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PALESTINIAN REFUGEES IN ARAB STATES: A RIGHTS-BASED APPROACH

Asem Khalil

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**Palestinian Refugees in Arab States:
A Rights-Based Approach**

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CARIM

**EURO-MEDITERRANEAN CONSORTIUM FOR APPLIED RESEARCH ON INTERNATIONAL
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Abstract

This paper tackles the issue of Palestinian refugees in host Arab states, their legal status and rights. The paper's criteria can be found in those universally accepted standards applicable to refugees, as a special category of persons in need of national and international protection and assistance, and in those minimum guarantees (human rights and freedoms) which are present in international conventions and declarations, applicable both in times of armed conflict/occupation and peace.

This paper suggests that these international measures adopted for Palestinian refugees are unsuitable and insufficient in the context of long conflicts and long-standing occupation. It is true that the Palestinian refugee issue is unique. However, it is a legal distortion to understand this uniqueness as a reason to treat Palestinian refugees differently from other refugees, as if they stand outside International Refugee Law.

The policies of host states and of the international community, this paper suggests, demonstrate that the basic rights and freedoms of individuals take second place to the formulation of national policies in their legal texts. The exclusion of Palestinians from international protection mechanisms has rendered the position of millions of Palestinians in host Arab states precarious. Besides, in the case of the Palestinians, 'refugeehood' is accompanied by statelessness; accordingly, it becomes a source of instability, insecurity and risk, for both the country of first refuge, and third states, which are possible targets of refugee migration.

The rights-based approach that this paper adopts underlines the need to take not only the needs of refugees but also their rights seriously in order to identify certain standards of treatment to which an individual refugee is entitled. Rights, after all, imply justiciability, responsibility and accountability.

Résumé

Ce rapport traite de la problématique de la situation des réfugiés palestiniens dans les pays arabes d'accueil, sous l'angle de leur statut et de leurs droits. Pour ce faire, l'auteur les considérant comme une catégorie de personnes ayant besoin de protection et d'assistance nationale et internationale, prend pour standards de référence, d'une part, les normes et principes universellement acceptés et appliqués dans le domaine du droit international des réfugiés et, d'autre part, les droits et libertés garantis en temps de paix et de conflits armés.

Il montre que les mesures internationales adoptées par les réfugiés palestiniens sont devenues inadaptées et insuffisantes au fil des conflits et de l'occupation israélienne. S'il reconnaît la spécificité de la situation des réfugiés palestiniens, il montre que traduire cette spécificité par une exclusion du champ d'application du droit international des réfugiés aboutit à un traitement juridique inadéquat de leur situation.

Le rapport opte pour une approche basée sur les droits, qui montre la nécessité de prendre sérieusement en considération non seulement les besoins mais aussi les droits des réfugiés palestiniens afin de déterminer le traitement auquel chacun d'eux peut prétendre. Par ailleurs, cette approche met en lumière la nécessité de leur reconnaître leur qualité de sujet de droit afin de favoriser leur responsabilité et leur autonomie.

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List of Abbreviations

CIL	Customary International Law
GS	Gaza Strip
IHL	International Humanitarian Law
IHRL	International Human Rights Law
IRL	International Refugee Law
LAS	League of Arab States
LRCS	League of Red Cross Societies
NCHR	National Centre for Human Rights (Jordan)
oPt	Occupied Palestinian Territory
PA	Palestinian Authority
PLO	Palestine Liberation Organization
RTD	Refugee Travel Document
TD	Travel Document
UNGA	United Nations General Assembly
UNHCR	UN High Commissioner for Refugees
UNRWA	United Nations Relief and Works Agency for Palestine Refugees
WB	West Bank
WBGS	West Bank and Gaza Strip

1. Introducing the Topic and the Paper

This chapter offers a historical overview (section 1.1), then stresses the importance of studying the legal status of Palestinian refugees (section 1.2), sets out the structure of the paper (section 1.3) and defines the terms in the title of this paper (section 1.4).

1.1. Brief Historical Overview

After recalling how Palestine was fragmented into three entities in 1948, causing division in the legal status of Palestinians (Section 1.1.1), this paper argues that the 'Palestinian Issue' (*questione palestina*, by analogy to *questione romana*) cannot be resolved by establishing a Palestinian state while neglecting the issue of Palestinian refugees (Section 1.1.2) and challenges the common notion that Palestinian refugees are a case apart, that should be dealt with outside the protection framework applicable in the case of other refugees (Section 1.1.3).

1.1.1. Dividing Palestine and Dispersing Palestinians

Following the 1948 War Palestine was no longer a single political entity. Indeed, the 26,434 km² forming Palestine under the British Mandate was divided into three zones: Israel, the West Bank (hereafter WB), and the Gaza Strip (hereafter GS). Since then Palestinians have suffered a fragmentation in their legal status (Khalil 2007b, 4-10).

One out of two Palestinians was displaced during the hostilities that accompanied the creation of the State of Israel (14 May 1948). Roughly 150,000 Palestinians remained within the Israeli controlled zone, 20% of whom were internally displaced (Badil 2007, 9) and whom obtained, with time, Israeli citizenship.

Most (85%) of the indigenous Palestinian population in the territory that became Israel, was displaced to the remaining Palestinian territory, the West Bank and Gaza Strip (hereafter WBGS). The WB was unified with Transjordan in the Hashemite Kingdom of Jordan in 1950 and its Palestinian population, including refugees, was granted Jordanian citizenship by the 1952 Jordanian Constitution. While the GS came under Egyptian control and its Palestinian population, including the refugees remained *de iure*, 'Palestinian', but *de facto* stateless (Khalil 2007a, 23).

Following the Six-Day War in 1967, the WBGS was occupied by Israel; almost one third of the Palestinian population of the WB (including eastern Jerusalem), and the GS were displaced, half of them for the second time (Badil 2007, 14). Jerusalem was (illegally) annexed to the State of Israel, while the Palestinians of Jerusalem were refused Israeli citizenship.

Residents of the WBGS were granted an ID number by Israel. But this is not equivalent to citizenship because these residents lack any legal connection to a state; in other words, Palestinians who remained in the occupied Palestinian territory (hereafter oPt) as much as those who left it, became stateless. Those Palestinians who were forced to leave the oPt, or were outside the oPt at the time of the war, were not allowed to return because they did not have an ID number: and they did not have an ID number because had not been present in the oPt at the time the census had been carried out.

The Palestinian National Council declared the independence of the state of Palestine on 15 November 1988, without though assuming any authority over the land. Negotiations between Israel and the Palestinians began in 1991 at the Middle East Peace Conference in Madrid, sponsored by the US and the USSR, and continued in Washington and Oslo and finally the government of Israel and the Palestine Liberation Organization (hereafter PLO) came to an agreement. The Government of Israel and the PLO signed the Declaration of Principles on Interim Self-Government in Washington on 13 September 1993 (also known as Oslo I).

1.1.2. The 'Questione Palestina'¹

'Palestinians are the largest stateless community in the world' (Shiblak 2006, 8) and the largest refugee community: currently, there are 4,618,141 Palestinian refugees registered at the United Nations Relief and Works Agency for Palestine Refugees (hereafter UNRWA), distributed in its areas of operation as follows: 1,930,703 in Jordan, 416,608 in Lebanon, 456,983 in Syria, 754,263 in the WB and 1,059,584 in the GS.²

The lack of formal citizenship remains, at the beginning of the twenty-first century, a key concern for more than half the global Palestinian population (Hammami and Johnson 1999, 316). This fact is related to the non-existence of a Palestinian state, in conformity with the Partition Plan and the right to self-determination (Khalil 2007a, 28).

There is no question that the existence of a state matters for Palestinians. Shiblak (1996, 45) even suggests considering the two dimensions of refugee experience (life under Israeli occupation and life in the Arab diaspora) together to understand why Palestinians are convinced that stability and security will come only with a Palestinian state. This paper, however, argues that the 'Palestinian issue' unlike the '*questione romana*' will not be resolved by the establishment of a territorial state, called 'Palestine'; the refugees have been part of the problem from the beginning and they need to be part of the solution. As Said has it (2005, 349) the 'fate of the Palestinian refugees is... the critical issue for resolving the conflict in historic Palestine'.

Negotiations in Madrid and in Oslo gave birth to the so-called 'peace process', including the interim period and permanent status negotiations. This process was a failure. The Oslo process, indeed, was not about ending the occupation, but rather about granting the Palestinian Authority (hereafter PA) some control over parts of the oPt. The peace process in the interim period involved a redeployment of Israeli forces in the oPt and the PA, a creation of the Oslo agreements, administered only parts of Palestinian territories and the Palestinian people, side by side with the Israeli administration. Most importantly, the peace process did not tackle core issues, such as the question of Palestinian refugees.

Palestinian refugees fall, *grosso modo*, into three categories: **First**, Palestinians displaced or expelled from their place of origin as a result of the 1948 war (the *nakba*) and their descendents. These are the largest groups. **Second**, those displaced for the first time from their places of origin as a result of the 1967 war. **Third** those who are neither 1948 nor 1967 refugees, but who dwell outside the area of the former Palestine and are unable to return (due to revocation of residency, denial of family reunification, and deportation) or are unwilling to do so owing to a well-founded fear of persecution (Badil 2007, 42).

These three categories go to make up the 'Palestinian refugees' of the title of this paper, though they may not fit into any of the different (legal or operational, national or international) definitions, given to that term.³ For this reason, the present paper gives an initial description of the status of the 'Palestinian refugees' *of* Egypt, Jordan, Lebanon, and Syria (the countries with the largest Palestinian refugees' communities), to reach a broader understanding of the rights and freedoms of 'Palestinian refugees' *in* those countries. Accordingly, we concentrate on 'registered' (according to national criteria and mechanisms) Palestinian refugees in Arab countries, to tackle at a later point the way non-

¹ The 'Questione Romana', that ended with the establishment of the Vatican State and the end of Pontifical claims on Rome.

² Figures as of 30 June 2008, as published on the UNRWA website: www.un.org/unrwa/publications/index.html (visited on 29 August 2008). The exact number of Palestinian refugees registered at UNRWA is knowable and can even be kept continuously up to date. But it is practically impossible to know the exact number of non-registered refugees. However, some estimates talk of about 1.3 million (Said 2005, 350).

³ For more about refugee definitions, cf. section 1.4.1.

registered Palestinian refugees are treated and the rights that they do (and do not) enjoy, based on available data and secondary sources.

In addition, we offer a description of the way Palestinian refugees, holding a recognized travel documents (hereafter TD) of other states or entities, are treated when entering, staying, or exiting from the national borders of concerned countries. For this reason, the example of Tunisia is given. This country was not a place of first refuge for Palestinians. However, at a certain moment, it had to regulate the way refugees, including Palestinian refugees, were treated.⁴

1.1.3. Palestinian Refugees: a case apart?

This paper suggests that international measures, which are by definition temporary, are unsuitable and insufficient for long-term conflicts and over periods of long-standing occupation, especially when individuals leave their country of origin, and successor state refuses to grant them nationality, while refusing their return, because they are holding the country of origin's nationality! As Elsayed-Ali put it (2006, 13): 'The Palestinian refugee problem is uniquely complex, protracted and significant. One of its peculiar aspects is that most Palestinian refugees want to return to their homes and/or lands but are unable to do so not because of a fear of persecution – commonly found in other refugee situations – but because they will not be allowed to enter the oPt or Israel by the Israeli authorities.'

However, this is not the only reason why many of those familiar with the Palestinian situation see Palestinian refugees as a case apart in global and regional terms. As pointed out by Rempel (2006b, 5), three other facts have reinforced that conviction: first, the UN General Assembly (hereafter UNGA) Resolution 181 of 1947 contributed to the initial forced displacement of Palestinians; second, the non-applicability of the definition of refugee included in the Convention relating to the Status of Refugees of 1951 (hereafter 1951 Refugee Convention) for the majority of Palestinian refugees; and third, the establishment of separate international agencies for Palestinians.

It must be admitted that the Palestinian refugee issue is atypical and unique; but, this paper challenges the overwhelmingly shared and long-accepted notion, that, for that same reason, these Palestinians need to be set apart and treated outside International Refugee Law (*hereafter* IRL). This is what Suzan Akram (2002, 36), rightly, calls a 'legal distortion': 'Palestinian refugees fall into a legal lacuna that sets them outside minimal international protections available for all other refugee groups in the world.' Shiblak (2006, 9) believes that the legitimacy of the decision taken in 1951 to exclude Palestinians from the international protection regime is being increasingly challenged by scholars, jurists and advocacy groups and that there is wider awareness of the need to make the international refugee regime relevant for Palestinian refugees and to formally acknowledge the impact of statelessness.

Policies of host states and of the international community prove that the basic rights and freedoms of individuals took second place to their right to return to their country of origin. Palestinian refugees in host states were treated as an atypical category of refugees by the international community and by host states. Those special measures, this paper proposes, did not resolve the tragedy of refugees, but, rather, contributed to its perpetuation.

This paper, instead, wants to demonstrate that both rights are independent though inter-dependent: Palestinian refugees have the right to assistance and protection *and* (not *or*) they have the right to return. Thus, the international community and host states are responsible for ensuring the respect of basic rights and freedoms for Palestinian refugees to permit their return as much as the state in control of the borders of the refugees' country of origin. Providing assistance and protection to Palestinian refugees in host states is not an alternative to recognizing their right to return.

⁴ For more about the selection of case studies or surveyed countries, cf. section 1.3.2.

A right, however, is an entitlement and not an obligation; in other words, host states should not misinterpret the right of return, using it as an excuse to force refugees back to their country of origin or even to a third country; it does not mean either that, until this return comes to pass, they should be excluded from integration or entitlement to rights. This statement acquires an increased importance with the status of ‘refugeehood’ where, over many years, social, economic and even political ties may be created between the refugee and his or her ‘new country’ of residence, the country of first refuge, or even with a third state.

The acquisition by Palestinian refugees of the citizenship of the country of first refuge or of a third country may end their status of statelessness, and even their status as 1951 convention refugees. It will not though end their right to return to the country of origin.

1.2 Why does Research on Palestinian Refugees still Matter?

This question is divided into two: Why do refugee rights matter (Section 1.2.1)? Why do we need to study the legal status of refugees (1.2.2)?

1.2.1. Why Refugee Rights Matter?

The current international system is based on sovereign states. A state’s sovereignty is challenged by refugees, which force international actors to consider ethical principles and human–rights issues, which are part of their international obligations (Rempel 2006b, 7). In fact, the principle of non-refoulement⁵ means that sovereign states cannot refuse to admit refugees into their territory, based on regulations applicable to foreign nationals. A refugee is, of course, a foreign national, but he or she cannot be subjected to all the regulations applicable to foreign nationals, since his or her status, as a refugee, is, by definition, related to a coerced departure from the country of origin.

If coupled with statelessness, which is the case with most Palestinians except for the majority in Jordan, then ‘refugeehood’ becomes a source of instability, insecurity and risk, for both the country of first refuge, and the third states where refugees may wish to migrate. As pointed out by Shiblak (2006, 9), statelessness leads to irregular migration. Around eighty per cent of the 80,000 stateless Palestinians thought to be in Germany hold refugee travel documents (hereafter RTD) from Lebanon. He then concluded: ‘There is a clear correlation between statelessness and asylum seeking in industrialized countries. The large numbers of stateless people from the region... illustrate the strength of determination to escape the humiliation and uncertainty that statelessness brings... They sought asylum in Europe when their residency status in the host countries became increasingly insecure and, in most cases, they were denied the right to go back to these countries.’

1.2.2. Why does Refugee Legal Status Matter?

Refugees need multilayered protection. The starting point for protection is necessarily legal, but it cannot be separated from questions of economic self-sustenance and social development. Otherwise, legal protection becomes void of meaning and effectiveness (Grabska 2006, 53).

A refugee’s daily life is affected by national laws and institutions. Their economic and social well-being depends largely on what residency and civil rights they enjoy, rights which are, in most Arab countries, increasingly uncertain. Legal restrictions with regards to naturalization,

⁵ This principle is part of customary international law and was embodied in the 1951 Refugee Convention, Art. 33, para.1: ‘No Contracting State shall expel or return (‘refouler’) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.’

family unification, employment, property, housing, education, health care and others add, instead, to their insecurity and instability.

1.3. About this Research

This section is given over to the methodology of research (Section 1.3.1) and the reasons why case studies were selected (Section 1.3.2).

1.3.1. Research Methods and Contents

This paper shall cover the four neighbouring countries of the historical Palestine, which formed, along with Tunisia and the WBGs, the main destinations for 1948 Palestinian refugees.⁶ A team of researchers⁷ from these countries investigated existing international and regional provisions related to refugees and stateless persons; and when the country had endorsed such provisions, they were given the task of presenting and contextualizing any reserves expressed (if any) by host and third states. They also investigated the type of national regulations, including laws, decrees and administrative measures, affecting Palestinian refugees.

In each country, local researchers (with legal backgrounds) were requested to prepare a background paper and fill out a survey, prepared by the author of this paper. The information collected, supported by a review of existing materials and resources, was subjected to thorough analyses by the present author and redacted into a more comprehensive, comparative piece of research.

That paper, however, did not cover the legal status and rights of Palestinian refugees or IDPs residing in Israel and oPt unless they decided to migrate to third states (in our case, to the five selected case studies).

This paper shall, instead, cover the following topics.

Existing mechanisms of assistance and Protection; this includes International Organizations, such as UNRWA and/or the UN High Commissioner for Refugees (hereafter UNHCR) and regional organizations such as the League of Arab States (hereafter LAS) and, for Egypt, the Organization of African Union (only for signatory African Arab States) and national Institutions and regulations. Section 2 is entitled the 'protection gap,' (Akram 2002; Badil 2005; Suleiman 2006) suggesting that international protection mechanisms are rare if not absent for Palestinian refugees in Arab states, leaving Palestinian refugees at the whim of the regional and domestic politics of concerned states and the host states' changing relations with the PLO⁸. This gap has been widened by the refusal of Israel to readmit Palestinian refugees, while the international community is unable or unwilling to impose UN resolutions on Israel.

