves.
- Civil society organizations are considered a principal supporter of the Palestinian refugee community, therefore increasing the number of civil organizations and upgrading their work has become necessary to back up the refugee community.

At the end, participants agreed on forming a committee to follow up on the recommendations with Lebanese officials and other policy makers.

3. Other Initiatives: In this section I will demonstrate two additional initiatives that brought together Palestinians and Lebanese in direct dialogue. The two initiatives were supported by some concerned circles in the international community:

*The Lebanese-Palestinian Youth Dialogue on Conflict Resolution:* This project was organized by three non-governmental organizations: the Joint Christian Committee for Social Service, the Palestinian Human Rights Organization, and MIRSAD (Multi-Initiative on Rights: Search, Assist and Defend). It was funded by the European Union in collaboration with the office of the Minister of State for Administrative Reform. The 40 Lebanese and Palestinian students participating in this dialogue come from 6 universities in Lebanon. The project includes cross-community cultural exchange visits and human rights workshops in universities, in addition to the creation of a Lebanese-Palestinian youth volunteer network.

Project coordinator Aline Hitti, who has been doing volunteer work in Palestinian refugee camps for years, explained that the project aims at 'tearing down walls of prejudice and ignorance between the Lebanese and Palestinian communities and replacing them with bridges of understanding and communication'. She said: 'Dialogue paves the way to better

understanding and eventually solutions to divisive issues especially when approached with objectivity and an open mind<sup>24</sup>.

A Lebanese student participant in the dialogue said that he was tempted to participate because of the misconceptions and inaccuracies carried through generations about Palestinian refugees in Lebanon<sup>25</sup>.

The Chatham House Workshop on Palestinian Refugees in Lebanon: This workshop was convened by Chatham House in Limasol, Cyprus (17-18 September 2005) and funded by Canada's International Development Research Centre (IDRC) and the Canadian International Development Agency (CIDA). The purposes of the meeting were: to test the hypothesis that recent developments in the last year have resulted in a change of atmosphere in Lebanon whereby the refugee issue can be discussed more freely and more positively; to better understand the impacts of these developments on the Lebanese refugee scene; and to make recommendations to Palestinian and Lebanese civil society groups as well as regional and international policy makers on how to move forward on the issue of Palestinian refugees in Lebanon.

The meeting was attended by Lebanese and Palestinian officials, academics and experts, most of who had previously taken part in Chatham House and/or Centre for Lebanese Studies meeting on the Middle East process and the Palestinian refugee issue (Chatham House 2005)<sup>26</sup>.

Here is a summary of the most important observations and recommendations emerging from the workshop: There is a positive atmosphere in Lebanon with regard to the Palestinian refugee issue, where the debate on this issue in the last year has seen more public and official acceptance. There is also a positive change in official Palestinian discourse on the refugee issue. There is a Lebanese acknowledgment that the strategy of ignorance of the refugee file over the years has contributed to a humanitarian crisis in the Palestinian population, especially those living in camps, and this is not in the interest of Lebanon; the poor treatment of Palestinians in Lebanon has damaged Lebanon's reputation internationally, though some participants consider that the extent of the maltreatment is slightly exaggerated; the resulting plight of Palestinians in Lebanon has made their situation a priority for international policy makers and within the peace process, and some believe that this is the intention of the Lebanese government. There is a need to give the Palestinian issue in Lebanon its proper scale and perspective, as it was noted that the issue has never been either a priority for the Lebanese or the Palestinian authorities; confidence-building measures and a change in language and discourse are needed on both sides. The issue of arms has to be looked at in its own right and not linked to the civil rights issue and it was emphasized that improvement of economic and social rights should not be a trade-off. UNRWA has serious problems in Lebanon and a review of its role and the quality of its services is necessary, and the international community should be mobilized on the Lebanese-Palestinian front with particular attention to UNRWA and socio-economic development projects for the Palestinian population in Lebanon. The procedures which impacted the Palestinian population were always handled exclusively by the security service and no civilian authority had jurisdiction over the issue. Both

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<sup>24</sup> *The Daily Star*, 29 June 2005.

<sup>25</sup> *ibid.*. Also see [www.yahoogle.com/Lebpdiallogue@yahoo.com](http://www.yahoogle.com/Lebpdiallogue@yahoo.com)

<sup>26</sup> Having been a participant in this workshop, I am entitled to refer to discussions, without reporting who said what, according to the Chatham House rules.

Lebanon and PLO/PA should reactivate an institutional framework to address the refugee issue in Lebanon and to fill this institutional vacuum which has exacerbated the problem and policy towards refugees; there has to be a reactivation of an agreement between Lebanon and PLO in the wake of the unilateral abrogation of the 1969 Cairo agreement.

At the end, participants observed that there is no contradiction between recognizing the civil rights of Palestinian refugees in Lebanon and the political/constitutional position of both Lebanese and Palestinians for the right of return which affirms its rejection of 'Tawtin' or permanent settlement of refugees.

