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Palestinian Refugees from Syria (PRS) in Jordan:
The State of Exclusivism

Raed Eshnaiwer

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European University Institute

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Abstract

The plight of Palestinian refugees from Syria exceeds the limits of the normal refugee issue: it is more than an issue of crossing a state frontier: it also goes beyond the breakdown of the state-citizen-territory relationship. This paper sheds more light on the situation of PRS in Jordan and highlights the protection gap, and the exclusivism they are encountering there. In addition, it offers possible ways of ending their deteriorated situation; and drawing on some scenarios for that situation.

Keywords

Exclusion, Protection Gap, Refugees, Refoulement, State.

1- Introduction

The conflict in Syria has become the longest chapter in the “Arab Spring”, with the highest rates of casualties, death tolls, refugees and displaced persons. The events there have imposed serious security threats on the whole region, especially with the rising power of Islamic groups, particularly the Islamic State in Iraq and Syria (ISIS) and its military involvement in the war; which, among other factors, led to the country being carved up into religious/sectarian zones of influence. This “Geo-Sectarian” division forces civilians to choose camps on the ground; a fact that has led more and more Syrians to seek refuge in neighbouring countries. Some of those refugees are Palestinians, whose ancestors have been living in Syria since 1948 and who had long been part of the Syrian community.

Palestinian refugees from Syria (PRS) are one of the groups to be most seriously affected by the Syrian conflict. Their camps were besieged and bombarded as it was claimed that they were hiding "terrorists;" this led many of them to be internally displaced or to seek refuge in neighbouring countries. According to statistics of the United Nations Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA), there are 15,000 PRS in Jordan and 44,000 in Lebanon; in addition to 280,000 internally displaced persons, out of a total of 560,000 PRS inside Syria (UNRWA 2015). PRS who succeeded getting into Jordan and Lebanon are facing a protection gap¹ due to the lack of clear and formal policies on entry, stay and legal process: this leaves them with a limbo status. Moreover, the PRS who entered these countries are registered with UNRWA as non-registered assistance recipients, to ensure that the PRS remain registered with UNRWA-Syria, but their needs are covered by UNRWA, in the host country.²

The plight of Palestinian refugees from Syria exceeds the limits of the normal refugee issue: it is more than an issue of crossing a state frontier: it also goes beyond the breakdown of the state-citizen-territory relationship. The particularity of this group stems from three main points. First, it is a continuation of the forced Palestinian migration that started in 1948, the most protracted refugee crisis of the twentieth century, for which the state of Israel holds full responsibility. Second, PRS are not citizens in the country of first refuge, Syria, which causes a basic defect in the state-citizen relation: this might even affect their right to return at the end of the crisis, as will be discussed below. Third, the majority of them sought refuge in one of two neighbouring countries, Lebanon and Jordan. These countries already host the largest Palestinian refugee communities in the world, which creates negative reactions against them in these two countries; mainly in Lebanon which harshly discriminates against Palestinian refugees.

This paper sheds more light on the situation of PRS in Jordan and highlights the protection gap, and the exclusivism they are encountering there. In addition, it offers possible ways of ending their deteriorated situation; and drawing on some scenarios for that situation.

2- Palestinian Refugees in Syria

Palestinian refugees came to Syria in more than one wave after 1948. The first influxes of about 70,000-90,000 Palestinian refugees, fled mainly the northern areas of historical Palestine towards Syria: these Palestinians were granted certain rights by the Syrian government. However, these rights

¹ See section 3.3 below. See also (Akram and others 2014).

² UNRWA operates in five areas only: Syria, Lebanon, Jordan, West Bank and Gaza Strip. Most of the Palestinian refugees in these areas are registered with one of UNRWA's offices there, which makes them eligible for the agency services. In order to avoid double registration, UNRWA decided not to register PRS (who are already registered in Syria) to its offices in Jordan and Lebanon; therefore UNRWA called those PRS "Assistance Recipients" in Jordan and Lebanon.

did not include citizenship: they were granted, though, a special Syrian travel document for Palestinian refugees and an UNRWA card to benefit from the assistance of the agency. A second group were those Palestinians who evacuated the Quneitra governorate in the Golan Heights, due to the Israeli occupation in 1967; around 4,200 of them were housed in Dera'a camp.³ Third there were Palestinians who were deported from Jordan after the Black September clashes in 1970-71. Those Palestinians held expired Jordanian documents, and the Syrian authorities refused to grant them any kind of Syrian documents; therefore, their children and grandchildren were deprived of their Jordanian nationality, and were not granted any Syrian document (Hassan 2014, 33). Finally, thousands of Palestinians fled Lebanon in 1982 as a result of the Israeli invasion, and found shelter in Syria.⁴