The legal status of Palestinian refugees: this includes, *inter alia*, the way in which Palestinian refugees are recognized by domestic law and the way those illegally residing in host states are treated. Section 3 is dedicated to the legal status of Palestinian refugees in host states, with a general overview of the regulations for Palestinians in host states. The paper intends to show how host states, in harmony with LAS resolutions, hosted Palestinian refugees without integrating them.

Rights and freedoms of Palestinian refugees and migrants in host and third Arab states. This includes, *inter alia*: the right not to be expelled; rights to residency, departure and re-entry; the right to an identity and travel document; the right to work; the right to education; the right to health; the right to housing and property. Section 4 tackles, instead, the rights and freedoms of Palestinian refugees in

⁶ For the reasons behind the selection of case studies, see (Section 1.3.2).

⁷ The list of researchers and countries are listed in section 7 of this report.

⁸ For more details concerning the impact of the PLO-host state relationship on Palestinian refugees, cf BADIL 2007, 125.

host states. Discrimination against Palestinian refugees as well as any privileges granted to them will be outlined, as a reminder that privileges are not entitlements or rights, but can be revoked at any time and for any reason (Akram 2002, 44).

The topics tackled in this paper could be easily widened by connecting the lack of protection and the limitations on rights and freedoms granted to Palestinian refugees to the rights and freedoms of citizens in the host countries, countries whose political and legal systems can be, at best, described as engaging in their first steps towards democracy, the rule of law, and respect of human rights and freedoms. However, one should be wary of linking refugee rights with those granted to citizens, in countries with poor human-rights records for its own citizens, in case a dangerous precedent of denying and violating rights might take hold (Grabska 2006, 52).

This paper follows a micro-comparative approach, using the selected countries as case studies. The theoretical background of the analysis is a belief in human rights as an individual entitlement that does not undermine group or national rights and, accordingly, should not be subordinated to them.

1.3.2. Case Studies

The selection of Egypt, Jordan, Lebanon, and Syria is justified by the simple fact of these being, with WBGS, the main destination for Palestinian refugees, during the *nakba*. They are the four countries adjacent to the historical Palestine, and the countries where most Palestinian refugees are still living and where there are most refugee camps. Those countries also have a variety of legal accommodations for Palestinian refugees that satisfies the objectives of our research.

The legal status of Palestinian refugees in the WBGS is not covered in this paper for two reasons. First, the WBGS is occupied and as such, International Humanitarian Law (hereafter IHL) applies, making the legal status and rights' distribution map totally different from that of host Arab states. Second, Palestinian refugees and non-refugees fell under Israeli occupation in 1967, and were treated alike with regards to their residency status. They are even treated alike under the PA, with regards to political, civil, economic and social rights. The only difference is the entitlement to services provided by UNRWA, which, for our purposes, would not, in any case, make a difference, and would not justify the inclusion of WBGS Palestinian refugees in our analysis. As for Tunisia, two reasons justify its inclusion. First, it provides an example of the Maghreb countries where Palestinian refugees arrived in a later phase. Second, Tunisia was the centre for the PLO bureaus for almost a decade.⁹

1.4. Clarification of Concepts

This section serves to define the three main concepts used in this research, and reflected in the title: refugee (Section 1.4.1), rights (Section 1.4.2) and rights-based approach (Section 1.4.3).

1.4.1. Refugees

There is a need first to define 'refugee' (Section 1.4.1.1.), in order to understand what a 'Palestinian refugee' is (1.4.1.2).

⁹ This paper did not cover the issue of Palestinian refugees in Iraq for many reasons, including the impossibility of carrying out research in Iraq today while the issue of Palestinian refugee at Iraqi borders is still unresolved. Besides, this author failed to make contact with local researchers for that purpose. Iraq is not, in any case, within the network of MENA countries and falls outside the research interest of CARIM for whom this paper was prepared.

1.4.1.1. Who is a Refugee?

There are several different definitions for a refugee. However, only those enjoying the status of refugee in the strict legal sense enjoy the rights guaranteed by international law, rights that are included in many national laws and regulations (cf. Grabska 2006, 9-10).

An authoritative definition is the one present in the 1951 Refugee Convention, Article 1/A (2):

‘A. For the purposes of the present Convention, the term ‘refugee’, shall apply to any person who:
(2) As a result of events occurring before 1st of January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, 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 as a result of such events, is unable or, owing to such fear, is unwilling to return to it.’¹⁰

The same article, (Para. C.) provides a list of circumstances in which the convention ceases to apply to any person falling under the terms of section A, which include, *inter alia*: ‘(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality.’

The most important paragraph for Palestinian refugees is (D),¹¹ which was inserted during the drafting process of the Convention to address the specific circumstances of Palestinian refugees (Rempel 2006b, 6), or was interpreted in later stages by states and international institutions in a way that excludes Palestinians who happen to be receiving protection or assistance from other UN agencies.¹²

However, the convention, as much as the UNHCR mandate, is relevant for Palestinian refugees for two reasons at least. First, UNRWA’s presence and assistance is limited to its five areas of operation: Jordan, Lebanon, Syria, the WB and the GS. Accordingly, Palestinian refugees in Egypt and Tunisia (both parties to the UN 1951 Convention) are not refugees as understood by Article 1/D because they do not receive protection or assistance from any other UN agency. Second, many Palestinian refugees, residing in the five UNRWA operational areas are not registered by that institution because they do not fall within its operational definition; accordingly, they do not fall under its mandate, though assistance is sometimes granted on a humanitarian basis.

1.4.1.2. Who is a Palestinian Refugee?

To define a Palestinian refugee, many refer to the UNRWA definition,¹³ which is an operational definition, i.e. a definition used to distinguish those entitled to assistance from others who are not. In other words, UNRWA does not, and cannot define the legal status of Palestinian refugees. This fact is related to the UNRWA mandate, which is not one of legal protection (unless one considers assistance in its larger sense as indirect protection for refugees). Such a definition, it should be stressed, does not necessarily coincide with the one generally employed in the context of IRL (Takkenberg 1998, 83).

¹⁰ Convention relating to the Status of Refugees of 1951, available at: <http://www1.umn.edu/humanrts/instree/v1crs.htm>

¹¹ 1/D. ‘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://www1.umn.edu/humanrts/instree/v1crs.htm>

¹² For a critique to this approach and interpretation cf. (Section 2).

¹³ For more information concerning UNRWA, cf. section 2.1.2.1.

UNRWA defines a Palestinian refugee as follows:

‘Palestine refugees are persons whose normal place of residence was Palestine between June 1946 and May 1948, who lost both their homes and means of livelihood as a result of the 1948 Arab-Israeli conflict.’¹⁴

This definition also covers the descendants of persons who became refugees in 1948, but it does not cover those who left Palestine in later phases. As pointed out by Takkenberg (1998, 82), UNRWA’s operational definition of refugee did not change following the 1967 war. Nevertheless, UNRWA extended its mandate in a *de facto* fashion by authorization of the UNGA resolution 2252 of 1968, which was renewed on the occasion of the UNRWA annual report.

Palestinian refugees, according to the above definition, are entitled to assistance, but UNRWA services do not provide for all of them. Palestinian refugees need to satisfy three other conditions. They must be: 1) living in the UNRWA area of operations; 2) registered with the Agency; 3) in need of assistance.

‘In the early 1950s, the UN Conciliation Commission for Palestine (hereafter UNCCP)... prepared a working definition of a Palestine refugee to identify those persons in need of international protection. The definition would have covered all persons displaced in Palestine during the 1948 war irrespective of ethnic, national or religious origins. In light of the intractable differences between Israel, the Arab states and the Palestinians, however, the Commission’s protection mandate was greatly reduced and the definition was never adopted’ (Rempel 2006b, 6).

As pointed out by Shiblak (2006, 8), more than half of all Palestinians around the world are considered to be *de jure* stateless persons. They hold an RTD issued by Syria, Lebanon, Egypt, Iraq, some other Arab countries or temporary Jordanian passports or PA Travel Documents.

However, not all Palestinian refugees are stateless and *vice versa*. Many have acquired citizenship of the country of first refuge (such as in Jordan), or of third countries by naturalization or family unification or other means (such as Palestinians in Europe and in the Americas). On the other hand, WBGs Palestinians are all stateless, but not all of them are refugees.

1.4.2. Rights

A refugee’s entitlement to rights is intrinsically linked to the discourse on the universality of human rights; accordingly, it is rooted in international law. Their basic rights are those of all other human beings, including those included in the Declaration of Human Rights. Some other rights were expressly and directly included in international treaties and declarations, specific to refugees. Such is the case of the 1951 Refugees Convention and its 1967 protocol. The satisfaction of these conditions demands that signatory states apply the convention, and the responsibility of international organizations and mechanisms, especially UNHCR, towards those refugees.

The first group refers to those rights included in what is called International Human Rights Law (hereafter IHRL), and the second group of rights refers to those included in the IRL. However, there are two major differences between these groups of rights. The first group is intrinsic to refugees, as they are human beings, irrespective of their legal status. The second category of rights are strictly related and connected to satisfying conditions for refugee status. Since many *de facto* refugees are not necessarily refugees in the legal sense, they remain entitled to rights, as all human beings, though not enjoying the ones related to their legal status. Besides, the second group of rights acts as *lex specialis* (i.e. IRL) with regards to *lex generalis*, which is IHRL. In other words, granting the second group of rights does not entail the non-applicability of the first group of rights. Otherwise, we would have a regression in protection rather than a step forward, which cannot be, unless we suppose the *mala fede* of the drafter of the convention.

¹⁴ Available at the UNRWA webpage: <http://www.un.org/unrwa/refugees/whois.html>

In the Palestinian case, the satisfaction of terms of the operational UNRWA definition and/or those imposed by national states, entitle certain (though not all) Palestinian refugees to refugee status. This status meant, in practice, being granted certain privileges and/or restrictions by host states that can be called 'rights'. Those are not, however, rights in the sense of legal obligations for host states, nor are they to be considered entitlements, but rather a gift or a grant to do or not to do, according to changes in politics and interests. Granting these 'rights' to those enjoying the legal status of refugees sometimes means denying basic human rights to both groups, but especially those living in 'illegality' within host states, or those who are not refugees in the eyes of the law.

The illegality and lack of refugee status means limited and disadvantaged access to jobs, a lack of access to education for children, a lack of access to health services, and a lack of other rights in the host society, including the right to freedom of movement. In other words, 'the strict legal criteria and status determination procedures often employed by either host governments or carried out by UNHCR on behalf of governments, mean that many remain outside of international protection' (Grabska 2006, 9-10).

1.4.3. Rights-Based Approach

A rights-based approach, counterpoising the needs-based approach, adds to the need to take the rights of refugees seriously and not only their needs. The satisfaction of refugee needs entails dependency, assistance at the expense of freedoms and access to rights. The essence of a rights-based approach is the identification of a certain standard of treatment to which an individual refugee is entitled (Grabska 2006, 10).

The dichotomy between a rights-based approach and a needs-based approach appears very clearly when comparing the definition of refugee adopted by UNRWA and the one included in the 1951 Refugee Convention. UNRWA's operational definition of Palestinian refugee is limited to needy persons and is thus markedly different from the protection-related definitions of refugee found in the 1951 Refugee Convention and the UNHCR statute. 'As a result... the agency beneficiaries receive basic subsistence... but none of the protections for a wide range of human rights and fundamental freedoms that were to be guaranteed by the 1951 Refugee Convention and UNHCR' (Akram 2002, 39).

In addition, rights imply the ability to access and claim justice. It is true that refugees have crossed borders, and that this results in acts of irregular entry and irregular sojourns. But they were forced to, and hence, there is no reason that their rights should go unrecognized. What is more, the issue of rights takes us one step further and prompts questions about responsibility and accountability. Rights provide a legal component that points to the institutional duty to protect, respect, fulfil and safeguard them (Grabska 2006, 11).

2. The Protection Gap

The UNCCP was established by UNGA Resolution 194 of 11 December 1948, with a protection mandate for Palestinian refugees;¹⁵ it was soon superseded leaving UNRWA, established by UNGA Resolution 302 (IV) of 8 December 1949, as the only international 'face' of the plight of Palestinian refugees, while its protection function is virtually non-existent (Akram 2002, 43). Besides the WBGs, only Jordan, Lebanon and Syria are within UNRWA areas of operation, none of these signatories to the 1951 Refugee Convention.

¹⁵'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.' (Suleiman 2006, 9).

Those special measures for Palestinian refugees were used, as mentioned above, as a justification for not applying the 1951 Refugee Convention based on article 1D.¹⁶ This act of exclusion is, as outlined by Shiblak (1996, 37), unfortunate, since the convention's protection is extensive. However, the presence of Palestinian refugees outside the five areas of operation of UNRWA (in our case, Egypt and Tunisia) and the presence of non-UNRWA-registered Palestinian refugees within those areas, means that the 1951 Convention and its 1967 Refugee Protocol, as much as the statute of the UNHCR are of relevance for Palestinian refugees, not to mention the other conventions, declarations and resolutions forming International Human Rights Law. These international instruments are binding when states have ratified the relevant documents.¹⁷

It should be noted that there is no regional refugee convention in the Arab world, while most Arab states are not signatories to the 1951 Refugee Convention, including those having the largest numbers of refugees (Jordan, Lebanon and Syria). Outside the global framework of the 1951 Refugee Convention, the LAS has provided temporary protection to Palestinian refugees in member states for almost six decades (Badil 2007, 123).

Akram (2002) argues that the limited protection or the absence of protection offered to Palestinian citizens, coupled with policies in host Arab states, non signatories of the Refugee Convention and Protocol, and the Convention on the Reduction of Statelessness, means that Palestinians are left without even basic rights and freedoms. This is what she calls the 'protection gap'. The same conclusion was reached by Suleiman (2006, 11) who argued that '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 for durable solutions. This means that approximately one-third of the world's total refugees are left without systematic and adequate international protection.'

2.1. International Protection

The three durable solutions for refugees are: resettlement in a third country, local integration in the country of asylum, or voluntary repatriation (Elsayed-Ali 2006, 13). This paper is concerned with international protection as a way of empowering Palestinian refugees in their country of first refuge. The reference to international law is made to counterpoise national laws, and offers protection as a counterpoise to assistance. 'International protection' covers different activities through which refugees' rights are secured, including the implementation of durable solutions (Suleiman 2006, 9).

A review of existing declarations and treaties forming IHRL, IHL, and IRL will be offered first (Section 2.1.1) followed by a presentation of UN mechanisms, including agencies whose remit is to deal specially with Palestinian refugees (UNRWA)¹⁸ and those whose remit is more general (UNHCR) (Section 2.1.2).

2.1.1. International Law

International law is a body of rules governing relations between States. International law has different sources. It is contained in agreements between States – treaties or conventions, in customary rules, which consist of State practices considered by them as legally binding, and in general principles.¹⁹

¹⁶ For more information, cf. (Section 1.4.1).

¹⁷ For the ratification status of the states concerned here, see the Annex.

¹⁸ As for the UNCCP, see footnote 15.

¹⁹ ICRC website: <http://www.icrc.org/web/eng/siteeng0.nsf/html/humanitarian-law-factsheet>

Laura Reeds (2006, 353) explains how judicial bodies identify principles of Customary International Law (hereafter CIL) based on state practice and the acceptance of such practices as law and argues that the vast majority of nations not only integrate long-term refugees in practice, but also acknowledge a legal obligation to do so, suggesting that the principle of long-term refugee integration is binding under CIL. After that she evaluates the extent to which host states for Palestinian refugees have complied with this CIL principle, concluding that states in the region continue to prevent their long-term refugee population successfully integrating.

The present author shares this view, though for different reasons; this section, indeed, is limited to revising conventional (or treaty-based) international law, and presents ratification status and shows states' reservations, if any. Reference is made exclusively to major international agreements of relevance for refugees. The revision of conventional international law is of importance for two reasons. **First**, international law, of customary origin, is increasingly being codified. **Second**, treaties and conventions show in a clear and systematic way how international law works in a given sector including with regards to refugees.

Obligations of host states with regards to refugees, depends on what they have ratified and on any expressed reservations made during the process of ratification. For the purposes of international law, ratified conventions are as binding as national laws. Some national legal systems (the dualist approach to international law) request a conversion of conventional international law into domestic laws (such is the case with Israel for example) for it to become a legal obligation in the national legal system, others (the vast majority of states, including Arab states) are monist, that is they consider ratification, in whatever form the domestic legal system provides, sufficient to make those treaties part of the domestic legal system.

It should finally be noted that CIL remains in force despite the codification of parts of it into treaties. Such customary laws are binding on all subjects of international law, regardless of the ratification status of various treaties.

2.1.1.1. International Humanitarian law

IHL is another name for what is known as the law of war or the law of armed conflict. It is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict and to protect those who are not or who are no longer participating in the hostilities while restricting the means and methods of warfare.²⁰ IHL applies in times of armed conflicts, including those which are not of international character.²¹ It is composed of what is called Hague Law and Geneva Law; Geneva law refers to the Four Geneva Conventions of 1949 and the two protocols of 1977. Those Conventions have been ratified by most states, including by the five states of concern in this paper.²²

The Fourth Geneva Convention, relative to the Protection of Civilian Persons in Time of War, includes several articles of relevance for refugees as civilians. Article 3 enumerates acts that 'shall remain prohibited at any time and in any place whatsoever...: (a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; (b) Taking of hostages; (c) Outrages upon personal dignity, in particular humiliating and degrading treatment; (d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.'

²⁰ ICRC website: <http://www.icrc.org/web/eng/siteeng0.nsf/html/humanitarian-law-factsheet>

²¹ Common article 3 of the Four Geneva Conventions and Protocol II.

²² For more information regarding ratification status, see the Annex.

Other articles refer to refugees expressly:

‘Article 44: In applying the measures of control mentioned in the present Convention, the Detaining Power shall not treat as enemy aliens exclusively on the basis of their nationality de jure of an enemy State, refugees who do not, in fact, enjoy the protection of any government.’

‘Article 70: Nationals of the Occupying Power who, before the outbreak of hostilities, have sought refuge in the territory of the occupied State, shall not be arrested, prosecuted, convicted or deported from the occupied territory, except for offences committed after the outbreak of hostilities, or for offences under common law committed before the outbreak of hostilities which, according to the law of the occupied State, would have justified extradition in time of peace.’