To sum up, I believe that the results of the inter-Palestinian dialogue, the developing Lebanese political landscape, and regional developments will together determine the extent of rights that would be granted to Palestinian refugees in the new era of Lebanese-Palestinian relationship.

## Conclusions

In spite of the debatable notion of Palestinian 'exceptionalism' with respect to the particular colouring of Palestinian displacement, we suggest that the Palestinian diaspora shares several common features with other diaspora groups<sup>27</sup>; namely dispersal from an original homeland, often traumatically; a collective memory and myth about the homeland; an idealization of the past in the ancestral homeland; the development of return movements that gain collective approbation; a strong ethnic group consciousness sustained over a long time; lack of acceptance on the part of host societies; and possibility of a distinctive, creative, enriching life in tolerant host countries<sup>28</sup>. Needless to say that these features, more or less, are characteristic of Palestinian refugee communities in Lebanon and elsewhere.

Despite their protracted refugee in Lebanon, Palestinian refugees lack a separate legal status that distinguishes them from 'foreigners', and grant them the basic human rights in accordance with the provisions of applicable international norms and standards.

Unlike most liberal democracies, where civil rights are linked to permanent residency, in Arab countries, including Lebanon, the right to citizenship is considered as a primary right from which other civil rights and entitlements are derived.

The Palestinian community in Lebanon is not asking for citizenship, and its demand for civil rights does not entail the right to citizenship. Having been abandoned and neglected by the peace process makers, Palestinian refugees are attempting to accommodate their isolation and inattention through seeking greater civil and social rights in the local Lebanese context. They perceive these rights as a strategy for survival in a desperate situation.

Granting Lebanon's Palestinians a wide range of civil rights should not constitute a 'disfranchisement' of Lebanese citizenship. Eventually Palestinians themselves reject the scenarios of resettlement and naturalization and would not give up the legal status of 'refugee' as it is perceived by them as 'an asset in the battle to survive' (Peteet 1996), and above all it

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<sup>27</sup> See, for instance, Cohen 1977: 26-29, 100.

<sup>28</sup> For further discussions on the notion of 'exceptionalism' see the main findings of a workshop organized by Exeter University entitled: 'Transferring Best Practices: An International Workshop on the Comparative Study of Refugee Return Programmes with Reference to the Palestinian Context', 9-12 June 2003, University of Exeter, UK.

maintains their national identity and legitimizes their right to return. For Palestinian refugees in Lebanon, the obtaining of civil rights does not mean complete integration; rather, it serves to mitigate their destitution and alleviate their day-to-day suffering.

Although the Palestinian presence in Lebanon is still perceived by the majority of Lebanese elites as a problem that often plays a decisive role in unifying conflicting elements of the Lebanese polity, we should recognize that the current political period witnesses considerable public and official acceptance in terms of granting Palestinian refugees additional civil rights in the wider context of the ongoing reconciliation process, known as Ta'if -2.

However, there are profound fears amongst Palestinians that the fate of such an approach might be left to the uncertainties of domestic and regional politics. Until then Palestinians in Lebanon have to cope with the continuing restrictive approach and sectarian narrow self-interest prism that considers civil rights for Palestinian refugees as a step towards their permanent settlement in Lebanon, and consequently as a threat to the delicate sectarian demographic balance in the country.

One of the issues that needs to be brought out here is the ambiguous legal status of Palestinian refugees in Lebanon. To override this situation, Palestinian refugees should be granted by Lebanon a stable legal status. We argue that national legislation in Lebanon should be reinterpreted and reconciled with international instruments, so as to establish more solid criteria for Palestinian refugees' rights, based on their legal prolonged residence and the standards that the international community has articulated with respect to treatment of refugees worldwide. The first step would be to establish a separate legal status for Palestinian refugees to distinguish them from foreigners.

Lebanon has ratified a number of international covenants and conventions. These ratifications allow for harmonizing domestic Lebanese law with international norms and standards pertaining to refugees, keeping in mind that article (2) of the code of civil proceedings extends them preference over domestic law. This article exposes the general principle according to which 'in case of a contradiction between domestic law and the provision of applicable international norms, the international norm shall be applied' (FIDH 2003: 10).

It is important to note that the predicament of Palestinian refugees in Lebanon is not solely the result of the exclusivity of the Lebanese Legislation and irrationality of Lebanese state policy and practice. Rather, other actors are to blame, and the responsibility must also lie with the international community that has fashioned a peace process hardly worthy of its name.

The troubled history of Palestinians in Lebanon has played a decisive role in casting their present identity and shaping their perspectives and attitudes towards the peace process or what remains of it. Palestinians in Lebanon probably face the most uncertain fate relative to other Palestinian refugees. Furthermore, their anxiety over their fate has deepened because the peace process has reached a deadlock and whatever agreement could be reached it would not craft durable solutions based on the right of return, the legal underpinnings for which are to be found in three main bodies of law: human rights law, humanitarian law and law of nationality.

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