The case of Palestinian refugees in Syria was unique compared to other host countries. This uniqueness was reflected in a series of laws, through which the government attempted to integrate the initial influxes of Palestinians into the socioeconomic structure, while keeping for them their separate Palestinian identity. (Brand 1988, 621). Palestinians were not entitled to Syrian nationality even if they fulfilled its requirements; this decision was justified on the pretext that Palestinians should preserve their original nationality in order to protect their right of return.⁵ This deprivation of nationality prevented them from practicing their rights of political participation, voting, buying arable land and owning more than one house; although they had almost the same rights and duties of Syrian citizens. This was stipulated by Law number 260 of 1956:⁶

Palestinians residing in Syria as of the date of the publication of this law are to be considered as originally Syrians in all things covered by the law and legally valid regulations connected with the rights to employment, commerce, and national service, while preserving their original nationality. (Takkenberg 1998, 172).

Later on, President Jamal Abdul Naser, the president of the United Arab Republic (UAR),⁷ issued decree number 28/1960, according to which Palestinians in Syria were granted Palestinian travel documents. This was followed by law number 1311 of 1963, according to which Palestinians were granted special travel documents "Laissez-Passer" on condition that they were registered with the General Administration for Palestine and held Syrian Provisional ID cards. In 1999, a new law was ratified allowing Palestinian refugees in Syria to travel to and from Lebanon using their ID cards (Khalil 2007, 31-32).

3- The State of Exclusivism

This article postulates that PRS are encountering a state of governmental and institutional exclusivism in Jordan, which will be explained in the coming sections. This status has its negative legal, economic and humanitarian implications for that group. This comes out in terms of birth registration and job seeking, among others. I argue here that providing PRS with basic rights and treating them as other Syrian refugees in Jordan is a legal and humanitarian obligation that Jordan should abide by.

In the coming subsections, I will: define the concept of exclusion in the refugee context; discuss the discriminatory governmental policies against the PRS in Jordan; the protection gap encountered by that group; and the institutional marginalization that both UNRWA and UNHCR apply against them.

³ *Palestinian Refugees in Syria*; <http://www.alawda.eu/index.php/en/palestine/refugees/601>. Accessed in 20/5/2015.

⁴ Ibid.

⁵ Asem Khalil challenges this justification by arguing that obtaining a new citizenship does not abolish the right of a refugee to return to the homeland. see (Khalil 2007).

⁶ Of course this law applies only to the Palestinian refugees of 1948.

⁷ A short-lived union between Syria and Egypt in 1958-1961, which was headed by the Egyptian president at that time, Jamal Abul Naser.

3.1 Exclusion: Conceptual Framework

“Exclusion” indicates a state of denial and marginalization by the State, society, a certain group or even an individual, towards an individual or a group of people; “this can refer to denial of access to certain rights, resources or entitlements normally seen as part of membership of a specific society.” (Castles *et al.* 2002, 118).⁸ Thus, exclusion, which might entail persecution, is inversely correlated with human rights. For refugees, it can be argued that exclusion is part of the process of becoming a refugee, which is a political process that includes reorganizing the social order of nation states in a way that leads/forces certain groups to be excluded. (Hynes 2011, 4). This fundamentality of exclusion of or persecution against a person making them into a refugee is reflected in the definition of the refugee in the 1951 convention.⁹ The convention, in fact, specifies the reasons for persecution that might drive the refugee out of their own country. Being outside the country of nationality or of former legal residence, and deprived of its protection are all requirements for having refugee status. (Zolberg 1983, 27). In other words, a citizen must be excluded from his country to become a refugee in another country, where he might face other types of exclusion.

Most of the literature on exclusion focuses on social exclusion, which includes economic, social, and to some extent political aspects. This type of exclusion is defined as “marginalisation or detachment from a moral order, which is associated with a status hierarchy or a set of rights, duties, and obligations.” (Hanafi 2012, 35). Estivill defines it as an “accumulation of confluent processes with successive ruptures arising from the heart of the economy, politics and society, which gradually distances and places persons, groups, communities and territories in a position of inferiority in relation to centres of power, resources and prevailing values.” (2003, 19). This social exclusion applies to non-citizens/ refugees as much as it applies to citizens in the state.