2.1.1.2. International Human Rights Law

IHRL is a set of international rules, established by treaty or custom, on the basis of which individuals and groups can expect and/or claim certain behaviour or benefits from governments. Human rights are inherent entitlements which belong to every person as a consequence of being human. Numerous non-treaty based principles and guidelines also belong to the body of international human-rights standards (ICRC 2003, 1).

The Declaration of Human Rights is part of such non-treaty based documents. Nevertheless, it is considered the cornerstone of IHRL (Suleiman 2006, 10). The rights and freedoms set forth in the declaration are granted to everyone, ‘without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’ (Article 2).

These rights include ‘the right to life, liberty and security of person’ (Article 3), ‘the right to recognition everywhere as a person before the law’ (Article 6), ‘the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights’ (Article 8), ‘the right to a nationality’ (Article 15), ‘the right to freedom of movement and residence within the borders of each State’ and ‘the right to leave any country, including his own, and to return to his country’ (Article 13), ‘the right to seek and to enjoy in other countries asylum from persecution’ (Article 14), ‘right to marry and found a family’ (Article 16), ‘the right to own property alone as well as in association with others’ (Article 17), ‘right to social security’ (Article 22), ‘the right to work’ (Article 23) ‘the right to a standard of living adequate for the health and well-being’ (Article 25), ‘the right to education’ (Article 26). All shall be ‘equal before the law and are entitled without any discrimination to equal protection of the law’...‘against any discrimination in violation of this Declaration and against any incitement to such discrimination’ (Article 7).

Other provisions relevant for refugees are present in the International Covenant on Economic, Social and Cultural Rights (1966) and the International Covenant on Civil and Political Rights (1966). Both treaties are ratified by the five states of concern in this paper, as are the International Convention on the Elimination of All Forms of Racial Discrimination (1966), the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Convention concerning Forced or Compulsory Labour, the Equal Remuneration Convention, the Abolition of Forced Labour Convention and the Discrimination (Employment and Occupation) Convention. Many of the rights included in these international treaties are applicable to Palestinian refugees in the host countries which have ratified these conventions. However, host states failed to abide by the obligations included in the ratified treaties with regards to Palestinians, and did not integrate such provisions into national law (Shiblak 1996, 38).

2.1.1.3. International Refugee Law

IRL is mainly included in the 1951 Refugee Convention and its Protocol (1967). Egypt²³ and Tunisia ratified those two conventions while Jordan, Syria and Lebanon are not signatories and are, thus, not bound by its provisions. According to Suleiman (2006, 11), ‘Arab states have been reluctant to accede to the 1951 Convention because it does not address the specificity of Palestinian displacement.’

The 1951 Refugee Convention imposes on Contracting States as favourable treatment for refugees as is possible. In any case, this treatment should not be less favourable than that accorded to aliens in the same circumstances with regard to ‘the acquisition of movable and immovable property’ (Article 13), the right to practice a liberal profession (Article 19), housing (Article 21) and ‘education other than elementary education’ (Article 22). The convention also demands that Contracting States give refugees the same rights with regard to ‘the right to engage in wage-earning employment’ (Article 17) as enjoyed by the most favoured nationals.

It is also stated that a refugee shall have the same treatment as nationals with regard to ‘free access to the courts of law’ (Article 16), elementary education (Article 22), public relief and assistance (Article 23), work conditions and social security (Article 24). While a refugee shall have the same treatment as aliens with regards to the choice of place of residence and free movement within a country’s territory (Article 26).

The Contracting States shall issue ‘identity papers to any refugee in their territory who does not possess a valid travel document’ (Article 27) and ‘travel documents for the purpose of travel outside their territory’ (Article 28). They shall ‘as far as possible facilitate the assimilation and naturalization of refugees’ (Article 34).

The expulsion of refugees is forbidden except on the grounds of national security or public order, and only in pursuance of a Court decision (Article 32). In all cases it is forbidden to ‘expel or return (‘refouler’) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion’ (Article 33).

As for those unlawfully present in the country of refuge, the convention is clear in prohibiting the imposition of penalties, ‘on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened... enter or are present in their territory without authorization’ (Article 31).

2.1.2. UN Mechanisms

There are many UN and regional organizations of relevance for refugees; this section is limited to the two UN agencies, with a direct mandate for refugees, i.e. UNRWA, with its specific mandate to assist Palestinian refugees in the five areas of operation (Section 2.1.2.1), and UNHCR, mandated to provide assistance and protection for refugees worldwide (Section 2.1.2.2).

2.1.2.1. UNRWA

UNRWA’s mandate was specified in UNGA Resolution 302 (IV) of 8 December 1949. Article 7(a) establishes the agency ‘to carry out in collaboration with local governments the direct relief and works program as recommended by the Economic Survey Mission.’ The assistance for the relief of the Palestine refugee is ‘necessary to prevent conditions of starvation and distress among them and to

²³ Egypt has expressed a number of reservations, related to personal status (Art 12 (1)); rationing (Art. 20); access to primary education (Art 22); public relief and assistance (Art 23) and labour legislation and social security (Art. 24) (SHAFIE 2008).

further conditions of peace and stability' without prejudice to the provisions of paragraph 11 of UNGA resolution 194 (III) of 11 December 1948 (Article 5).

As pointed out by Suleiman (2006, 9-10), such a mission does not explicitly include a mandate for UNRWA to provide Palestinian refugees with legal protection, but rather with what he calls 'relief protection', i.e. entitlement to education, health and social services. Such relief protection affords Palestinian refugees fundamental economic and social rights, but it is not commensurate with general worldwide refugee standards. In other words, UNRWA was not empowered to guarantee the safety, security, or legal and human rights of the refugees; rather, these responsibilities were left to the host countries (Shiblak 1996, 37).

2.1.2.2. UN High Commissioner for Refugees

UNHCR was created by UNGA resolution 428(V), 14 December 1950. It has a mandate to provide protection to refugees worldwide and to search for durable solutions (Suleiman 2006, 10). As mentioned earlier, according to the strict interpretation of Article 1/D, Palestinian refugees were excluded from its mandate. As UNHCR has it in some recent notes (2002, 1): 'In today's context, this excludes from the benefits of the 1951 Convention those Palestinians who are refugees as a result of the 1948 or 1967 Arab-Israeli conflicts, and who are receiving protection or assistance from the UNRWA.'

However, the second paragraph of the same article 1/D states:

'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.'

This paragraph may be interpreted as mandating UNHCR to serve as an alternative in the event that protection or assistance from UNCCP and UNRWA would 'cease for any reason', in order to ensure continuity of protection for Palestinian refugees (Suleiman 2006, 10). This holistic or integrated analysis of Article 1 is also the position adopted by UNHCR (2002, 1).

However, in those countries where UNRWA does not operate, the only international agency of reference for Palestinian refugees, as much as for other refugees, is UNHCR. This is the case in Egypt, for example, which ratified the 1951 Refugee Convention and its 1967 Protocol. Under an agreement signed between UNHCR and the Egyptian government in 1954, UNHCR in Egypt is responsible for refugee status determination. It also provides protection and assistance to refugees (Grabska 2006, 25).

Nevertheless, only a small number of Palestinian refugees in Egypt are registered with UNHCR. The vast majority live unassisted and are considered foreign nationals in terms of rights and entitlements (Grabska 2006, 26-27). UNHCR attempts to assist with the protection of Palestinian refugees who were unable to renew their residency permits. Some Palestinian refugees in Egypt hold UNHCR refugee documents. However, Palestinians enjoy special measures that other refugees do not get: the issuance of Egyptian TDs as well as a longer type of residency permit of 5 years/3 years duration (Shafie 2008).

Tunisia adhered to 1951 Refugee Convention while a French Protectorate, and France had submitted a reservation on article 17 concerning the right to work. When Tunisia got its independence in 1956, as pointed out by Ben Jémia (2008), Tunisia had expressed its will to remain part of the Convention without withdrawing this reservation.²⁴

²⁴ On 24 June 1993: 'The Government of the Republic of Tunisia declares that it recognizes the competence of the Human Rights Committee established under article 28 of the [said Covenant] ..., to receive and consider communications to the effect that a State Party claims that the Republic of Tunisia is not fulfilling its obligations under the Covenant. The State Party submitting such communications to the Committee must have made a declaration recognizing in regard to itself the

Jordan is not a signatory of the 1951 Refugee Convention. However, in 1988, it signed a Memorandum of Understanding with UNHCR which confirms the principle of non-refoulement. It allows ‘mandate refugees’ a maximum stay of six months in Jordan (Olwan 2007, 99). However, Palestinian refugees from Jordan fall under the exclusion terms of article 1D, and are thus excluded from the legal protection of UNHCR in Jordan.

It should be mentioned that UNHCR was not encouraged by the LAS or by its member states to play a formal role in protecting Palestinian refugees. It was not encouraged because of concerns that UNHCR involvement might result in decreased international donor support to UNRWA, and also for fear of weakening the right of return. According to Badil (2007, 124), the LAS and UNHCR have signed a Memorandum of Understanding, ‘which reaffirms the need to maintain UNRWA and its services to Palestinian refugees in its five areas of operation until a just solution for the problem of refugees is found on the basis of United Nations resolutions.’ Besides, the LAS and UNHCR have signed a ‘cooperation agreement that provides for periodical consultation, mutual representation, exchange of documents and information, and co-operation with UNRWA.’ Finally, the main concern of Arab States, as pointed out by Suleiman (2006, 11), 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.’

2.2. Regional Protection

There is no regional refugee convention in the Arab World and the 1992 Declaration on the Protection of Refugees and Displaced Persons in the Arab World,²⁵ which envisages a wide scope of protection rights, still has no binding force (Suleiman 2006, 11; Badil 2007, 123). According to Grabska (2006, 17), ‘the main reason behind the reluctance of Arab states to adopt a regional refugee regime is the highly politicized issue of Palestinians.’ However, some mechanisms were put forward to deal with the issue of Palestinian refugees among LAS members, which are all Arab countries, and the AU, of which both Egypt and Tunisia are members.

2.2.1. The League of Arab States

The most important initiative undertaken within the LAS is the so called ‘Casablanca Protocol’ of 1965.²⁶ The Casablanca Protocol was adopted by a majority decision of the Council of the Arab League. This means that its contents are only binding upon those member states willing to accept them, either in full or subject to reservations (Takkenberg 1998, 144). Two main principles have determined the treatment of Palestinian refugees in host Arab states: granting Palestinian refugees full citizenship rights, but denying them naturalization; and issuing them with RTDs in order to maintain their refugee status (Shiblak 2006, 8).

The Protocol, indeed, grants Palestinian refugees the right to the same treatment as nationals with regards to work. Palestinians have the right to leave the country and return to it, enter another Arab country territory and leave it. Palestinians are to be provided with valid TDs and holders of these TDs shall be granted access by other Arab countries with the same visas restrictions applied to nationals of the issuing country. The Casablanca protocol was clear over the fact that Palestinians would keep their nationality.

(Contd.) _____
 competence of the Committee under article 41 of the [said Covenant].’ Cf.
http://www.unhcr.ch/html/menu3/b/treaty5_asp.htm

²⁵ Available at: <http://www.lnf.org.lb/migrationnetwork/unn12.html>

²⁶ The text of Casablanca Protocol and the reservation expressed by states are available at: <http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=country&docid=460a2b252&skip=0&category=LEGAL&coi=S YR&searchin=title&display=50&sort=date>

Interestingly, as outlined by Takkenberg (1998, 141), the Casablanca protocol contains a change in language, from ‘Palestinian refugees’ to ‘Palestinians’. He argues that this change is ‘apparently initiated by the realization that the legal position of non-refugee Palestinians is much the same as that of those who had become refugees in 1948-49. Both categories of persons being largely composed of de facto or de jure stateless persons, they are equally in need of the status provided for in the Protocol.’

The Casablanca protocol is, rightly, considered one of the earliest regional experiments in refugee protection. However, some experts argue that the rights accorded to Palestinian refugees under the Casablanca Protocol are fewer and narrower in scope than those provided under the 1951 Convention (Suleiman 2006, 11). Takkenberg (1998, 142-143) provides an interesting comparison between the Casablanca Protocol and the 1951 Convention concerning TDs. He mentions, for example, that unlike the convention, the Casablanca Protocol leaves responsibility for renewing or re-issuing TDs to first refuge states.

However, as pointed out by Badil (2007, 123-124), ‘while the Casablanca Protocol is narrower in scope than the 1951 Refugee Convention, some of its provisions grant greater rights in theory than those set out in the Refugee Convention.’ Two examples are given from the same source to prove this claim:

- In the arena of self-employment and employment in the liberal professions, the Casablanca Protocol allows Palestinians the same treatment as that given to nationals, whereas the Refugee Convention only provides for the most favourable treatment possible, and not less than that accorded to resident aliens.
- Article 26 of the 1951 Refugee Convention provides for freedom of movement within the host country, whereas Articles 2 and 3 of the Casablanca Protocol also provide for freedom of movement between Arab states.

Only seven member states have ratified the Protocol without reservation, including two of the major host countries: Syria and Jordan. Egypt, ratified the Protocol without reservation but, according to Shiblak (2006, 8), once fully committed, effectively withdrew from the Protocol. Lebanon has endorsed the Casablanca Protocol with reservations expressed on three of the five articles (Takkenberg 1998, 374).

Tunisia has not ratified the protocol. However, it applies the protocol’s provisions, and other LAS resolutions; in fact, as the protocol states, Palestinians enjoy the same right of work as nationals, including the right to work in the liberal professions, the right of entry, exit and return to Tunisia, the right of residence, including the right of residence for family members. As Ben Jémia (2008) points out the protection accorded for Palestinians seems better than that accorded by the 1951 Refugee Convention and the 1969 Convention Governing Specific Aspects of Refugee Problems in Africa, to which Tunisia is party, since Palestinians enjoy favourable national treatment in all domains.

Other resolutions have been adopted by the LAS including (Badil 2007, 123-124):

- Resolution 424, 14 September 1952, related to the reunification of divided families.
- Resolution 714, 27 January 1952, related to the issuance of a standard TD. However, no uniform identity paper or TD has ever been designed or issued by the LAS. TDs are issued by individual member states.
- Resolution 2600 of 1970, stating that the acquisition of another nationality would not trigger the cessation of refugee status in LAS member states.
- In 1977, the PLO proposed that a Palestinian passport be issued that would be recognized outside the Arab region. The proposal was never implemented, however, due to the absence of a Palestinian state and a lack of Arab political will.

A special resolution on the treatment of Palestinians in Arab countries was adopted by the Council of Arab Ministers of the Interior in December 1982 (Takkenberg 1998, 147). According to that

resolution, the Council decided that '[t]he Travel Document for Palestinian Refugees issued by any Arab country is to be accorded the same treatment as the passport of the citizens of that country,' and that 'the bearer of a Travel Document for Palestine refugees shall be accorded the same treatment as nationals of the state issuing this document, as regards freedom of residence, work and movement.'

According to Badil (2007, 125), investigations conducted by the LAS Supervisors Conference have concluded that the implementation of LAS standards for the treatment of Palestinians in member states is poor. According to Shiblak (1996, 42), Arab states had been annulling the rights accorded to Palestinians under the Casablanca Protocol on an individual basis and through administrative decree.

LAS standards have decreased, particularly since 1991 and the PLO's stand on the Iraqi invasion of Kuwait (Badil 2007, 125). The LAS adopted Resolution 5093, which 'authorized states to treat Palestinian refugees in accordance with domestic law rather than under the provisions set forth in the 1965 Protocol. The resolution weakened respect for the Casablanca Protocol' (Badil 2007, 123-124).

Since then, restrictions on residency rights, freedom of movement, employment, property ownership rights, and access to government services have been imposed on TDs holders in all Arab countries. In addition, education, health, and social benefits for Palestinians are increasingly being curtailed, if not disposed of outright (Shiblak 1996, 42).²⁷

2.2.2. African Union

The 1969 Convention Governing Specific Aspects of Refugee Problems in Africa,²⁸ which is applicable to African-Arab states, includes provisions for residency, TDs and voluntary repatriation (Badil 2007, 123).

The convention, however, does not apply to Palestinian refugees since it applies only to refugees originally from an African state. In this sense, only those Palestinians who have a TD from an African country (from Egypt for example), would enjoy the protection given in the Convention (Ben Jémia, 2008).

2.3. The PLO and Host Arab Countries

The PLO was created in 1964. In 1968, deeply affected by the 1967 defeat, the PLO came under the control of a new leadership calling for armed struggle against Israel, a call that received widespread popular support. However, as pointed out by El Khazen (2007), the PLO lacked geographic and political space in which to operate. 'That space had to be carved out by force and not by negotiation. This meant inevitable confrontation with existing Arab regimes.' The same author continues: 'coexistence between Lebanon's *raison d'état* and the PLO's *raison de révolution* could, at best, be temporary.' This had pushed the PLO towards confrontation, even military confrontation, with Arab states. This was the case with Jordan in 1970 and with Lebanon in the 1970s and the early 1980s.

PLO relations with Arab governments have had a direct impact on the way Palestinians are treated in Arab countries. Indeed, the PLO's political standing has had negative consequences for Palestinians. Shiblak (2006, 8) refers to 'collective punishments being imposed on ordinary Palestinians'. Many examples prove this claim:

²⁷ TAKKENBERG (1998, 149), after having referred to Shiblak's point of view, considering resolution 5093 as an official revoking of the Protocol, argued, *a contrario*, that it is 'questionable whether member states are able by mere recommendation to nullify an international agreement which was officially ratified by the member states or to which the member state became bound by other means... Whatever the formal position may be, it is obvious, however, that the spirit to live up to the obligations embodied in the Protocol has been severely weakened.' The present author tends to agree with this last position.

²⁸ http://www.africa-union.org/Official_documents/Treaties_%20Conventions_%20Protocols/Refugee_Convention.pdf

- The PLO leadership's position on the Iraqi invasion of Kuwait led to the mass expulsion of Palestinians from Kuwait in 1991;
- PLO agreements with Israel were used as a pretext to expel Palestinians from Libya in 1995. The Lebanese authorities imposed re-entry visas on those Palestinians holding Lebanese-issued RTDs, fearing the return of Palestinians expelled from Libya.
- Palestinians in Iraq have recently had to endure acts of vengeance including killings, expulsion and deportation.²⁹

The PLO was recognized at the Rabat Summit in October 1974 as 'sole legitimate representative of the Palestinian people'; in November 1974, the UN recognized the PLO and Arafat, its Chairman, was invited to address the General Assembly. As such the PLO, a liberation movement not a state, carried out negotiations with host states, even signing agreements, such as the 1969 Cairo Agreement, signed between Lebanon and the PLO, in the aftermath of incidents involving Palestinian factions and the Lebanese Army on Lebanese territory.

With the signing of this Agreement the situation for refugees in Lebanon improved substantially (Shafie 2003a). The agreement redefined 'the basis of the regulation of the Palestinian presence in the country according to the following principles. First, the right to employment and residency for all Palestinians currently residing in Lebanon was affirmed. Second, local committees were formed, composed of Palestinian residents of the camps, to attend to the residents' interests in cooperation with the local authorities and within the limits of Lebanon's sovereignty. Finally, the government agreed to permit Palestinian residents of Lebanon to participate in the Palestinian revolution through the armed struggle, and announced its intention to generate a 'common sense of discipline between the armed struggle and the Lebanese army' (Al-Natour 1997, 363).

However, because of, the civil war in Lebanon, the Israeli invasion and the expulsion of the PLO from Lebanon in 1982, the right of Palestinian refugees to reside in Lebanon was severely curtailed (Badil 2007, 155 footnote 109). The agreement was unilaterally abrogated by the Lebanese Chamber of Deputies in May 1987 (Cf. Takkenberg 1998, 145-146). In 1991, the government formed a Ministerial Committee to formulate an understanding on rights, duties and forms of mutual relations. Nothing resulted and the Committee's activities were eventually suspended (Al-Natour 1997, 361). The Lebanese government opposes any measures, which, according to its understanding, are likely to facilitate *de facto* permanent settlement (El Khazen 2007).

Given the above the present author supports the arguments presented by FIDH (2003, 11) that see any linkage between the rights of Palestinian refugees and agreements which may or may not exist between the host country and the PLO as negative in terms of refugee rights. In that case, rights are no longer guaranteed by a stable legal system, but are rather dependent on political considerations. The Palestinian presence in a host country should be governed, not only on the basis of bilateral agreements, but also by binding international and national laws whose essential components are human rights.³⁰

3. Hosting Palestinian refugees without integrating them

Host States are obliged under CIL (Reeds 2006), and, as noted earlier, under conventional international law to 'integrate' refugees by granting them rights and freedoms similar those enjoyed by nationals, or the most favourable treatment for aliens, or, at least, not rights and freedoms that are less favourable than those for other foreign nationals. It should be noted that the conceptualization of the

²⁹ It is of great interest to connect historical events in the region and the relations that host states have had with the PLO either in relation to the political standings of its leadership or the legal changes in host states.

³⁰ For a similar analysis with regards to Palestinians in Lebanon, cf. (FIDH 2003, 11).

term *integration* has been challenging, with different meanings proposed by different scholars, meanings that are often imprecise and even contradictory. As set out in the 1951 Convention, local integration, defined as assimilation and naturalization, refers to the granting of asylum and residency, and eventually citizenship by the host government. UNHCR itself defines integration as ‘the process by which the refugee is assimilated into the social and economic life of a new national community’ (cf. Grabska 2006, 9-10). In this paper, we refer to ‘integration’ as the process of granting civil, economic and social rights without *a priori* excluding political rights related to the nationality laws of host states, which may be more or less open towards refugees.

Various reports, issued by human-rights organizations, experts, researchers and academics have come to the conclusion that host states have, to differing degrees, failed to integrate Palestinian refugees. In certain cases, the will to integrate them was inexistent; in others, integration was more or less limited. The possibility of local integration has not been accepted by most host governments and the presence of refugees is seen as being temporary by host governments and refugees themselves. The rejection of full integration had led to a situation where ‘the majority of refugees tend to live on the margins of the host society’ (Grabska 2006, 10).

This section intends to disapprove the belief, widely held in host Arab countries, that the granting of rights and freedoms for Palestinian refugees, or even citizenship undermines the Palestinians’ right of return. For this reason, an overview of the institutional framework related to Palestinian refugees in each of the five case studies will first be offered (Section 3.1), followed by an analysis of the impact of such policies on the right of return (Section 3.2).

3.1. Institutional Framework: an Overview

As mentioned earlier, two principles have characterized the response of Arab States to the issue of Palestinian refugees since the 1948 war. First, there is a sense of solidarity with Palestinians, that means hosting refugees and granting rights similar to those enjoyed by citizens, though without naturalizing them; second, there is the need to preserve Palestinian identity, through the preservation of their refugee status. These two, not necessarily compatible principles, were reflected in the Casablanca Protocol and successive LAS resolutions (Shiblak 1996, 38-39).

The response of Arab states, it should be noted, corresponded to the ‘temporality’ with which the Palestinian refugees issue was regarded. In other words, the presence of Palestinian refugees in host states was, and needed to be, temporary if it was to be in line with the right-of-return doctrine. Some host states did not see a need to integrate Palestinian refugees, if their presence was perceived to be temporary.

It should also be noted, however, that the treatment accorded to Palestinian refugees in Egypt and Lebanon is often similar to the standards accorded to other foreign nationals. In contrast, Palestinian refugees in Jordan, Syria and Tunisia have generally enjoyed relatively favourable treatment (Badil 2007, 125) and are even treated in some respects as if they were citizens. Palestinian refugees are then treated differently in different host states. Some of these states have actively encouraged integration by granting refugees all the benefits and responsibilities of citizenship, while others provide them with few or virtually none of the rights enjoyed by the citizens of these countries (Reeds 2006, 370-371), nor, indeed, those rights enjoyed by other foreign nationals.

However, most Arab states did not consider it necessary to have a unique legal document which would govern the rights of refugees in Arab countries (Grabska 2006, 17); this applies in a very special sense to Palestinian refugees. Some may argue that Palestinians, as they are Arabs, cannot be considered refugees in an Arab state. The presentation of the different ways host states have treated Palestinian refugees and the changes in legislation that reflect a more or less restrictive policy towards Palestinian refugees proves though how naïve and simplistic such an approach is.

3.1.1. Palestinian Refugees in Egypt

Egypt hosts between 50,000 and 70,000 Palestinian refugees.³¹ Thousands of Palestinians reside illegally in Egypt. The exact number is, however, unknown as the Egyptian Government does not publish figures concerning Palestinian refugees.³² Most Palestinians arrived in Egypt after the 1948 and 1967 wars. Also at the time the GS was under Egyptian administration, and some Palestinians who entered Egypt for education or for work were not allowed to go back after the 1967 war.

UNRWA does not operate in Egypt and Palestinian refugees in Egypt are the responsibility of the Egyptian Ministry of the Interior which issues them with TDs and residency permits. As noted earlier, however, Palestinian refugees in Egypt fall under the mandate of UNHCR, in application of article 1D (second paragraph) of the 1951 Refugee Convention. Nevertheless, UNHCR rarely deals with Palestinian refugees in Egypt – it offers limited protection to male Palestinian refugees whose residency permit has expired and who are unable to renew their permit. Some Palestinian refugees hold UNHCR Blue Cards as well as Egyptian TDs and thus are able to access some of the services other refugees can access (health and education). It is unknown how many Palestinian refugees hold both documents.

As noted earlier, Palestinian refugees in Egypt are treated as non-refugee foreign nationals. In Egypt, there is neither national legislation specifically for refugees, nor a central government body which deals comprehensively with refugee issues (Grabska 2006, 19). Accordingly, legal texts and national institutions dealing with foreign nationals are, in principle, fully applicable to and functional towards Palestinian refugees residing in Egypt.³³ It should be noted, however, that the national institution responsible for refugees makes a distinction between those recognized by UNHCR and those who are not. The first group fall under the responsibility of the department of Refugee Affairs at the Ministry of Foreign Affairs, while others, for example, Palestinian refugees, fall under the responsibility of the Ministry of the Interior. In both cases, however, the Ministry of the Interior is responsible for issuing residence permits. A Higher Committee for Palestinian Immigrant Affairs was established to coordinate relief efforts, presided over by a deputy of the Minister of the Interior (Takkenberg 1998, 150).

At one time Egypt fully implemented the agreements of the 1965 Casablanca Protocol and treated Palestinians on an equal footing to Egyptians, particularly during the Nasser era. In the 1970s, privileges were gradually phased out. Many new decrees were put in place: Palestinians needed to pay fees to have their visas renewed, and they were required to show proof of having financial support and of having spent a minimum amount in hard currency *per* month.

Following the Gulf crisis in 1990, their situation worsened. As noted by (Takkenberg 1998, 153): ‘Renewal of residence permits became much more difficult. Palestinian children were no longer allowed into government schools and tuition fees for higher education increased dramatically and, unlike before, were due in hard currencies.’ The same author (1998, 154) explains how humiliating the procedure was for those holding an Egyptian TD and willing to return to the GS, for whom a transit visa of 72 hours was issued, in order to prevent them from staying on illegally in Egypt. Those holding an Egyptian TD, were no longer able to return to the GS, and were denied both entry and transit visas. Those who managed to reach Cairo Airport without a visa were detained for long periods. The same applied to those who had been living in Egypt for a long time.

Law No.89/1960³⁴ provides that there are three residency categories for foreign nationals in Egypt, including Palestinians. The law provides that entry to, or exit from Egypt is granted only to those

³¹ Or between 50,000 and 100,000, according to TAKKENBERG (1998, 150-154)

³² The main body of this section is based on the contribution of local researcher, Sherifa SHAFIE. The present researcher, however, added a number of other resources. Citations will be made only for those other resources.

³³ This section is largely based on: (TAKKENBERG 1998, 150-154).

³⁴ Law No.89 Relating to the Entry and Stay of Foreigners and their Exit from Egypt of 18 Mar. 1960. Official Journal No.71, dated 24 Mar. 1960, amended by law No.49/1968, 124/1980, and 100/1983. In a written statement presented by

holding passports or TDs issued by an entity recognized by the Egyptian authorities and that those documents should enable their holder to return to the country of issue. It should be pointed out that the Ministry of the Interior has discretionary power to exempt any foreign national or category of foreign national from the application of the law or part of the law. Limitation in rights and access to public services took place only slowly in Egypt, through ministerial decrees, rather than through laws. This fact created confusion in the implementation process (Grabska 2006, 20).

3.1.2. *Palestinian Refugees in Jordan*

A general overview of the status of Palestinian refugees in Jordan will be presented first (Section 3.1.2.1) followed by a presentation of the consequences of the severing of legal and administrative links with the WB (Section 3.1.2.2) and the special case of Gazans in Jordan (Section 3.1.2.3).³⁵

3.1.2.1. General Overview

Jordan has been exposed to constant migratory waves of Palestinians and others since the creation of the state of Israel in 1948. Due to its political and geographical position, Jordan received the greatest number of Palestinian refugees during the Israeli-Arab war of 1948. The country also received another wave of Palestinians after the 1967 war, which resulted in the occupation by Israel of the remaining parts of the historical Palestine, namely the WB, Jordanian territory at this date, and the GS, which was under Egyptian administration at that time.

Most Palestinians who came from those areas of Palestine that became Israel during the first Palestinian exodus in 1948 arrived in Jordan in the immediate aftermath of the Palestinian *Nakba* ('Catastrophe'). They were granted Jordanian citizenship under a law promulgated while the WB was still under Jordanian military administration (Law No.56/1949).

Jordan formally annexed the WB in 1950 and the Jordanian Constitution of 1952 (Article 5) stipulates that 'Jordanian citizenship is determined by law'. In 1954 a new Jordanian citizenship law (Law 6/1954) confirmed the citizenship status of Palestinians who acquired Jordanian citizenship under the previous law 56/1949. According to this law, a Jordanian citizen is: '...Any person with previous Palestinian nationality except the Jews before the date of May 14, 1948 residing in the Kingdom during the period from December 20, 1949 and February 16, 1954' (Article 3)³⁶

Accordingly, those who fulfil this residence requirement are granted full citizenship, including the obligation of military service. This applied also to their children. Palestinians ascended to the highest positions in Jordanian government, industry, trade, agriculture and business (Takkenberg 1998, 155-158).

Palestinians who fled the WB during the June 1967 Arab-Israeli War and those who have lived in Jordan since then are considered internally displaced persons because they moved from one part of the country to another, i.e. from the West to the East Bank of Jordan. Some of these displaced persons were already refugees from the 1948 Arab-Israeli War and they had been living on the WB since then. In both cases they were entitled to a five-year passport and full citizenship rights since they were citizens of Jordan prior to the war.

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the Government of Egypt to the Committee on Migrant Workers during its Sixth session (23-27 April 2007), it was stated that illegal migration are governed by Law No.89/1960 as amended by Law No.99/1996. See: http://www2.ohchr.org/english/bodies/cmw/docs/CMW.C.EGY.Q.1.Add.1_ar.pdf

³⁵ The main body of this section is based on the contribution of a local researcher, Mohamed OLWAN. The present researcher, however, added a number of other resources. Citations will be duly made only for those other resources.

³⁶ The Jordanian Nationality Law No.6/1954 is available in English at: <http://www.unhcr.org/refworld/country,LEGAL,,,JOR,,3ae6b4ea13,0.html> (accessed on 11 September 2008).

Official census data is not publicly available for the numbers of Jordanians of Palestinian origin, but it is widely believed that they represent over half of the Jordanian population (El-Abed 2004c).

3.1.2.2. The Severing of Legal and Administrative Links with the WB

In July 1988, King Hussein ordered the severing of all legal and administrative links with the WB. This decision, which did not amount to a law and which was followed by the instructions made by the Jordanian Prime Minister to implement it, stripped those Jordanians of Palestinian origin who had been resident on the WB before 31 July 1988 of their Jordanian citizenship.³⁷ It is estimated that over one million people lost their Jordanian citizenship as a result. According to the provisions of the Jordanian Constitution and the Jordanian citizenship law, however, they were Jordanian citizens (Olwan 2005, 156). But now they were deemed to be Palestinians rather than Jordanians.³⁸ A dual card system was created to facilitate a distinction between Palestinian citizens living in Jordan and those Palestinians living on the occupied WB.³⁹

Place of residence has been the criterion that determines whether an individual is still a Jordanian citizen or has become a Palestinian. Article two of the Instructions stipulates that ‘every individual who was residing in the West Bank before the 31st of July 1988 is a Palestinian, not a Jordanian citizen.’ This stipulation has been expanded to include the following categories: a) individuals who obtained passports issued by the PA with the approval of Israel; b) individuals working in PA institutions; c) individuals who hold ‘family reunion’ documents issued by the Israeli authorities; and d) individuals who had been residing on the East Bank before the issuance of the Instructions (NCHR 2006, 12).

As a consequence of the Royal Decree, Jordanians of Palestinian origin residing in the WB before 31 July 1988 lost their Jordanian nationality without having recourse to Palestinian nationality because of the non-existence, from a legal point of view, of a Palestinian state that could grant Palestinian citizenship.

The legality of the Jordanian decision and the Instructions issued therewith have been questioned. The legal concerns surrounding this issue are beyond the scope of this work. But it should be sufficient to note that both are administrative decisions and that deciding the status of citizenship on the basis of an administrative decision is a violation of the provisions of Article five of the Jordanian Constitution and Citizenship Law number six of 1954, both of which lack any provision that allows for the withdrawing of citizenship by a simple administrative decision. It is to be regretted that lawsuits against decisions taken by the Minister of the Interior, or any official, in matters related to citizenship, before the High Court of Justice, are not resolved, in general, to the satisfaction of claimants (NCHR 2006, 28).

The Jordanian High Court of Justice ruled in January 1991 that the severance of legal and administrative ties with the WB constituted ‘an act of state’, and as such it lay beyond its jurisdiction. While the Court acknowledged that the petitioner held a Jordanian passport, it emphasized that ‘not every holder of a Jordanian passport is necessarily a citizen of Jordan.’ (TAKKENBERG 1998, 156).

Following the decision, Palestinians who were living on the East Bank of the Jordan or elsewhere before 31 July 1988 remain and are considered Jordanian citizens. As such, they are entitled to a ‘family book’, a national number, and a five-year Jordanian passport. They are also issued with a

³⁷ Available at: <http://www.unhcr.org/refworld/country,LEGAL,,,JOR,,43cd04b94,0.html> (accessed on 11 September 2008).

³⁸ It is worth mentioning that the Israeli-Jordanian peace treaty (26 Oct. 1994) refers to the West Bank as ‘territories that came under Israeli military government control in 1967’, (TAKKENBERG 1998, 156).

³⁹ It should be noted that some refer to earlier dates for that measure that goes back to 1983: ‘Palestinians who were living in and citizens of Jordan on that date were provided with a yellow card, which represents full residency and citizenship status. Green cards were provided to Palestinians living in the occupied West Bank and to those who left the occupied West Bank after 1 June 1983. Green card holders have no right of residence in Jordan. They are, however, entitled to visit Jordan for short periods.’ (BADIL, 2007, 154-155 footnote 105).

yellow identification card by a special directorate of the Ministry of the Interior called ‘The Department for Inspection and Follow-Up’. The yellow card distinguishes those Jordanians of Palestinian origin from other Jordanians, i.e. the Jordanians of the East Bank. And this card allows them to travel to the WB over the Allenby Bridge crossing.

However, WB residents who were living in the occupied WB before 31 July 1988 have no right to Jordanian citizenship. They are, instead, only entitled to temporary Jordanian passports. King Hussein, indeed, made a speech on 7 August 1988 in which he stated that ‘passports will remain until such time as the Palestinian state is hopefully created and then obviously Palestinians will have their own passports representing them as citizens of that state.’ (Takkenberg 1998, 157).

These Passports were valid for two years until 1995 and since then have been valid for five years. Visa-holders were required to remain in Jordan and those West Bankers already residing in Jordan suffered restrictive measures (Shiblak 1996, 41). They were also issued with a green identification card by the Jordanian Ministry of the Interior, allowing them to visit Jordan and return to the occupied WB, but not to reside in Jordan. The two documents are issued solely as TDs and do not constitute an attestation of citizenship. The fact is that Palestinians in the WB are not Jordanians and, as such, they have no right to entry Jordan.