One might argue here that social inclusion of refugees in the host countries should be the normal antidote for that exclusion. Inclusion is defined by Castles as: “The process whereby immigrants or refugees become participants in particular subsectors of society: education, labour market, welfare system, political representation etc. (2002, 117). Berman and Phillips add to that inclusion in the social security system, housing market, health service, community services and social status inclusion. (2000, 334).

The next part focuses on the state of exclusion that the PRS are encountering in Jordan at both governmental and institutional levels.

3.2- Jordanian Exclusionist Policies

Proceeding from the above definitions of exclusion and inclusion, we can say here that the Jordanian policies towards Palestinian refugees in general fluctuated between inclusion and exclusion, based on the situation and Arab political polarization. After the annexation of the West Bank to Jordan/ East Bank¹⁰ in 1950, the regime in Jordan attempted to create a hybrid Jordanian identity for both Trans-Jordanians (original dwellers of the East Bank) and Palestinians (on both banks, refugees and non

⁸ Three concepts of exclusion are relevant when we talk about refugees; First, “Differential Exclusion” which points to the inclusion of refugees in some areas of society (eg. labour market), but their exclusion from others (eg. political participation). Second, “Social Exclusion” where social sectors (e.g. education, employment, housing, health) are the main fields of discrimination against the refugee or a group of refugees. Finally, “Cumulative Exclusion” the state of being outside mainstream economic, social and political relationships. (Castles *et al.* 2002, 118).

⁹ The convention defines a refugee as someone who “owing to well-founded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his nationality and is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to return to it.”

¹⁰ Before 1949 the Hashemite Kingdom of Jordan was known as Transjordan (East Bank).

refugees).¹¹ This unified identity creation included discouraging and then outlawing the designations “Palestinian” and “Trans-Jordanian” in the official usage. (Brand 1995, 50).¹² This “Jordanization”¹³ of the identity, and the unity of the two Banks was designed to tighten the Hashemite’s grip on the whole territory, by claiming the oneness of its leadership. Of course, this territorial annexation was accompanied by legal and administrative inclusion, which meant naturalizing all Palestinians living on both banks.¹⁴

The creation of the Palestinian Liberation Organization (PLO) in 1964, by Arab consensus, granted Palestinians a political agency to lead and represent them. At some levels this organization constituted a threat to the Jordanian regime. The escalation of tension between the PLO (mainly the Palestinian fighters- *Feday’een*) and the Jordanian regime peaked in September 1970, when it turned into a military confrontation and ended with the expulsion of the PLO leadership from Jordan. The “Black September” was the turning point; It marked the beginning of exclusive Jordanian policies towards Palestinians, mainly refugees, under the slogan “East Banker first.” In addition, the September confrontations, according to Shlaim, “marked the emergence of a distinct Jordanian identity” marked by the Jordanization of the civil services and the armed forces of the Kingdom. This was accompanied by a slow process of disengagement between the two banks, that reached its climax in 1988 with a total administrative and legal disengagement. (2007, 340). West Bankers were deprived of their Jordanian citizenship due to that disengagement: meanwhile, Palestinians living on the East Bank were not targeted by this decision in terms of citizenship.

This historical context is essential to understanding the stance of the Jordanian regime towards the different groups of new Palestinian refugees, like those who were expelled from Iraq in 2003, or from Syria in the current crises. These groups are viewed as an extension to a threatening group of refugees, that constitutes high percentage of the population in the Kingdom. In addition, the already heightened sensitivity to the Israeli claims that “Jordan is Palestine” and the idea of the second homeland for Palestinians in Jordan, fuel this governmental exclusivism towards new Palestinian comers. This led the Jordanian Prime Minister Abdullah Ensour to say that “[w]e have to take all measures to ensure that Jordan does not become a substitute homeland for the Palestinians.”¹⁵ Of course, “all measures” includes *refoulement*, detention, closing borders and any other procedure guarantees that Jordan does not become a substitute homeland for Palestinians.

He said in another interview:

There are those who want to exempt Israel from the repercussions of displacing the Palestinians from their homes. Jordan is not a place to solve Israel’s problems. Jordan has made a clear and explicit sovereign decision to not allow the crossing to Jordan by our Palestinian brothers who hold Syrian documents. Receiving those brothers is a red line because that would be a prelude to another wave of displacement, which is what the Israeli government wants. Our Palestinian

¹¹ Brand divides Palestinians in Jordan into four groups: camp dwellers, Palestinian middle class, businessmen, and workers in the Gulf. (1995, 49).