From time to time, Jordan makes it harder for Palestinians, who were for decades granted free entry to Jordan, to enter from the WB. On several occasions, the Jordanian authorities have refused entry to Palestinians with no permits from the Interior Ministry: these Palestinians are turned away at the Allenby Bridge near Jericho, the last remaining exit and entry point for West Bankers to leave Israeli-controlled territory. The blocking of Palestinian entry into Jordan was a reflection of Jordan’s anxiety about a future new wave of Palestinian immigration from the WB. Nevertheless and due to the special ties between Jordan and the WB, the number of travellers through the Allenby Bridge is increasing.

More and more Jordanians of Palestinian origin have been deprived of their Jordanian citizenship on the basis of the administrative disengagement decision, with no consideration being given as to its constitutionality or legality. The National Centre for Human Rights repeatedly condemned these withdrawals of Jordanian citizenship without judicial ruling. Moreover, it considers these practices arbitrary and a violation of a right, which is the basis of all other rights in the country. Nevertheless, the Jordanian High Court still considers the withdrawal of Jordanian citizenship a sovereign act, which does not encourage citizens to file lawsuits related to the denial of citizenship (NCHR 2008, 38).⁴⁰

3.1.2.3. Gazans living in Jordan

Unlike those Palestinians who came from the WB, the 150,000 or so ex-residents of the GS living in Jordan do not qualify for citizenship, and they are only given renewable two-year passports valid for the purpose of travel to the countries which accept this document and that will admit them. Many Palestinians fled the GS, many for the second time, after the occupation by Israel in 1967. They also hold cards for crossing between the east and the WB, subject to Israeli closure and other restrictions. These documents are residence permit cards, which do not connote citizenship or any of its inalienable rights. They are given for the purpose of identification and travel outside the Kingdom. The aim of these documents is to facilitate daily life activities until its holders return to their homeland. Jordanian women married to Gazans do not have the legal right to transmit citizenship to their children, as is the case with any Jordanian woman married to a foreign national. These documents, thus, do not entitle their holders to the rights recognized by Jordanian citizens, such as the right to health care, education in public schools, entry to professions and other rights exclusively reserved for Jordanian citizens.

⁴⁰ The number filed before the High Court in 2007 totalled nine cases.

3.1.3. Palestinian Refugees in Lebanon

Shortly after the events of 1948, about 100,000 Palestinians sought refuge in Lebanon. Today, there are several hundred thousand Palestinian refugees in Lebanon: exact figures are not available.⁴¹ Palestinians can be divided into three different categories:

- 1) Those registered at UNRWA. UNRWA has a total of 416,608 Palestinian refugees registered in Lebanon, an unknown number of whom live in Lebanon while the rest have emigrated from this country.
- 2) In addition to UNRWA-registered refugees, there are between 10,000 and 40,000 Palestinians who do not fall under UNRWA's mandate but who, like UNRWA-registered refugees, have identity cards issued by the Lebanese authorities (Elsayed-Ali 2006, 13).
- 3) The third, and smallest, group is one that is neither recognized by the Lebanese authorities nor falls under UNRWA's mandate – commonly referred to as non-ID Palestinian refugees. They number between 3,000 and 5,000 individuals. Their status in Lebanon is akin to that of irregular migrants, despite most of them having lived there for decades. As they do not possess valid identification they suffer from wide-ranging restrictions on their human rights (Elsayed-Ali 2006, 13).⁴²

Several reports and studies present Lebanon as the worse example of how Palestinian refugees, or refugees in general, are treated in host countries. Some even calls their treatment a 'gross violation' (Said 2005, 353-354) of obligations under international law and conventions, 'in violation of the CIL principle requiring integration of long-term refugees' (Reeds 2006, 373-374); 'the most unfortunate and destitute grouping of Palestinian refugees in any Arab host country' (Suleiman 2006, 3). According to Takkenberg (1998, 162), Palestinian refugees in Lebanon 'were viewed by the Lebanese ruling establishment as a threat to the delicate balance between Christians and Muslims and, therefore, to political and social stability...As a result, the Palestinian refugees in Lebanon have been in a precarious position.'

Palestinian-Lebanese relations have passed through different stages.⁴³ Since the early arrival of Palestinian refugees in Lebanon, the Lebanese government set up a specific administrative apparatus to govern the Palestinian presence in the country, but this apparatus evolved over time.⁴⁴

⁴¹ One reason for the lack of precise figures is that Lebanon has not carried out a census since 1932 (ELSAYED-ALI 2006, 13).

⁴² For more about needs and assistance to non-ID Palestinian refugees in Lebanon, cf. (PETRIGH 2006, 15-16).

⁴³ Palestinian-Lebanese relations passed through several different phases. Suleiman (2006, 21-23) gives six historical periods: 1) **Adaptation and Hope (1948-1958)**. Palestinians were welcomed by the public and the government. There was 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. 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. 4) **From PLO Departure to Ta'if (1982-1989)**: In the aftermath of the PLO's departure from Lebanon, Palestinian refugees lived through many harrowing experiences. 5) **Deliberate Neglect: Ta'if, Oslo and Beyond (1989-2005)**: This phase is marked by three landmark political events that 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 agreements. 6) **Lebanese-Palestinian Relationship: A New Era (2005-...)**: this new era has been characterized by greater public and official Lebanese willingness to discuss Palestinian refugee rights in a more rational though critical manner.

⁴⁴ This apparatus has evolved over the years (AL-NATOUR 1997, 361-363; SULEIMAN 2006, 11-13): **The Central Committee for Refugee Affairs**: created by presidential decree No. 11657 of 26/4/1948. The task of the central committee was to administer the Palestinian presence with respect to statistics, accommodation, relief and health care. The Committees was also set up to cooperate with UNRWA in defining the status of Palestine refugees. **The Department of Affairs of Palestinian Refugees (DAPR)**: This office of the Ministry of the Interior was created by a

Putting aside the period between 1969 and 1987, which was, to a limited extent, regulated by the **Cairo Agreement** and its annexes, Palestinians in Lebanon are in principle subject to the same legal status as other foreign nationals (Takkenberg 1998, 162).

- **Order (Arrêté) No.319 of 2 August 1962**

This Order regulating foreign nationals in Lebanon was issued by the Minister of the Interior. Following the adoption of the orders, Palestinians are one of the five categories of foreign nationals described in article 1, para.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.' (Suleiman 2006, 14; Takkenberg 1998, 163). It should be noted that the original law, dated 10 July 1962, governing entry into Lebanon, residency therein and exit from the country, did not include provision for the Palestinian presence in Lebanon, though that presence had been officially acknowledged since 1948 (Al-Natour 1997, 363-364).⁴⁵

- **Decree No.478/1995:**⁴⁶

Palestinian refugees who leave the country must first obtain exit/re-entry visas from the office of Public Security, which are affixed to their TD or *Laissez-passer*. Those who were outside the country (Syria excluded) on 1 June 1995, have to obtain a re-entry visa through their respective countries of residence prior to returning (Takkenberg 1998, 165). This new ruling meant that effectively 'these laissez-passer holders no longer have the legal right to reside in Lebanon, or indeed anywhere else in the world' (Khalidi 1995, 28). It should be noted that such a measure was undertaken by the Lebanese authorities following the expulsion of Palestinians from Libya in order to keep thousands of Palestinians with Lebanese RTDs out of Lebanon (Shiblak 1996, 40).

3.1.4. Palestinian Refugees in Syria

The Syrian government's approach to the refugee influx differed considerably from that of the other host states. According to Takkenberg (1998, 167) the reasons behind this attitude is threefold. First, in 1948, Syria was not suffering from unemployment or limited natural resources. Second, the arrival of

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presidential decree No.42 of 31/3/1959. Simultaneously Decree No. 927 was issued to define the tasks of DAPR. All issues relating to Palestinian refugees are administered by this department (Said 2005, 352-353). Other related decrees were issued, such as Decree No. 2867 of 16/12/1959, which identified the DAPR structure and the tasks of its General Director. **The Higher Authority of Palestinian Affairs:** 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. This authority was authorized to fulfil tasks of political and national security perspectives, without overlapping with DAPR. **Department of Political and Refugees Affairs:** this was the new name given to the DAPR. The new name was given by Decree No.4082 of November 2000, though the Department kept the same responsibilities. However, administratively it was downgraded from General Directorate to a department affiliated to another directorate, with few prerogatives remaining in the hands of the Director. This change was criticized by FIDH (2003, 12): 'The Lebanese government does not want this official status of Host State for the Palestinian refugees anymore.' It should be noted, however, that reference is made on the Lebanese General Security website to the Palestinian Refugees Administration Affairs (Edaret Shuoun Al-Lajeen Al-Falastenyeeen): <http://www.general-security.gov.lb/English/TravelingDocs/Palestinian/>

⁴⁵ Authors often confuse the Law Regulating Entry and Sojourn of Foreigners in Lebanon and their Exit, issued on 10 July 1962, available in French at: <http://www.unhcr.org/refworld/country,LEGAL,,LEGISLATION,LBN,4562d8cf2,3ae6b4f30,0.html> (accessed on 11 September 2008) with Order (Arrêté) No. 319 Regulating the Situations of Foreigners in Lebanon issued on 2 August 1962, available in French at: <http://www.unhcr.org/refworld/country,LEGAL,,LEGISLATION,LBN,4562d8cf2,3ae6b4ed58,0.html> (accessed on 11 September 2008).

⁴⁶ **Decree No.478/1995** Regulating Entry and Exit of Palestinians into and out of Lebanon, was issued by Minister of the Interior, 22 September 1995.

90,000 to 100,000 refugees did not threaten the economy or social structure of the country. Third, Palestinian refugees never constituted more than 2 to 3 per cent of the population.

Syrian law had facilitated the participation of Palestinian refugees in the social and economic life of Syria (As-Sahly 1999). As pointed out by Reeds (2006, 374), ‘Syria passed laws giving Palestinians a status equal to that of Syrian nationals. It is not necessary for Palestinians to acquire a permit in order to work, and they are permitted to own more than one commercial enterprise. They may travel freely and settle anywhere in the country. Palestinians are eligible to receive free secondary education from government schools and are granted equal access to Syrian universities.’ The same author, however, outlines some restrictions imposed on Palestinian refugees with ‘which Syrian nationals are not burdened. For example, Palestinians residing in Syria may not vote, and they are not permitted to own multiple homes. In addition, despite the fact that they have not been offered citizenship, Palestinian refugees are subject to compulsory service in the Syrian army.’ Then she concludes, ‘Palestinian refugees in Syria enjoy equality with Syrian citizens in most aspects of their lives and have achieved a significant degree of integration.’

Based on the existing literature on the status and rights of Palestinian refugees in Syria, the present author tends to agree with Reeds’s conclusion. However, it should be noted that Syrian law distinguishes between two categories of Palestinians: those having the status of refugee according to Syrian law and those who do not have such a status. The following sections will present the most important legal developments with regards to Palestinians in Syria.⁴⁷

3.1.4.1 Palestinians having the status of refugee

The Syrian legislature has interested itself in Palestinian refugees since their arrival and regulated various aspects of their stay. The legislative texts of concern are presented in this section.

- **Law No. 450 of 25 January 1949:**

The Palestine Arab Refugee Institution (hereafter PARI) was established under the auspices of the Syrian Social Affairs and Labour Ministry (As-Sahly 1999). Later on, it was substituted by the General Authority for Palestine Arab Refugees (hereafter GAPAR) (As-Salhy 1999). According to this law, PARI was entitled to follow up Palestinian refugee affairs, to ensure that their needs were satisfied, and to find them jobs. As PARI before it, GAPAR became the dominant authority in the camps and in Syria’s Palestinian community. GAPAR is a department of the Ministry of Social Affairs and Labour and watches all activities related to the Palestinian refugees in Syria. It has its own budget and refugee assistance program and cooperates with UNRWA (Takkenberg 1998, 169).

- **Legislative Decree No.37 of September 1949:**

This decree exempted Palestinians from a provision of the Civil Servants Act that stipulated that unless one had been a Syrian national for at least five years, one could not serve in the Syrian civil service (Takkenberg 1998, 167).

- **Law No.260 of 10 January 1956:**

‘Palestinians residing in Syria as of the date of the publication of this law are to be considered as originally Syrian in all things covered by the law and legally valid regulations connected with the right to employment, commerce, and national service, while preserving their original nationality’ (Takkenberg 1998, 168)

⁴⁷ The main body of this section is based on the contribution of local researcher, Fawaz SALEH. The present researcher, however, added a number of other resources. Citations will be made only for those other resources.

- **Decree no. 28/1960:**

This decree was issued by president Gamal Abdel-Nasser (then President of the United Arab Republic), granting Palestinians in Syria, Palestinian TDs.
- **Law No.1311/1963:**

This law regulated the issuing of Syrian laissez-passer or TDs to Palestinians residing in Syria, on condition that they were registered with GAPAR and held Syrian provisional identity cards.
- **Citizenship Law No. 276/1969:**

Palestinians, in spite of fulfilling the condition for naturalization, are not granted citizenship in order to 'preserve their original nationality'.
- **Law No.45/1975:**

Article 14 of this law, concerning the regulation of Passports, at entry and exit of Arab Syrians stipulates that it also applies to Palestinian refugees in Syria.
- **Ministerial decision No.1531 of 6 September 1980:**

This decision regulated the issuance of residency cards for Palestinian refugees (O.J.1980, p.1744) (Saleh 2005, 2). According to Article 2, the Palestinian refugee Residency Card is granted to those who entered Syria in 1948 and who were registered at the register of Immigration and Passports, and at the registers of the Public Agency for Palestinian refugees, and for their children, with their legal representative or those whom the Ministry of Interior allows to register.

3.1.4.2. Palestinians not having the Status of Refugee in Syria

These Palestinians are of two categories: those having obtained the citizenship of another state and those having refugee status in another Arab state.

Palestinian refugees who do not enjoy refugee status under Syrian law and have the nationality of an Arab state are subjected to the law applicable for Arab nationals with regards to entry, stay and exit.

Ministerial Order No.30 of 12 March 2007 concerning the Entry, Stay, and Exit of Arab Nationals⁴⁸ allows Arab nationals to enter Syria without visa for entry or transit. Registration at the register of travellers' arrivals is sufficient, once entry or exit is stamped on the TD (Article 1). Those Arab nationals who wish to stay in Syria for more than three months are obliged to present a demand for authorization from the Department of Immigration and Passports. Only Lebanese nationals have a longer period of stay without permit (six months, according to Article 2), while it is only 15 days for other foreign nationals (Article 3). Those who do not respect the conditions are considered irregular, but the order does not foresee any penalty. Article 7 states that the authorization of stay is not a work permit. A work permit for Arab nationals is granted by the Ministry of Social Affairs and Work..

Two new orders were issued in 2005 by the Ministry of Social Affairs and Work which regulates work for foreign nationals in Syria, and the conditions needed to obtain a permit. The decisions do not distinguish between foreign nationals and Arab nationals. Indeed, Article 1 of **Order No. 2040 of 20 November 2005** stipulates that 'non-Arab Syrian' refers to all those who do not enjoy Arab Syrian nationality, or those having a status similar to them, such as Palestinian refugees in Syria (Saleh 2007, 239).

As for those Palestinian refugees who have refugee status in another Arab country, these are obliged, if they wish to enter Syria, to obtain a visa prior to arrival. This visa is only granted with the

⁴⁸ Published in the *Official Journal of the Syrian Arab Republic*, 2007, p. 880.

approval of the relevant services. Those who are given a visa have no right to work in Syria unless they first obtain a permit from the Ministry of Social Affairs and Work.⁴⁹

3.1.5. *Palestinian Refugees in Tunisia*

In 1982, in conformity with the special arrangements between the US, France, Israel, Lebanon, Tunisia and the PLO, concerning the evacuation of Palestinian combatants following Israel's invasion of Beirut, Tunisia accommodated a thousand Palestinians. The Habib plan, according to which the arrival of Palestinians in Tunisia was carried out, stipulates that the Palestinians could stay in Tunisia for 10 years.⁵⁰ During those 10 years, the number of Palestinians in Tunisia increased to 5,000, including PLO combatants, PLO staff and their families. Most of those Palestinians left Tunisia following the Oslo Agreements in 1990s.

Currently there are almost one thousand Palestinians with permanent or temporary residency permits in Tunisia. About 90% of them have PA TDs. The remaining 10% have Egyptian, Jordanian, Syrian or Lebanese TDs. The current status of Palestinians in Tunisia is the same as it was between 1982 and 1983. In the word of the Tunisian Minister of the Interior in 1982: 'the presence of brother Palestinians is a temporary state, awaiting their return to their homeland. They will not have the status of migrant or that of refugee because they are combatants.'⁵¹

This special status is not found in any specific text in international or national law, with the exception of LAS resolutions that Tunisia had undertaken in this regard.

This special status is differently interpreted by doctrine. For some (El-Madmad 2002, 252) the Palestinians in Tunisia are *de facto* refugees, not as Palestinians but as Arab refugees residing in another Arab country. In reality, refugee status is hardly applicable to those Palestinians currently living in Tunisia since they do not follow the same procedures as other refugees. However, a recent report of UNHCR in Tunisia refers to the small number of Palestinian refugees presently in the country.⁵² Accordingly, those with refugee status remain the exception.

Palestinians in Tunisia are then to be considered as foreign nationals, but they enjoy preferential treatment over other foreign nationals, having the same rights as nationals in all domains.

3.2. Impact on the Right to Return

Voluntary repatriation is often referred to as the preferred solution for refugees. The right to return is guaranteed under international law and, in the case of the Palestinians, has been affirmed by several UN bodies including the General Assembly.⁵³ It applies not just to those who were directly expelled and their immediate families, but also to their descendants (Elsayed-Ali 2006, 13).

In this section, the 'right of return' will be defined and its basis according to international law set out (Section 3.2.1). A critical analysis will follow of the claim that granting rights for Palestinian refugees in host Arab states is harmful for the right of return (Section 3.2.2, 3.2.3). Finally, we will look at the

⁴⁹ Palestinians having an Israeli *Laissez-Passer* or Passport are, in principle, forbidden from entering Syria. There is no information available concerning the regulation of the entry of WBGs Palestinians with a PA passport.

⁵⁰ The main body of the section is based on contribution of local researcher, Monia Ben Jémia. The present researcher, however, added a number of other resources. Citations will duly be given only for those other resources.