¹² The four main elements in that identity are: association with the monarchy, loyalty to Arabism, centrality of Palestine, and the unity of the two people (Palestinians and Trans-Jordanians). (Brand 1995, 50-1).

¹³ Massad talks about the Jordanization of some Palestinians through the merging of the National Guard forces, which consisted mostly of Palestinian villagers, with the Arab Legion. (2001, 206).

¹⁴ Article 3 of the Jordanian nationality law of 1954, defines the Jordanian national as: “... (2) Any person who, not being Jewish, possessed Palestinian nationality before 15 May 1948 and was a regular resident in the Hashemite Kingdom of Jordan between 20 December 1949 and 16 February 1954.” <http://www.refworld.org/docid/3ae6b4ea13.html>. Accessed in 28/10/2015.

¹⁵ He said that in the context of receiving Palestinian refugees from Syria. http://www.petra.gov.jo/Public_News/Nws_NewsDetails.aspx?lang=2&site_id=1&NewsID=141696&Type=P. Accessed in 20 May 2015.

brothers in Syria have the right to go back to their country of origin. They should stay in Syria until the end of the crisis.¹⁶

Although these statements are mainly directed against PRS, we feel that they target Palestinian refugees in Jordan as a whole. All Palestinian refugees in the different countries of refuge share the same right of return to their original homeland, which is an indivisible right; and of course, Israel bears the legal and moral responsibility for that. Hence, in terms of the right of return, there is no difference between Palestinian refugees in Syria or Lebanon or Jordan or anywhere else. Therefore, we cannot use the pretext of exempting Israel from the repercussions of displacing Palestinians in order to justify the *refoulement* and the maltreatment of PRS.

The discriminatory Jordanian reactions towards the PRS were reflected in different state policies like closing the borders against PRS in January 2013: though Jordan is a party to the Convention Against Torture, and the Arab Charter on Human Rights, both of which affirm the right of *non-refoulement*. This closure of borders led many PRS to enter the country illegally relying on smugglers, which forced them to live in hiding, for fear of being arrested or returned to Syria. Living in an illegal way inside Jordan affected the PRS seeking assistance and protection, both physical and legal protection (Santos 2014, 27). Many detentions and deportations of PRS took place: there was also the frequent inability to register births and marriages. Since 2012, Palestinians in Cyber City have not been allowed to bail out, which is considered as a kind of detention for those refugees.¹⁷

There is the longstanding historical tension between the PLO and the Jordanian regime, but there are other reasons to explain the discriminatory procedures against PRS in Jordan. First, the Jordanian authorities are afraid of opening its borders to more PRS, or granting them any rights because they might choose to stay in Jordan rather than returning to Syria; Jordan has long feared being taken as the alternative homeland for Palestinians. The authorities stated that “Jordan will not open its border to the half million [Palestinian refugees from Syria] and will not tolerate Palestinian refugee camp number 11 on its territory, which might turn Jordan into the permanent alternative for some two million Palestinian refugees already established in the country.” (Hassan 2014, 32). Second, the Syrian authorities may refuse to repatriate the Palestinian refugees, claiming that it has no obligations towards those refugees; unlike the Syrian citizens towards whom Syria has national obligations. Such a scenario leaves PRS with no choice but to stay in Jordan and other host states, which exposes them to more threats and rights violations. Third, some Jordanian officials believe that it is the responsibility of the PLO and the Palestinian authority to ensure safe haven for those Palestinians, proceeding from the Palestinian authority’s claim of responsibility for Palestinians. Fourth and finally, this discrimination might be considered as an attempt to pacify political tension between the government and certain Jordanian political factions: these factions have showed growing concern about the idea of an alternative homeland for Palestinians. This was clearly reflected in the petition of the Jordan's National Committee of Military Veterans, “retired officers,” who criticized the weak governmental stance in facing the challenge of the alternative homeland, and called to constitutionalize and strictly implement the disengagement with the West Bank. This would include revoking Jordanian nationality from those Palestinians who can obtain Palestinian nationality.¹⁸

¹⁶ <http://www.al-monitor.com/pulse/ar/politics/2013/01/jordanian-pm-we-cannot-receive-palestinian-refugees-from-syria.html#>. Accessed in 19/5/2015

¹⁷ Protecting Syrian Refugees: Laws, Policies and Global Responsibility Sharing," Suzan Akram and others. 41, 43, 50, 65,66.2015.
<https://www.bu.edu/law/central/jd/programs/clinics/international-human-rights/documents/FINALFullReport.pdf>. see also the Human Rights Watch report, *Jordan: Bias at the Syrian Border. Palestinians Face Detention, Threat of Forced Return*. 2012. <http://www.hrw.org/news/2012/07/04/jordan-bias-syrian-border>. Accessed 15/4/2015.

¹⁸ See the text of the petition in Arabic on <http://www.ammonnews.net/article.aspx?articleNO=59696>. recalled in 28/10/2015.

3.3- Protection Gap

UNRWA was created under UN General Assembly resolution number 302 of 8 December 1949 to:

- ✓ Carry out, in collaboration with local governments, the direct relief and works programmes as recommended by the Economic Survey Mission (ESM).¹⁹
- ✓ Consult with the interested Near Eastern Governments concerning measures to be taken by them preparatory to the time when international assistance for relief and works projects is no longer available.²⁰

The ESM's interim report recommended giving work opportunities for refugees in the host countries through establishing a public work program, along with relief aid, by the UN and the local governments in order to absorb the refugees in local economies. Based on that report, the USA, the UK, France and Turkey drafted a resolution to the UNGA to establish a non-political temporary agency, the Near East Relief and Works Agency (NERWA) to implement the recommendations of the ESM. However, Arab states insistence on highlighting the affiliation of the new agency with the UN, in order to highlight the responsibility of the international community for the creation of the refugee problem, led to the name NERWA becoming UNRWA. (Husseini 2008, 6-7).

The existence of UNRWA was one of the pretexts used to exclude Palestinian refugees from the international refugee convention of 1951 (Article 1D).²¹ Arab states, mainly Egypt, Lebanon and Saudi Arabia, proposed that article because they were afraid that the Palestinian refugees would become submerged with other refugees under UNHCR mandate. This would relegate them to a position of minor importance, something that might affect their right to return. Therefore, they defended having a special and separate status for Palestinian refugees. (Takkenberg 1998, 62-6).

Since the creation of the Palestinian refugee problem, Arab states have been insistent on the right of return as the only acceptable solution for the refugee problem;²² therefore, the major host countries of the 1948 Palestinian refugees (except for Jordan) had adamantly refused to naturalize these groups, or to hold meaningful legal responsibilities towards them (except for some basic issues), leaving them to international organizations (UNCCP and then UNRWA) to offer them what resources were available. This *de facto* transfer of responsibility for managing refugees policies from sovereign states to a UN body was one of the reasons that led to the creation of the so-called protection gap; it also "weaken[ed] the normal connection between territorial sovereignty and state responsibility for people who are present on their territories" (Kagan 2011, 1-3).

Susan Akram argues that the dissolution of the UNCCP, the major body entrusted with providing protection for Palestinian refugees, left these refugees with whatever could be provided by UNRWA, which "was neither designed nor equipped to take over the UNCCP's protection function." (2002, 42).

¹⁹ ESM was created under the United Nations Conciliation Commission on Palestine (UNCCP) in 23 August 1949, in order to "examine the economic situation in the countries affected by the hostilities in Palestine" in order to facilitate the reintegration of Palestinian refugees into the economic life of the host countries within a minimum period of time. (Takkenberg 1998, 26).

²⁰ <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/051/21/IMG/NR005121.pdf?OpenElement>. Accessed in 29/10/2015.

²¹ Article 1D says that "This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance. When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention." <http://www.unhcr.org/3b66c2aa10.html>

²² This unified stance of the Arab states was the official one. However, some Arab states pursued individualistic strategies, under the table, to achieve some political and socioeconomic interests which affected the right of return for Palestinian refugees. For example Syria expressed its willingness to resettle 250,000 refugees, and to sign a peace treaty with Israel. Jordan was also willing to resettle 200,000 Palestinian refugees on obtaining financial aid from the UK. (Husseini 2008, 3-4).

As a result, Palestinian refugees had been deprived of obligatory international intervention for protection, “as is demonstrated whenever their refugee camps are bombed or they are massacred.” (2002, 45); and therefore, the provision of a durable solution, which was a core issue in UNCCP’s mandate, was excluded from the legal regime covering them. (Erakat 2014, 586).