⁵¹ From the newspaper *el akhbar al koweitia*, 22 August 1982.

⁵² <http://www.unhcr.fr/cgi-bin/texis/vtx/publ/openssl.pdf?tbl=PUBL&id=4587a6a87>

⁵³ Some even go back to the *Magna Carta* which, almost eight centuries ago, guaranteed the freedom 'to go out of our Kingdom and to return, safely and securely, by land or by water'. (SALAM 1994, 20).

impact of the Oslo agreements, the establishment of the PA and the possibility of a future Palestinian state and on the right of return for Palestinian refugees residing in host states (Section 3.2.4).

This paper offers similar conclusions to those reached by Elsayed-Ali (2006, 14) who states that: 'Enjoying human rights in the host country... does not in any way prejudice Palestinian refugees' right to return to their homes and lands. Until they are able to exercise this right, they should be able to enjoy access to essential services and exercise their rights to work, education, health care and property ownership.'

3.2.1. Definition and Content of the Right of Return

International law has articulated the principle of a right of return in its major instruments (Salam 1994, 20-21; Said 2005, 356-357):

The Universal Declaration of Human Rights of 1948:⁵⁴ 'Everyone has the right to leave any country, including his own, and to return to his country' (Article 13, para.2)

The Fourth Geneva Convention of 1949:⁵⁵ 'Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive' (Article 49, para.1).

The International Covenant on Civil and Political Rights (ICCPR) of 1966:⁵⁶ 'No one shall be arbitrarily deprived of the right to enter his own country' (Article 12, Para.4).

However, the cornerstones for Palestinians of their right of return remains the UNGA Resolution 194(III),⁵⁷ in which Article 11 states that the General Assembly:

'Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible.'

Several points of relevance are worth noting (Salam 1994, 20):

The right of return is given on an individual basis, independent of national rights.

The refugees themselves have a choice between return and accepting compensation.

The refugees have the right to receive compensation for damages suffered irrespective of whether or not they choose to return.

Those wishing to return must also wish to live in peace with their neighbours.

3.2.2. The Right of Return: is it politically correct?

Those who oppose the right of return for Palestinians claim that the UNGA Resolution 194 is not binding in terms of international law. Said (2005, 354-365) refutes such a claim by arguing that: **First**, Israel's admission into the United Nations in UNGA Resolution 273 was conditional upon the full implementation of the provisions of Resolution 194. **Second**, experts of international law consider

⁵⁴ <http://www1.umn.edu/humanrts/instreet/b1udhr.htm>

⁵⁵ <http://www1.umn.edu/humanrts/instreet/y4gcpcp.htm>

⁵⁶ <http://www1.umn.edu/humanrts/instreet/b3ccpr.htm>

⁵⁷ <http://domino.un.org/unispal.nsf/9a798adbf322aff38525617b006d88d7/c758572b78d1cd0085256bcf0077e51a!OpenDocument>

UNGA an instrument to express consensus on major international legal issues by majorities substantially in excess of the two-thirds vote required by the UN Charter for important questions, which was the case with the UNGA resolutions concerning Palestine, Israel, and the Middle East. **Finally**, it seems disingenuous at best for Israel, which derived its legitimacy as a state and subsequently was admitted to the United Nations through resolutions of the General Assembly, to now make such a contention.

Others do not see in the phrase ‘should be permitted’ in Resolution 194 any clearly established right. This claim can also be refuted. **First**, many successive resolutions reaffirmed ‘the inalienable right’ of the Palestinians to return to their homes and the property from which they have been displaced and uprooted, and calls for their return. This reference to the ‘inalienable right’ was mentioned in UNGA resolution 3236 of 1974 for the first time (Salam 1994, 21). **Second**, at the time that Resolution 194 was passed, the notion of the right of return had been enshrined by CIL, which by its nature is binding (2005, 354-365).

Two other objections are often used by those who oppose the applicability of the right of return to Palestinians. The **first** one is based on the claim that Israel is not the country of Palestinian refugees, while the **second** rejects a return *en masse* and leaves it exclusively for individual cases. The first objection is refutable since international law is applicable in the case of successor states, which obliges a new state to grant citizenship for the nationals of former states (cf. Said 2005, 356-357).

The second objection is more subtle; such claims are made with the overwhelmingly conviction that an *en masse* return is ‘unrealistic’ or ‘unfeasible’. Some of those who want to be creative regarding the Palestinians’ right of return, end up by voiding the right of return through its content. For them suggesting the original sense of the Palestinians’ right of return is not considered ‘politically correct’.

In this regard, Brynen (1997, 45) wrote: ‘Whatever moral and legal weight of refugee claims, the right of return-understood in its original sense to mean the large-scale return of Palestinian refugees to their homes within the 1948 territories, is one that will not be realized under any conceivable set of circumstances.’ Others adopt a similar approach towards the Palestinian right of return: ‘Concerning the 1948 refugees residing in Lebanon, Syria, and other lands of the Palestinian diaspora, if there were to be any ‘return’ at all it would almost certainly be confined to the territory of the WB and GS, and even then it would be *symbolic*, meant to underline the fact that the new Palestinian entity is the homeland of *all* the Palestinian people. One can be reasonably certain that any return to Israel proper, most probably within the context of some very limited family reunion plan emphasizing the humanitarian and deemphasizing the political dimension, would be insignificant’ (Salam 1994, 22).

Such political analysis does not though void the legal content of the ‘right of return’, based on international law as expressed in most relevant conventions and declarations, reflecting CIL, and presented repeatedly in UN resolutions. Besides, how can the return *en masse* be denied without affecting individuals’ right of return? (cf. Said 2005, 356-357). Notice that the reference is to the ‘right’ of return and not effective return *en masse*. In the last decades, this right was often recognized in conflicts from Bosnia and Indochina to Guatemala and El Salvador (Said 2005, 365), so why not for Palestinians?

3.2.3. Integrating Refugees: is it contrary to the Right of Return?

As mentioned earlier, integration of refugees in national communities takes place at different levels. Certainly, host states have had different ways of integrating Palestinians and individual states have changed their integrative policies towards Palestinians over time, responding to national, regional and international factors. This section intends to evaluate whether the integrative policies or restrictive state measures, influences the right of return and, if so, how. In other words, this section intends to challenge the idea that granting civil rights to Palestinians in host countries would be a first step in their permanent settlement in the countries of first refuge.

Imposing restrictions on economic activity, security pressures and intimidation, non-renewal of residency for Palestinians leaving countries of first refuge, and perhaps even stripping the Palestinians of their legal rights altogether is often perceived as a form of pressure to avoid the permanent settlement of Palestinian refugees in host states (Brynen 1997, 49-50). This political ‘push factor’ aims at encouraging Palestinian emigration (Sayigh 1995, 43), and once they have emigrated, aims to complicate their return.

Research in this direction is limited. However, there is no reliable data that suggests or reason to think that such restrictive measures result in Palestinian refugees leaving. After all, they do not have the right of return to their homeland, and most do not have another place to go.

Lebanese state policy is sometimes accompanied by popular support in opposing the *tawteen*, as it is termed in Lebanon. The rejection of settlement, however, is not only public policy (Sayigh 1995, 42). In 1990, it was even included in the Lebanese Constitution, when a preamble was added, thus acquiring constitutional value.⁵⁸

This opposition to the settlement of Palestinian refugees is often connected to the delicate religious divisions in Lebanon and the need to keep the balance between communities (FIDH 2003, 11). For this reason, it seems that opposition to the settlement of Palestinian refugees in Lebanon is one of the few issues that unites the Lebanese government and most of the sectarian communities (Sayigh 1995, 37), not to mention government and opposition both in Lebanon and abroad (El Khazen 2007).

This attitude may be misinterpreted by politicians and decision makers, to mean a forcible evacuation, a forced transfer to another country, or even forced re-entry to the country of origin. If it is not misinterpreted by politicians, it may be misconceived by Palestinian refugees. However, as noted by Salam (1994, 24), rejecting settlement, ‘does not mean a collective or forced evacuation of Palestinians... Rather, rejection of settlement should entail a refusal to grant Lebanese *citizenship* to the Palestinian refugees remaining in Lebanon after the establishment of the Palestinian entity.’

Granting rights without access to citizenship is typical of Syria and reflects one of the principles on which the Casablanca protocol is based. In that sense, Syria, like Lebanon, rejects the permanent settlement of Palestinian refugees, but, unlike Lebanon, Syria serves as an example, which confirms that ‘secure civil and social rights in the host countries can protect refugees from falling victim, for fear of discrimination, to the dangers of re-settlement and loss of their national identity’ (Jarrad 1999).

A different approach was adopted by Jordan, which granted citizenship for Palestinian refugees as much as for other non-refugee Palestinians, whenever they fulfilled the conditions imposed by the nationality law. Granting citizenship, however, does not terminate refugee status under UNRWA regulations, and, consequently, Palestinian refugees are still entitled to return to the lands from which they were driven and to receive compensation for their dispossession. On the contrary, if Palestinian refugees in Jordan were covered by the 1951 Refugee Convention they would lose their designation as ‘refugees’ by accepting citizenship in Jordan (Said 2005, 351-352).

One must admit that the regulation of the naturalization of foreign nationals remains within the state’s sovereign powers and prerogatives. LAS standards and international law do not require that host states grant citizenship, and few Palestinian refugees have acquired citizenship in Arab host states (Badil 2007, 126).

Salam (1994, 26) suggested that ‘granting all Palestinians remaining in Lebanon the status of permanent residency cannot be seen as preparatory to the granting of Lebanese citizenship. The granting of permanent status would be a *political* solution to a *collective* problem. Naturalization, on the other hand, is an *individual* question to be judged on a case-by-case basis; each application would have weighed on its own merits, and would have to satisfy the conditions for naturalization set down

⁵⁸ <http://www.lp.gov.lb/doustour/default.htm>

in the citizenship laws in force, which are bound to be strict in view of the special geographic, economic, and demographic characteristics that have made Lebanon for well over a century a land of emigration rather than of immigration.’

The present author tends to agree with this analysis because restricting access to citizenship for refugees, or foreign nationals in general is the state’s exclusive power and prerogative. Being granted citizenship, or not, becomes irrelevant whenever there is residency status without restrictions in civil, political and social rights. In some cases, as, for example, in the case of Lebanon, it may be considered the best way to accommodate both the needs of Palestinian refugees, and the state, i.e. human-rights prerogatives and national security needs.

However, such a measure (limiting access to nationality) should not be justified by political considerations, but rather on legal grounds; besides, it should be regulated by law, nor should it be dependent on the discretion of the administrative authorities and it should be enforced by state authorities under the supervision and the control of the judicial authorities.

In addition, such measures cannot be justified if undertaken exclusively against refugees, or against a specific category of refugees, based on nationality, religion, or sectarian affiliation. In other words, even in the case of national interest, discrimination is prohibited. What is more, if restricting access to nationality through long residence may be understandable in the context of forced migration and irregular entry (at least from the point of view of national regulation concerning entry of foreign nationals), it is less justifiable when it is related to access to nationality through family unification.

Palestinians though experience the exact opposite. Most countries have special provisions prohibiting the naturalization of Palestinians, provisions based on political grounds and in accordance with Arab League resolutions. Furthermore, marriage to a female citizen of a country does not constitute grounds for naturalization or special residency rights either for the husband, who is not a national, or for any children (Shiblak 1996, 39). Besides, discourses related to the restriction of Palestinian refugee rights and freedoms are often coupled with political arguments rather than legal ones.

3.2.4. *What is New with Oslo?*

The refugees issue is one of the five issues left for final status negotiations between Israel and the PLO. According to the Declaration of Principles (Article V, Para.3): ‘It is understood that these negotiations shall cover remaining issues, including: Jerusalem, refugees, settlements, security arrangements, borders, relations and cooperation with other neighbours, and other issues of common interest.’⁵⁹

Some consider the agreements ‘an apparent decline in commitment to the basic principles underlying the Palestinian cause’ (Al-Natour 1997, 360-361). The right of return as expressed in UNGA resolution 194, Article 11, is one of these principles. Nevertheless, the only reference is to UNSC Resolutions 242 and 338, omitting mention of Resolution 194.

For some others, the Camp David summit of July 2000 and the Taba talks of January 2001, coupled with some indiscrete declarations of PA officials, had shown that the PA has been willing to bargain away the right of return in exchange for its dream of an independent state in the WBGS (Said 2005, 362), ending up by admitting that: ‘it is safe to conclude that the PA has prioritized the idea of a Palestinian state over implementing the right of return’ (Said 2005, 364-365).

In that same direction Brynen (1997, 45) concludes: ‘Most official discourses on the right of return lack nuance, in part because of domestic constituencies, in part to preserve bargaining room, and in part because the refugee issue has not been a high priority for the Palestine Authority.’ He suggested that even Palestinian intellectuals and officials talk about the right of return, but do not mean it in absolute,

⁵⁹ Available at:

<http://domino.un.org/unispal.nsf/2ee9468747556b2d85256cf60060d2a6/71dc8c9d96d2f0ff85256117007cb6ca!OpenDocument>

but rather in attainable terms, with regards to the number of those who return (*force majeure* would prevent most of them from being able to exercise that right), and their destination on return (to national soil, i.e. the WBGs, rather than to the same land and soil that they left).

Certainly a 'sovereign Palestinian state within 1967 borders would act as a catalyst to resolve the refugee issue and put an end to Palestinian statelessness' (Shiblak 2006, 9). Besides, granting Palestinian refugees citizenship in the new state would 'bolster their position by providing them with diplomatic protection even while lessening the burdensome implications for the host countries' (Salam 1994, 25). Not to mention that having a recognized citizenship means having fewer legal restrictions imposed on Palestinian refugees by some host states, in the name of 'reciprocity of treatment.' Indeed, such a state, or whatever Palestinian entity is eventually formed, 'cannot deny stateless refugees the right to citizenship' (El Khazen 2007). Not doing so would be contrary to the Palestinian people's right to self-determination.

It should be noted that granting Palestinian citizenship means that some may decide to return to that state. However, their return to the WBGs, or the Palestinian state will not cease to exist, in the same way that this right has remained for the 1,800,000 Palestinian refugees now present in the WBGs.

However, granting Palestinian citizenship in this fashion may be difficult for some Palestinians who already enjoy another Arab nationality, since dual nationality among Arab states is not permitted (Badil 2007, 126). Even the granting of PA TDs, which are not an expression of the citizenship of a fully-fledged state, was used as a justification for withdrawing Jordanian nationality (Said 2005, 350), despite PA requests to agree on dual nationality for those Palestinian who so desire it (Shiblak 1996, 41). Not only that, even the acquisition of a second passport by Palestinian refugees was used by the Department of General Security as a pretext for removing some Palestinians from the list of those with residence rights in Lebanon. This practice is still in force,⁶⁰ and the 'head of General Security insists that such cancellations are within his powers' (Sayigh 1995, 44).

According to Suleiman (2006, 27-28) Palestinian refugees know that they have been abandoned and neglected by the peace process makers; for this reason, they perceive civil and social rights as a tools for survival in a desperate situation. This does not mean that they are necessarily willing to integrate completely into host societies, rather, such rights serve to mitigate their destitution and to alleviate their day-to-day suffering.

On the contrary, as pointed out by Shiblak (1996, 41), a (negative) change in the conditions of Palestinian refugees in the surrounding Arab states has been observed since the Middle East peace talks got underway: 'the conditions of Palestinian refugees in the surrounding Arab states have become increasingly untenable, with further restriction being placed on Palestinians, leaving refugees feeling more insecure and uncertain.' This can be explained by several factors: first, fears of the end of the right to return and, thus, of permanent settlement in host states (such as the case of Lebanon); second, retaliation against the PLO for engaging in peace talks with Israel (Syria); third, and most importantly, the position held by the then PLO leader, Yaser Arafat towards the Iraqi invasion of Kuwait (Gulf states).

4. Rights and Freedoms of Palestinian Refugees in Host Arab States

Refugees are, by definition, non-nationals since they acquire the status of refugees, *inter alia*, by crossing the borders of a state different to their own. As non-nationals, they are most likely to be treated by national institutions and laws as foreigners. This means that, in the absence of an express exception

⁶⁰ On the official website of the Department of General Security there is written that: if a Palestinian male (or female) refugee to Lebanon holds the nationality of another foreign country his register entry will be removed according to a correspondence sent to the DAPR and the Palestinian will be subjected to the procedures for foreigners residing in Lebanon. <http://www.general-security.gov.lb/English/TravelingDocs/Palestinian/>

clause for refugees, from the application of certain provisions of the law applicable to non-nationals, refugees will be subject to the same law applicable to foreign nationals. However, if one admits that refugees cannot be nationals, they cannot be treated as foreign nationals either because their entry and stay did not comply with national regulations concerning border crossing and sojourn for foreigners. In other words, if a state intends to apply to refugees the exact same regulation applicable to foreigners, then inevitably refugees are violating the law and may be subject to punishment.

International law, however, confers special attention on refugees, as a particularly vulnerable category of human beings. Through CIL, but also through conventional instruments, it provides a set of rules applicable for refugees, varying from imposing special treatment for refugees on states equal to that enjoyed by citizens, or to most favourable treatment for foreign nationals, or, at least, treatment that is not less favourable than the law on foreign nationals. In this sense, being a ‘special category of foreigner’ is not conceived as a way to limit refugees’ access to rights, freedoms and public services *vis-à-vis* foreign nationals, but rather as a way to enhance it. Such special rights start at the borders, by not strictly applying the regulation applicable on foreign nationals, respecting, instead, the principle of *non-refoulement*.

As a vulnerable category of non-nationals, various aspects of refugee life depend on a recognized status in the host state which enables refugees to enjoy the rights guaranteed by international law and national legislation. In other words, the protection granted to refugees by the law is dependent on the satisfaction of conditions imposed by the law itself, i.e. the acquisition of the legal status of ‘refugee’. *De facto* refugees never acquire that legal status and are thus not recognized as *de jure* refugees, thus they are outside the protection guaranteed by international and domestic law.⁶¹

The same is true for Palestinian refugees currently present in host Arab states. Those who were forced to leave the historical Palestine or left it voluntarily, but were not able to return (*de facto* refugees), are not automatically deemed to be ‘refugees’ in host states. To be a refugee in a host Arab state, certain conditions need to be fulfilled. The fulfilment of these conditions means the acquisition of a residency permit (often temporary and renewable) and certain other related rights, such as access to public services (to a greater or lesser degree) and freedoms in certain activities, depending on the state concerned, and the political climate there. Even those recognized as being refugees in host Arab states, can remain so only if they fulfil other conditions.