To understand this protection gap one should understand what is meant by protection in the Palestinian refugees context. UNRWA defines protection as having four main components with external and internal dimensions. The first deals with “the right of Palestinians to a just and durable solution” to the Palestinian cause. UNRWA, unlike the UNCCP, has a limited role here due to the political nature of that right, and to UNRWA’s lack of authority to search for such a solution on their behalf. However, UNRWA can shed light on the urgent need for such a solution and for the preservation of the rights and interests of Palestinian refugees. The second component is “international protection,” the responsibility of entities exercising control over refugees. UNRWA’s role here is to promote dignity for refugees and respect for their rights through monitoring, reporting and intervention. Third, UNRWA is to provide services in a way that guarantees rights and security for both its beneficiaries and staff. And finally, guaranteeing that “protection needs are addressed in all aspects of programming, project design, policies, protocols and procedures, as well as in staff training.”(Consults report 2008, 3). The role of UNRWA in all these components of protection is still insufficient in bridging the whole gap of protection, especially the “durable solution requirement” and international protection.

For PRS in Jordan (and other places as well), the protection situation is even worse than for other Palestinian refugees. This is due to the use of *refoulement* and the highly discriminatory state policies they face, which opens up the issue of having an additional protection system for that group. This system necessitates the intervention (or perhaps the creation) of other UN bodies to bridge this gap of protection. The following section will discuss the option of intervention by UNHCR on behalf of PRS.

3.4- UNRWA or UNHCR?

The discriminatory procedures against PRS, which Syrian refugees are not subjected to, illuminate the high price of statelessness that PRS are paying (Sayigh 2013). This again highlights the exclusion that Palestinian refugees are facing in Jordan and Lebanon. Although UNRWA is responsible for those PRS, both the humanitarian and legal assistance it provided and is still providing them is inadequate to lift the burden of statelessness. It is, therefore, difficult to envisage any improvement in their situation in the meantime, unless genuine changes take place in the policies of the UN bodies (UNRWA and UNHCR), accompanied with changes in state policies.

The inadequacy in the assistance and protection that UNRWA offers these refugees is attributed to four main reasons. First, the uncooperative policies of the Hashemite Kingdom of Jordan, which hinders the provision of adequate assistance and protection for those refugees: and here we see how governmental exclusion might foster institutional exclusion. Second, as noted before, UNRWA has no clear protection mandate for Palestinian refugees, which leaves them alone, facing the discriminatory state’s treatments. Third, the chronic budget deficit that UNRWA faces hinders the provision of assistance for PRS, which led local communities to partially fill this gap by hosting some refugees. Finally, UNRWA offices and facilities in Syria have been critically affected by the conflict, which adds more financial burdens to the organization, and hinders its ability to meet the needs of the PRS.²³

This shortcoming in UNRWA services, assistance and protection, should *de facto* push for a better role for UNHCR towards Palestinian refugees from Syria. According to article 1D of the 1951

²³ Only 2% was covered of the total appeal that UNRWA made this year to meet the minimum requirements of the Palestinian refugees affected by the crisis in Syria. Also, one third of its facilities have been rendered inoperable because of that conflict. For more, look at the emergency appeal for 2015 at http://www.unrwa.org/sites/default/files/2015_syria_emergency_appeal.pdf

convention: "...When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention."²⁴ It should be clear that the main goal of this article, and paragraph 7(C)²⁵ of the UNHCR's statute, is to avoid redundancy in services and function between UNRWA and UNHCR, "not to reduce protection, coordination, and cooperation available to Palestinian refugees" (Erakat 2014, 615). In the case of PRS in Jordan (and Lebanon as well), protection/assistance from UNRWA has ceased for those who face *refoulement* whether at the borders or after being admitted to the state. In addition, the position of statelessness leaves those PRS insecure in the face of the states' actions, and UNRWA can do little about this.

The above cited second half of the article 1D raises many questions about the cessation of protection or assistance. Takkenberg states that "such protection or assistance" refers to the *possibility* of receiving the services of UNRWA, irrespective of whether refugees actually do so. Therefore, it is appropriate to speak of cessation in case the UN body is *unable* to provide assistance or protection. (Takkenberg 1998, 106-107). He adds that according to the German Federal Administrative Court "this wording [for any reason] excludes that the cessation of protection be limited to specific grounds" (109); which implies that the article does not require the cessation of protection or assistance in respect of all Palestinian refugees under the mandate of UNRWA. (109). This indicates that the cessation of protection or assistance might happen in respect of an individual or a certain group, while the UN body continues to provide protection or assistance to the category of persons to whom that individual or group belongs. (113).