In some host countries, the satisfaction of certain conditions imposed by the law does not necessarily entitle a refugee to more rights, but rather to a status similar to non-refugee foreigners. Even that status though is not secure. Refugees have always to justify their presence. This means that conditions imposed by the law are nothing but a way of regularizing the illegal presence *en masse* of Palestinian refugees, by granting them a status similar to that of foreign nationals (Lebanon and Egypt). Host states have avoided searching for a separate legal status that distinguishes them from ‘foreigners’ and thus entitles them to basic human rights in accordance with the provisions of international norms and standards applicable on refugees (Suleiman 2006, 27-28). Accordingly, being a ‘Palestinian refugee’ in host states does not entitle these ‘refugees’ to protection provided for ‘refugees’ under international law, i.e. they are outside the protective mandate of international organizations specifically established for that purpose, and have assistance only from international organizations specifically for Palestinians (UNRWA) or by national institutions specializing in Palestinian affairs. This is what this paper earlier referred to as the ‘protection gap’.

By contrast, many Palestinians, who are not or, for one reason or another, are no longer fulfilling conditions imposed by national law, end up being legally inexistent. In other words, they are not entitled to any of the public services available or possibly available for ‘official’ or ‘recognized’ refugees, and do not enjoy the freedoms that others may enjoy. What is more, they risk being deported because they are

⁶¹ This does not mean, however, that they may not be assisted on a humanitarian basis: but assistance is not the focus of this paper.

illegally present on national soil. If ‘refugeehood’ is accompanied by the impossibility of return to the country of origin and statelessness, as is the case with Palestinians, then, the risk is not only that of being uprooted from the country where they are (first refuge), but having no other place to go to.

An overview of the way states host Palestinian refugees has been presented (Section 2). This chapter focuses on the related consequences which includes the granting of residency permits, an identification card and a TD, in other words, the ramifications of the legal existence of Palestinian refugees in host states, or what was called earlier, ‘the right to have rights’ (Section 4.1). A presentation of related economic and social rights, which includes the right to work, education, health services, housing and property will follow on (Section 4.2).

It is worth noting that Palestinian refugees in host Arab states suffer the absence of clear and well-defined legislation regulating their status; besides, refugee affairs are governed by ministerial decrees or administrative orders, which allow differing interpretations and abuses of power and can easily be reversed in response to changing political conditions (Shiblak 1996, 39). The following paragraphs provide arguments that will substantiate this.

4.1. The Right to be Legally Recognized

This section is dedicated to the legal status of Palestinian refugees in host Arab states. The legal recognition of Palestinian refugees entitles them to residency permits similar to those given to other foreign nationals (Section 4.1.1.) and special TDs for Palestinian refugees (Section 4.1.2.); the acquisition of a residency permit entitles the holder to access certain services and rights and movement within and outside the host country. In some very few cases then Palestinian refugees have access to nationality (Section 4.1.3).

4.1.1. Residency Permits

Arab states generally grant residency permits to Palestinian refugees. However, residency status varies from state to state (Badil 2007, 126). Palestinians in Egypt and Lebanon, who satisfy certain conditions with regards to entry and stay, obtain residency permits, according to the regulation applicable to foreign nationals. In Syria, Palestinian refugees are granted standard national treatment, while in Jordan most of them have Jordanian citizenship. Palestinians in Tunisia are treated as foreign nationals, but enjoy ‘preferential treatment’ in a derogatory way, having the same rights as nationals in all domains.⁶²

4.1.1.1. Which Kind of Residency Permit for Palestinian Refugees?

There are three types of residency permits in **Egypt**. Palestinians satisfying conditions for special residence are granted a ten-year permit, ordinary residence a five-year permit, and temporary residence a one- to three-year permit.⁶³ Other foreign nationals, including Palestinian refugees, who do

⁶² This section shall give examples from the five case studies, based on availability of data and that data’s importance. In some cases the topics are not of direct relevance, such as the issuing of travel documents for Palestinian refugees with regards to Tunisia, for example. Accordingly, to avoid useless information readers should not expect to see comparisons or a presentation of each of the five cases every time a topic is covered.

⁶³ There is discordance between authors concerning temporary residence. BADIL (2007, 126) mentions that it is from one to three years. TAKKENBERG (1998, 152), REEDS (2006, 373) and many others mention that permit validity is from one to three years. The author did not find in the literature any information supporting what appeared in Badil’s publication. On the contrary, information collected by the local researcher from official resources talks about one to three years of validity. Certainly, it is more logical to distinguish temporary residence from ordinary residence, otherwise there would be no need to create two different categories of residency. TAKKEBERG (1998, 152) mentions that special residence documents were issued for Palestinian refugees, residing in the ‘Northern Region’, which during the period of the United

not satisfy conditions for special and ordinary permits, acquire a temporary permit. According to Badil, (2007, 126-127) the majority of Palestinians in Egypt fall within the third category; those few Palestinians recognized as refugees by UNHCR are granted six month-renewable residence permits.⁶⁴

Lebanon viewed Palestinians as no different from other foreign nationals residing in Lebanon. A foreign national refers to any natural or juridical person who is not a Lebanese subject, a concept which relies mainly on nationality (Al-Natour 1997, 363). Following the adoption of Order (Arrêté) No. 319 of 2/8/1962,⁶⁵ Palestinians became one of the five categories of foreigners. The same Order made it mandatory for this category of foreign nationals to come to the General Directorate of the General Security before the end of September 1962, so as to rectify their status and receive temporary or permanent residency cards. In compliance with this Decision, Palestinians residing in Lebanon went to the General Directorate of the Department of Refugee Affairs to rectify their status and obtain the designated cards. This subsequently became standard practice (Al-Natour 1997, 363-364).⁶⁶

Lebanon seems to be adopting UNRWA's procedural definition. In other words, registration with UNRWA and receipt of UNRWA rations is a prerequisite for the issuance of refugee documents and for permission to stay in the country (Shiblak 1996, 40). Accordingly, Palestinian refugees legally residing in Lebanon are those who, during and in the aftermath of the 1948 war, took direct refuge in Lebanon and who registered with UNRWA in Lebanon. According to Suleiman (2006, 14), Palestinian refugees registered both with UNRWA and DAPR or, at least, with DAPR are granted a permanent residency card. Takkenberg (1998, 165) distinguishes, rather, between those registered with UNRWA, and those who are not, but registered in 1948 with the League of Red Cross Societies (*hereafter* LRCS).

Others who came later from other countries, who are not in the UNRWA register or who subsequently lost the right to receive UNRWA rations or be granted an ID from the Lebanese authorities, are deemed to be either illegally residing in Lebanon, or to be non-ID Palestinians. These suffer restrictions on any movements within the country. They cannot register their children, thus these children cannot attend public schools. And they cannot even register their marriages being under constant threat of deportation (Shiblak 1996, 40; Takkenberg 1998, 163-164; Elsayed-Ali 2006, 14).

Residency permits for Palestinian refugees in **Syria** are issued in accordance with the Casablanca Protocol (Badil 2007, 127). As mentioned before, Palestinian refugee residency cards are granted to those who entered Syria in 1948 and who were registered at the register of Immigration and Passports, and at the registers of the Public Agency for Palestinian refugees, and for their children from 10 till 18 years old, with their legal representative or with those whom the Ministry of the Interior accepts in this stead. It should be noted that the entry, residence and departure of foreign nationals in Syria is currently regulated by legislative decree No.29/1970, which authorizes the Minister of the Interior to issue decisions regulating the entry, residence and departure of Palestinian refugees in Syria. In 1980,

(Contd.) _____

Arab Republic (1958-1961) referred to Syria. Abu SEADA (2007, 44) refers to special residence as granted, *inter alia*, to Palestinian refugees.

⁶⁴ Officially, those refugees reported by UNHCR should be granted a three-year residency permit: http://www.mfa.gov.eg/MFA_Portal/Templates/Generic_Content_Unit.aspx?NRMODE=Published&NRNODEGUID=%7b94A7CD70-84BC-4E8D-9CD2-E9B727FE884D%7d&NRORIGINALURL=%2fMissions%2fUSA%2fNewyork%2fConsulate%2fen-GB%2fServices%2fRules%2band%2bRegulations%2f&NRCACHEHINT=Guest#Residence%20in%20Egypt%20for%20Foreign%20Nationals

⁶⁵ Available in French at:

<http://www.unhcr.org/refworld/country,LEGAL,,LEGISLATION,LBN,4562d8cf2,3ae6b4ed58,0.html>

⁶⁶ Among the consequences of the Cairo Agreement, and the situation it created with respect to residency status for the Palestinians already in Lebanon, was the promulgation by Lebanon's Interior Minister of Decision No. 136, dated 20 September 1969. This Decision placed the status of all foreign nationals in Lebanon on an equal footing while singling out (Article 4, Paragraph (e)) resident Palestinians holding the identification cards issued by the General Directorate of the Department of Palestine Refugee Affairs. (AL-NATOUR, 1997, 363-364).

Ministerial Decision No.1531 was adopted by which procedures for issuing residence permits for Palestinians refugees in Syria were set.

In **Jordan**, most Palestinians became Jordanian citizens. No residency permit is needed for them. The only exception are for Palestinians from the GS who, following the 1967 war or later on, took refuge in Jordan. These were not naturalized Jordanians and needed a permit to stay in Jordan. They are granted a two-year passport with many restrictions with regards to rights and freedoms. If they leave Jordan, there is no guarantee that those holding such temporary Jordanian passports will be allowed to return. Palestinians residing on the WB, holding Jordanian temporary passports (for two years, and since 1995 for five years), are not Jordanian citizens. Their entry into Jordan is limited to the time permitted by the Jordanian authorities. In case of transgression, they are to pay a fine and they may be expelled.

4.1.1.2. The Right not to be expelled (non-refoulement)

Suleiman (2006, 11) argues that '*refoulement*' is not an issue for Palestinian refugees, because they want to return home, but they are denied the right to return to their homes, in violation of UNGA resolution 194. The present author tends to disagree with the above conclusions since the principle of '*non-refoulement*', as mentioned earlier,⁶⁷ means that states shall not *expel or return* a refugee to the frontiers where his or her life or freedom would be threatened. In this sense, Badil (2007, 125-126) rightly concluded that Arab host states have frequently violated this principle 'either by expelling Palestinian refugees to the frontiers of territory where their lives and freedoms were threatened, or by denying entry to Palestinian refugees fleeing persecution by another host state. Examples include the massive expulsion of Palestinians from Kuwait in the context of the 1991 Gulf War, the expulsion of Palestinian refugees and the cancellation of their residency rights by Libya during 1994–1995, and the refusal of Arab host states to admit Palestinian refugees fleeing war, occupation and persecution in Iraq since 2003. Failure by Arab states to protect against '*refoulement*' has resulted in repeated and protracted emergency situations in which large numbers of Palestinian refugees have been stranded on borders between countries in the region.'

In **Egypt**, Palestinians who are not holding a refugee document issued by the Egyptian authorities risk expulsion; those holding a refugee document issued by the Egyptian authorities are granted a renewable three-year permit if they have resided in Egypt for the past ten years, and provided that they have a source of income in the country.⁶⁸ In fact, according to law 89/1960 which regulates the entry and stay of foreign nationals and their exit from Egypt,⁶⁹ being granted residency is conditional on providing a reason for remaining in Egypt. Each applicant must provide either evidence of enrolment in a school or university, legal employment (a work contract), a business partnership with an Egyptian, or marriage with an Egyptian woman, among other possible conditions. If none of these are applicable, then a Palestinian male must deposit an amount of money in a bank and show a statement of proof: women, it should be noted, cannot avail themselves of this condition. As a result, there are many Palestinians living illegally without residency in Egypt who are at risk of being jailed or deported (Shafie, 2008).⁷⁰

⁶⁷ See footnote 5.

⁶⁸ As provided on the Website of the Consulate of Egypt in New York:
http://www.mfa.gov.eg/Missions/USA/Newyork/Consulate/en-GB/Services/passports/imm_resid/res_foreigners.htm

⁶⁹ Official Journal No.71, dated 24 March. 1960.

⁷⁰ According to SHIBLAK, this policy became the rule in the late 70s when a number of 'privileges' were revoked: 'visas are no longer renewed free of charge, and the RD holder, like other foreigners, must show proof of having changed money and spent a minimum of \$180 in hard currency per family per month. Those who fail to comply risk deportation'. (SHIBLAK 1996, 39-40).

According to a 1962 law and the Lebanese penal code, non-ID Palestinians risk expulsion from **Lebanon**. According to the local researcher, registered Palestinians are impossible to expel. However, as noted earlier (Section 3.2.4.), the acquisition of a second passport by Palestinian refugees was used by the Department of General Security as a pretext to remove some Palestinians from the list of those with residence rights in Lebanon (Sayigh 1995, 44). Besides, the 1995 ruling imposing a re-entry visa on Palestinian refugees holding Lebanese TDs ‘meant the indirect but forcible eviction of approximately 100.000 Palestinians currently outside Lebanon but registered as living there, who are now *not only* stateless *but also* homeless’ (Al-Natour 1997, 365-366)

It is worth noting that law no. 260/956 prohibits the expulsion of resident Palestinians from **Syria**. In case of the illegal presence of Palestinians, who are recognised as refugees by other host states, these are treated as foreign nationals by Syrian law.

In **Tunisia**, law no. 75-40/1975 relating to passports and TDs regulates the entry and exit of foreign nationals from the country. Foreign nationals must be in possession of a valid passport and a visa when required. A new law was adopted in 2004; and in article 34 which is carried over from the 1975 law, it is stated that the *refoulement* of refugees is forbidden, as in international conventions.⁷¹

4.1.1.3. Free Movement within the Host Country

Those illegally residing in host countries risk, as we have seen, expulsion, meaning that they face a continuous and serious risk of being arrested by the police and the security forces, while moving within the country. This section tackles the freedom of Palestinian refugees, legally residing in host countries, to move within the borders of a host state, to choose their place of residence, and to be able to change it when needed.

Palestinians can move freely within **Syria** and have no limitations on residence within the country (As-Sahly 1999; Said 2005, 352).⁷² Palestinians having obtained Jordanian nationality have no restrictions on moving or residing in any part of **Jordan**. Those living in refugee camps can choose to leave the camp and live outside it if their economic situation permits. As for those non-naturalized Palestinians from the GS, they are mainly living in camps run by UNRWA and particularly in the Jarash and Hittin refugee camps.⁷³

In **Lebanon**, Palestinians residing in refugee camps are treated differently from those residing outside them. The latter group can change their domiciles or place of residency simply by giving notice of the change to the General Directorate of the Department of Refugee Affairs in Lebanon, as stipulated in Article 1, Paragraph 3 of Decree No. 927, issued in 1959. Those residing within the camps must file for a permit before moving from one camp to another, in line with Paragraph 7 of the same article (Al-Natour 1997, 365-366).

4.1.2. Travel Document

4.1.2.1. Issuing a Travel Document for Palestinian Refugees

There is no proof suggesting that the LAS issued specific TDs for Palestinian refugees: while, the idea of a Palestinian passport issued by the PLO (proposed in 1977) was, as we mentioned earlier, never implemented. However, as required by the Casablanca protocol and successive LAS resolutions,

⁷¹ However, no information is available for the possible expulsion of foreign nationals, including Palestinian refugees illegally residing in Jordan.

⁷² There is no information suggesting the limitation of such a right for Palestinians legally residing in Egypt and Tunisia.

⁷³ However, there is no information suggesting that they are obliged to live within a certain territory or that there are restrictions regarding place of residence.

Egypt, Jordan, Lebanon, and Syria issued TDs for Palestinians, upon satisfaction of certain conditions which varied from state to state.

The TD enables its holder to move outside the country and to return, but a TD is not a residency permit. In **Egypt**, for example, the TD for Palestinians states explicitly that its holder is not authorized to enter or to transit the Arab Republic of Egypt without an entry visa, a transit or a return visa. Accordingly, many of those Palestinians holding Egyptian-issued TDs are no longer legally resident in Egypt (Takkenberg 1998, 153) and many others are denied re-entry to Egypt, on the pretext of not having a visa. Only in the case of GS Palestinians in Jordan, have temporary passports been issued since 1968, in lieu of a residency card (Badil 2007, 154, footnote 104).

It should be noted that such a TD is sometimes issued for refugees as much as for non-refugee Palestinians. This was the case with Egypt and Jordan. In the first case, a TD was also issued for non-refugee Palestinians of the GS, in the second, a passport was issued for all Palestinians granted Jordanian citizenship, while Palestinian refugees from the GS or the WB were issued a temporary passport, respectively valid for two years and for five years. This reality is explicable by the connections between the GS and Egypt and the WB and Jordan and by the fact that Palestinians of the WBGS are, owing to the occupation, stateless. It also suggests that, with regards to freedom of movement, stateless Palestinians in the WBGS, as much as Palestinian refugees in host states, suffer from the absence of a national state which grants them TDs and diplomatic protection abroad.

Since the establishment of the PA, TDs have been issued to WBGS Palestinians; consequently, there is no reliable information as to whether Egypt still issues such TDs for Gazans while Jordan continues to issue temporary TDs. It should be noted that the PA TD is not an expression of citizenship; it must include an ID number (issued by the Israeli authorities who control the population register) in order to constitute a valid TD for oPt borders, still under Israeli control. Accordingly, if a PA TD is granted to Palestinians residing in host states while those do not have an (Israeli-issued) ID number, it may be used as a document for foreign travel, depending on how third countries treat PA issued TDs. However, such a document, alone, will not entitle its holder to access oPt territories. Besides, it is not clear whether granting a PA TD valid for outside the oPt, would also be used as a justification to retire TDs issued by host states or even residency permits.