Susan Akram argues that article 1D combines both the roles of UNRWA and UNCCP through the provision of assistance and protection consecutively; "if for some reason either of these agencies failed to exercise its role before a final resolution of the refugee situation, that agency's function was to be transferred to the UNHCR, and the Refugee Convention would fully and immediately apply without preconditions to the Palestinian refugees." This led Akram to conclude that the protection mandate should be fulfilled by UNHCR due to the UNCCP failure to do so. (Akram 2001, 174).

We may argue here, as many others did, that the alternative is not to replace UNRWA with UNHCR, but to enhance the protection role of UNRWA, through extending its mandate to include protection; or to extend the protection mandate of UNHCR to Palestinian refugees alongside (not instead of) existing agencies dealing with them. (Khalil 2011, 6). According to Akram this "is consistent with the special regime in providing one agency for [the] protection of Palestinian rights and another for providing material assistance" (2002, 47). Noura Erakat argues that "Within less than two decades, the two agencies discovered that strict adherence to their respective mandates threatened such continuity [of protection and assistance offered by the two agencies for Palestinian refugees] and exposed Palestinian refugees to heightened vulnerability."²⁶(Erakat 2014, 589). This "hybrid" system, which mixes the roles of UNHCR and UNRWA, proved useful in dealing with previous cases of Palestinian refugees, who fled the war in Iraq, or who were deported from Libya.

²⁴ It is worth mentioning here that this clause of the article, which is known as the inclusion clause, does not link the cessation of the assistance or protection with the area; which means that this cessation might apply to Palestinian refugees living in one of the UNRWA's area of operations in case UNRWA was, for any reason, prevented from working there.

²⁵ Article 7(C) states that "Provided that the competence of the High Commissioner ... shall not extend to a person.... Who continues to receive from other organs or agencies of the United Nations protection or assistance." <http://www.unhcr.org/4d944e589.pdf>.

²⁶ Erakat argues that the two organizations can play a complementary role in providing assistance and protection for Palestinian refugees as they did in the cases of Palestinian displacement from Kuwait, Libya, Iraq and Lebanon. However, Erakat observes that the displacement of PRS demonstrates a deterioration in the collaboration between the two agencies (612).

The real and frequent intervention of the UNHCR in the cases of Palestinian refugees is not encouraged by the donor states, particularly the US and Israel, since this intervention entails searching for durable solution for those refugees according to UN resolution 194 and international law, like UNCCP: this touches, of course, an Israeli taboo. Therefore, the organization tries to limit its intervention to the ultimate minimum, while providing humanitarian assistance, and resettlement in some cases. This forces us to think politically rather than legally of the way out of the crisis of PRS, which necessitates, as we shall see below, a more active role by the Palestinian Authority.

4- Post-War Scenarios

The situation in Syria is degenerating, due to the involvement of different armed militias in the conflict, and military interventions by Iran and Russia. This adds to the vulnerability of groups like refugees, and gives an additional burden to the minorities among those refugees like Palestinian refugees. In what follows, I will try to draw up two main post-conflict scenarios for the PRS in Jordan, and the role of the two main UN bodies, UNRWA and UNHCR, in these scenarios.

4.1- First Scenario: Repatriation to Syria

Voluntary repatriation²⁷ and compensation/restitution is the preferable option for solving refugee problems. Although UNRWA has neither mandate nor experience in repatriation, it still has a great role to play in any repatriation process for PRS; through the data preserved in the agency's archives about property ownership and family records. This relatively new experience requires further extension of the agency's mandate to include repatriation to the host country, which opens the door for a more political role for the agency to play, this includes negotiations with the host country in accepting these refugees back.

What role might be played by UNHCR in that case? Shall Palestinian refugees from Syria be excluded from the UNHCR repatriation process as they are excluded from its mandate? Previous experiences show that UNHCR repatriated 370,000 Cambodian refugees from Thailand in 1992-1993, who were under the mandate of another UN agency (United Nations Border Relief Operation UNBRO). They did so after being authorized by the Cambodian peace plan to monitor the repatriation process. (Fagen 2007, 42). This means that the agency might be able to act on behalf of the PRS, if provided with political authorization from the host country, Syria, and the donor states. In this case, intensive cooperation between UNHCR and UNRWA is inevitable.

Other questions might emerge like; where will those refugees go back to? Will the host country allow them to go back to their original homes, camps, cities? Or, since they are not returning to their homeland, has the host country the right to impose new places for those refugees to be returned to? These are crucial questions for Palestinians, since they touch upon the issue of the camps, one of the significant symbols of the Palestinian Diaspora. Neither UNHCR nor UNRWA will be able to interfere in these political questions, whose answers are up in the air till the end of the conflict. However, the two agencies should negotiate with the Syrian authorities to guarantee the safe and just repatriation for those refugees to their homes.

Time is one of the most important factors in any repatriation process, especially when there are many refugees and internally displaced persons (IDPs) to be repatriated. In the case of Syrian refugees, it might take many years after the cessation of the fighting to repatriate the huge influxes of refugees in neighbouring countries, and the IDPs in Syria itself. This should take into account the new political and geographical situation on the ground, which might hinder repatriating some refugees to

²⁷ Repatriation here means sending the refugee back to the host country (Syria), which is different from return to the homeland, Palestine.

their homes due to the new sectarian situation there. In addition, any division in the country would add a greater burden on UNHCR to negotiate with more than one authority, which might also hinder the repatriation efforts. Palestinian refugees from Syria will be the most vulnerable among those repatriated refugees for two reasons. First, they are not Syrian nationals. Second, they are excluded from the UNHCR mandate, which is responsible for repatriation. This means that their repatriation will take longer than that of other Syrian refugees, leading to more violation for their rights in the host countries. Hence, protection should be guaranteed for PRS during the repatriation process, and they should be given priority due to their vulnerable situation.

4.2- Second Scenario: Refoulement by Syrian Authorities

Political calculations may lead the Syrian authorities to not welcoming the return of Palestinian refugees to the Syrian lands, especially those Palestinians who supported this faction or that. Hence, Palestinian refugees from Syria may encounter similar consequences faced by Palestinian refugees from Iraq at the Iraqi-Jordanian borders in 2006, or by Palestinians from Libya at the Libyan-Egyptian borders, 1995.

This option will definitely end up with the resettlement of those refugees by UNHCR, similar to those Palestinian refugees from Iraq who were resettled in Brazil and Chile in 2006 (Erakat 2014, 593); this entails more scattering for Palestinian families. Some of the PRS, those who have Jordanian passports, may opt to stay in Jordan if the Jordanian authorities allow them to, which might mitigate their distress.

In the two scenarios, the Palestinian Authority should play a dynamic role in ensuring the safe repatriation of those refugees. This role includes: first, negotiating with the different authorities, Syrian, Jordanian, Lebanese and Turkish, to ease the border crossing and the settling down of those refugees; second, coordinating with UNRWA and UNHCR to guarantee that PRS go back to their homes, towns and camps, and are not scattered across the country; third, lobbying with the donor states to fundraise for the sake of assisting PRS once repatriated; fourth, coordinating with the Syrian authorities to neutralize the Palestinian refugee camps in any coming conflict, and to protect the repatriated Palestinian refugees there from the ramifications of the current conflict.

5- Conclusion

One of the major conclusions that this paper would highlight is the necessity of offering immediate protection for Palestinian refugees from Syria in their countries of refuge. This provision of protection should be accomplished through coordinating the efforts of both UNRWA and UNHCR. The failure of the two agencies in protecting those refugees underlines the difficulties of the international community, which has not been able to find a durable solution for the Palestinian refugee issue 67 years after the forced expulsion began. The two agencies should negotiate with the governments of the host states to keep their borders open for PRS, treat them equally with other Syrian refugees, and improve their humanitarian conditions.

Palestinian refugees are among the most vulnerable persons in times of conflicts in the host countries: in great part due to their status as stateless persons (except in Jordan). This takes us to the current debate about nationalizing those refugees, either through granting them the nationality of the host countries, or the nationality of the Palestinian state once established.²⁸ it should be noted that neither of the two options affects their right of return to their homeland. Although this might temporarily solve part of their problems in the host countries, Palestinian refugees view this option as an attempt to terminate their cause by naturalization, which is refused to large numbers of refugees.

²⁸ For more about granting citizenships for Palestinian refugees, see (Khalil 2014).

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Author contacts:

Raed Eshnaiwer

Université Libre De Bruxelles

Avenue F.D. Roosevelt, 39

B-1050 Bruxelles

Email: reshnaiwer@gmail.com