In **Egypt**, the following are eligible for five-year TDs: Palestinian refugees who in 1948-49 took refuge in the GS; Palestinian refugees who in 1948-49 took refuge in Egypt proper; and non-refugee Palestinians from the GS (Takkenberg 1998, 153).⁷⁴

In **Syria**, Palestinians to whom the status of Palestinian refugee is recognized according to Syrian law are granted a TD, in accordance with Law 1311, adopted on 2 October 1963 (As-Salhy 1999).⁷⁵ Law no. 42/1975 regulates the departure and the return of Syrian subjects and Palestinians refugees in Syria. It also regulates the various types of passports and the conditions for their issuance. It provides penalties for the breach of its provisions. Palestinian refugees holding Syrian-issued TDs can leave and re-enter Syria (Said 2005, 352), but 'freedom to travel' outside Syria is a relative term, since it also depends on political considerations. Palestinian refugees in Syria need the same authorization as Syrian citizens (Takkenberg 1998, 167-169). However, unlike Syrian nationals, Palestinian refugees are not allowed to travel using only their personal ID card.⁷⁶

A Palestinian refugee in **Lebanon** must obtain a TD from the relevant authorities, by applying for a passport from the General Directorate of the Department of Palestine Refugee Affairs, which in turn

⁷⁴ According to YASIN (1999), all Palestinians in Egypt and the GS held passports issued by the All Palestine Government, but this researcher could not confirm this in other sources.

⁷⁵ TAKKENBERG (1998, 167-169) claimed that Palestinian refugees in **Syria** are eligible for the special Arab League TD; however, as stated earlier, the LAS did not issue such travel documents, but left it to concerned states.

⁷⁶ With the exception of passage between Lebanon and Syria, as will be shown later.

will study the application, record its opinion and transfer it to the relevant department of the General Directorate of General Security.

The Lebanese authorities issues two different TDs for Palestinian refugees. According to Takkenberg (1998, 165), those registered at UNRWA in **Lebanon**, or at LRCS are granted a one-year TD, renewable three times, that constitutes a valid document for return to Lebanon (provided other relevant documents are available, such as a return visa). Those who are not registered either at UNRWA or LRCS, receive a three-month TD, with a red rubber stamp indicating 'Not valid for return'. Suleiman (2006, 14) distinguishes between those legally residing in Lebanon and those who are not. The latter are not afforded any kind of documentation, while the former may have two different kinds of TDs. Those registered at UNRWA and DAPR are afforded a renewable five-year TD, while those registered with DAPR only are afforded a different type of one-year TD (*Laissez Passer*), renewable three times. The principles governing the issuance of TDs by the Directorate General of General Security in Lebanon may provide a more reliable resource of information:⁷⁷

- If registered at DAPR, UNRWA and the Directorate of General Security, the Palestinian is granted a travel document or the travel document is renewed for a period of 3 or 5 years.
- If registered at the DAPR but not registered at UNRWA, the Palestinian is granted a compulsory travel document or the TD is renewed for one year and the previous transit passport is withdrawn.
- If the Palestinian is not registered at the Palestinian refugees' administration affairs, but is registered at the Directorate of General Security in the Under Consideration category, the Palestinian is treated as the holder of the Under Consideration category residence documents (a residence permit and a transit passport).

In **Jordan**, Palestinians who have obtained Jordanian nationality, have a five-year passport, as all citizens. Since 1988, Palestinians of the WB have been granted, instead, a two-year temporary passport. Since 1995, temporary passports for WB Palestinians are valid for five years (Olwan 2008). As for those Gazans who entered Jordan in 1967, a one-year temporary passport was issued. At the beginning of the 1980s, the government issued a three-year passport, but this decision was revoked in 1985. In 1990, the government issued 80,000 two-year passports (Badil 2007, 154, Footnote 104). On 29 September 2004, the Prime Minister authorized a two-year temporary passport for Gazans in Jordan. The government stressed continuously that the decision was a 'humanitarian gesture' that must not be taken to indicate the 'granting of Jordanian citizenship' (Olwan 2007, 100).

4.1.2.2. Admittance of RD Holders in other Host Countries

Palestinian refugees holding a TD issued by a host country need, as much as nationals of that country, a visa to cross borders of third states when a visa is required. So, for example, a Palestinian refugee holding a Lebanese TD needs a visa whenever Lebanese nationals are required to have a visa. However, what distinguishes Palestinian refugees is that states sometimes require them to have a visa when nationals of the country which granted the TD do not need one. So Palestinians carrying RTDs or 'temporary' Jordanian passports are frequently denied entry visas to almost all Arab states (Shiblak 1996, 42).

In **Syria** for example, Palestinians residing in another State are governed by Decision No. 30/2007, issued by the Minister of the Interior. Palestinians residing outside Syria need an entry Visa before entry into Syrian territory while other Arab nationals do not need such a visa. The same decision permits the expulsion of individuals who are in breach of its provisions. Accordingly, Palestinian refugees holding temporary TDs (from Jordan, not those holding Jordanian nationality who do not need a visa) or TDs for Palestinian refugees might be refused entry into Syria (Saleh

⁷⁷ <http://www.general-security.gov.lb/English/TravelingDocs/Palestinian/>

2008). In 1994, following the PLO-Israeli declaration of principles, Syria, for the first time, began denying entry to Palestinians from the occupied territories or to those holding temporary Jordanian passports (Shiblak 1996, 42)

Al-Natour (1997, 365-366), refers to Decree No.1188, dated 28 July 1967, which stipulates in Article 22 that a Palestinian is exempt from showing a TD when travelling between **Lebanon** and Syria. There is a similar provision in Syrian law which permits Palestinian refugees in Syria to travel to and from Lebanon using a personal ID card (As-Salhy 1999). No reliable information is available as to whether this is still the case after the deterioration in relations between Syria and Lebanon, and the withdrawal of the forces of the former from the territory of the latter.

In some cases, a visa is not granted for Palestinian refugees unless their TDs are stamped with permission to return – permission which Egypt, for example, typically denies. In Tunisia, as in other Maghreb states, Palestinian RTD holders are not allowed entry without prior notification by PLO offices in the country, a condition that is not always easy to meet (Shiblak 1996, 42).

4.1.2.3. The Return to the Country of First Refuge

Syria does not impose any return-visa or re-entry permit on its refugees. This is one of the most important articles included in Law 1311/1963 (Article 10) (As-Salhy 1999).

Palestinians having obtained five-year passports do not, as other Jordanian nationals, need a re-entry permit: a temporary Jordanian passport granted for WB Palestinians does not grant any legal right to enter or reside in **Jordan**, unless for periods determined by the Jordanian authorities. No information suggests that ex-Gazans, holding two-year temporary TDs acting as residency cards, are requested to have a re-entry permit.

The Lebanese Minister of the Interior adopted decree No. 478/1995 which stipulated that ‘every Palestinian refugee who came to **Lebanon** in 1948 and who wishes to leave it, must obtain an exit and return visa from the Security General, and in exchange for the payment of fees.’ (Al-Natour 365-366). According to Suleiman, however, this decree was revoked on 12 January 1999 by the government headed by Salim Al-Hoss.⁷⁸

According to Al-Natour (1997, 365-366) the Decree⁷⁹ No. 478/1995 ‘severely affected the freedom of movement from and to Lebanon for those refugees who are legally registered there, particularly for those outside the country at the time the decree was issued. This category was asked to present their requests for return visas to Lebanese Embassies abroad, but practice has shown that the visa is in most cases not granted.’ The visa is given after approval by the General Directorate of Public Security via the Ministry of Foreign Affairs (Suleiman 2006, 14). According to FIDH (2003, 14), the decree ‘puts an end to the freedom of entry and exit for the Palestinians that the law No. 1188 dated July 28, 1962 has until then granted to all foreigners. The Palestinian refugees would take the chance to leave Lebanon without being able to return and meet with their families, as it actually happened.’

Palestinian refugees holding TDs issued by **Egyptian** authorities have no automatic rights to leave or re-enter the country, but must renew their visas regularly – depending on their category as often as every six months, in some cases as much as every three years (Shiblak 1996, 39-40): in other words they need a re-entry permit (As-Salhy 1999) or visa which is issued at the discretion of the Egyptian authorities (Said 2005, 352). If a Palestinian refugee remains outside Egypt for more than six months,

⁷⁸ This researcher could not verify the existence of a decree expressly abrogating No. 478/1995.

⁷⁹ Al-Natour refers to this decree as a ruling. In all other resources, it is translated as a ‘decree’ or even an ‘order’, all are translations of the Arabic term: *karar*.

or longer if they have special authorization, they may lose their residency rights (Badil 2007, 126-127) and will almost certainly be refused re-entry (Shiblak 1996, 39-40).

4.1.4. Access to Nationality

The right to nationality is a fundamental human right,⁸⁰ from which other rights and entitlements can flow, especially in a world composed of nation states (Shiblak 2006, 8-9). International law, as much as LAS standards, however, do not require that host states grant citizenship to refugees (Badil 2007, 126).

Some may argue that Palestinian refugees are not necessarily willing to acquire the citizenship of host states, but, rather, that they demand civil rights. The problem is that, as Suleiman points out (2006, 27-28), in Arab countries, unlike most liberal democracies, where civil rights are linked to permanent residency, the right to citizenship is considered the primary right from which other civil rights and entitlements flow. Besides, in the case of Palestinian refugees, being granted the nationality of host states becomes problematic because, while obtaining foreign nationality is better than remaining stateless, these refugees want to keep their national identity as Palestinians.

Previously in this paper we discussed the impact of granting nationality to Palestinian refugees on the Palestinian right of return. The only thing that needs to be stressed again here is that those who have obtained a new nationality (such as those Palestinians who obtained Jordanian nationality), have most likely to choose between keeping the Arab nationality that they have acquired or taking back Palestinian citizenship, once (and if) the Palestinian state is established, especially given that dual nationality is generally not recognized by LAS member states (Badil 2007, 126).

This section is dedicated to the different nationality laws of host states and questions the way that Palestinian refugees have been treated with regards to access to nationality, and the related rights and duties that result from the legal status a Palestinian refugee enjoys.

4.1.4.1. Access to Nationality through Naturalization or Long Residence

The preservation of the Palestinian entity is presented as a justification for denying the naturalization of Palestinian refugees in the Casablanca Protocol. The general rule was to deny Palestinians the nationality of host states, in order that they could keep their original nationality. Only in exceptional cases and on an individual basis, have some Palestinians obtained the nationalities of their host states.

In **Syria**, Palestinians enjoy (almost) the same rights as Syrian citizens, but they are not eligible for Syrian citizenship (Said 2005, 351). However, there are three different ways for Palestinian refugees to access Syrian nationality: 1) if they are women married to Syrian men; 2) if they had Syrian citizenship before 1948; 3) through special dispensation from the Ministry of the Interior (Badil 2007, 127). According to Shiblak (1996, 39), very few Palestinians have obtained Syrian citizenship, and those who did were mainly from families who had settled there before 1948.

As for **Lebanon**, naturalizing Palestinian refugees is perceived as settlement and the Lebanese Constitution itself rejects *tawteen*. Apart from this general constitutional principle of rejecting *tawteen*, there is no legal impediment to granting citizenship to Palestinians. In practice, there are some Palestinian refugees who have become naturalized Lebanese nationals through family unification (Shiblak 1996, 39). Takkenberg (1998, 164) too refers to some wealthy Christian Palestinians who received citizenship when Camille Chamoun was President between 1952-1958; even middle-class Palestinians could, until the mid-1960s, obtain Lebanese nationality 'relatively easily'. According to Decree No. 15 dated 19 January 1925,⁸¹ Lebanese nationality could be obtained in certain cases by a

⁸⁰ Article 15 of the Universal Declaration of Human Rights of 1948 declares that 'everyone has the right to a nationality'.

⁸¹ Available in English at: <http://www.unhcr.org/refworld/country,LEGAL,,LEGISLATION,LBN,4562d8cf2,44a24c6c4,0.html>

decision of the Head of State as an act of sovereignty. This article seems to offer a chance for Palestinians to acquire citizenship. However, the LAS recommendations have made it more difficult for Palestinians, as foreign nationals, to take advantage of this option (Al-Natour 1997, 374-376).

Many authors refer to **Jordan** as the exception to the above rule. This researcher tends to disagree and would argue that Jordan is no different from other host states, with regards to the naturalization of Palestinian refugees. After all, Jordan did not offer its nationality to Palestinian refugees because they were refugees. Rather, it granted Jordanian nationality *en masse*, following the unification of the two banks of the Jordanian river, and in accordance with Jordan's nationality law. It was obliged to do so, on the basis of the rules applicable in the case of the succession of states.

Refugees and non-refugees were granted Jordanian nationality, based on article 3, point B of the 1954 Law. This Law stipulated that 'any person with previous Palestinian Nationality except Jews before the date of May 15 1948 residing in the Kingdom during the period from December 20 1949 and February 16 1954,' is considered a Jordanian citizen. Granting citizenship did not result in individuals losing their refugee status and economic aids presented by UNRWA continued to be made by Palestinian refugees naturalized as Jordanians (Hejoj 2007, 121-122).

Those Palestinians who arrived from the occupied WB and took up residence in Jordan before 1 June 1983 are eligible for citizenship, but this is not automatically granted. This does not apply to Gazans who took refuge in Jordan after the 1967 war (Badil 2007, 126). In other words, Jordanian nationality was granted to all those who were present on the territory falling within the jurisdiction of the Hashemite Kingdom of Jordan, at a certain period of time, regardless of their status, refugee or otherwise, and for their children. It is important to remember that Palestinian refugees who arrived in Jordan at later stages (Palestinians from the GS), were not granted Jordanian nationality, despite their long residence.

4.1.4.2. Access to Nationality through Family Unification

Palestinians, especially those holding TDs issued by host countries, are deeply affected by laws concerning family reunification. Palestinian females married to nationals may be granted permanent residence or even citizenship. These women are among those few Palestinian refugees who have obtained the nationality of host states. Most importantly, their children obtain the nationality of the father. When there is, instead, a Palestinian father and a local mother the same does not happen. In fact, as a general rule, women in Arab host countries do not have rights of family reunification if they are married to foreign nationals, including Palestinians (Shiblak 1996, 44). This means that the children of Palestinian refugees (males) married to Arab nationals (females), are denied nationality. Such a policy leads to the breaking up of the family. Shiblak (1996, 44) refers to cases of Egyptian families, where women, Egyptian nationals, were able to return to Egypt, while the husband, a Palestinian holding an Egyptian-issued RTD, and their children were denied entry.

The above mentioned **Jordanian citizenship law** No.6/1954 states that 'the children of a Jordanian are Jordanian irrespective of where they are born'. However, this article is not interpreted to confer Jordanian nationality on children of Jordanian women married to foreign nationals. Jordan even set out a reservation to article 9/2 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified by Jordan on 1 July 1992, which deals with the right of women to pass their nationality on to their children. According to some sources, there are as many as half a million persons affected by this interpretation of the citizenship law, a majority of whom are Palestinian men married to Jordanian women. The National centre for Human Rights asserts that the issue of the citizenship of the children of Jordanian women 'continues to constitute a real challenge to the national efforts in the fields of eliminating all forms of violence against women and the protection of children's rights' (Olwan 2007, 100).

Lebanese nationality legislation is ruled by Decree No. 15, dated 19 January 1925, amended by Law No. 11 dated 13 January 1960. According to Article 1, citizenship may be granted, *inter alia*, to '[e]very person born of a Lebanese father'. In accordance to article 5, a foreign woman, including a Palestinian woman, married to a Lebanese man, is enabled to acquire Lebanese nationality one year from the date of her marriage, providing that the marriage is deemed 'authentic', and to enjoy, after naturalization, all the privileges of citizenship without exception (Al-Natour 1997, 374-376). However, a Palestinian refugee in Lebanon, holding a TD, when married to a foreign national is granted an annual residence after presenting an effective certificate of marriage and after proving the legality of any cohabitation. If the refugee was married to a Palestinian refugee outside Lebanon, the marriage must be registered first at the Palestinian Refugees' Administration Affairs and at UNRWA. After registration the refugee is granted a travelling document.⁸²

4.1.4.3. Rights and Duties of Nationals

In **Syria**, Palestinians are denied access to Syrian citizenship but they are allowed to serve in the Syrian military (Said 2005, 352), which is usually a duty of a citizen. In fact, the Palestine Liberation Army (PLA) was established in 1964 and Palestinian refugees were given the option of serving either in the PLA or in the Syrian army. Currently, Palestinians serve in the Syrian army and the PLA requests the personnel it needs (Takkenberg 1998, 167-169). As non-citizens, Palestinian refugees in Syria do not have the right to vote or stand for parliamentary or presidential elections or run as candidates for political office (As-Salhy 1999; Said 2005, 352). However, the Palestinian refugees in Syria enjoy freedom of access to government services (Shiblak 1996, 43).

As Jordanian citizens, **Jordanians of Palestinian origin**, at least officially, enjoy the same rights as all Jordanians, and consequently they receive the same kinds of civil documents as any other Jordanian. Therefore they and their descendants from the male line hold Jordanian passports, which are valid for five years. Each of them has a 'national number,' which is shown on national ID cards and in the 'Family Book', both of which are only issued to citizens (El-Abed 2006; Olwan 2008).

In **Lebanon**, Palestinians, as other foreign nationals, find that access to public services including education, health services and social security depends on the reciprocity of treatment with the country of origin (Shiblak 1996, 43; Sayigh 1995, 44). In the case of stateless Palestinians, this clause means their complete exclusion.

4.2. Economic and Social Rights of Palestinian refugees

This section shall cover the way that Palestinian refugees' right to work (Section 4.4.1), education (Section 4.4.2), health (Section 4.4.3), and property (Section 4.4.4) is regulated in host Arab states.

4.4.1. The right to work

The work environment is highly regulated and work policies are restrictive. The rationale for such a policy is the protection of national interests. In this sense, Arab policies are no different from those of other states, including western democracies.

Palestinian refugees, despite a residence of many years and despite being, in most cases, born and raised in that country, are, for the purposes of work regulations, foreign nationals. They even suffer more restrictive measures, since they need to obtain a permit like other foreign nationals, but they sometimes also need to satisfy the reciprocity of treatment clause, which is impossible in the case of stateless Palestinians. What is more, Palestinian refugees, even when they have surmounted the hurdle

⁸² <http://www.general-security.gov.lb/English/TravelingDocs/Palestinian/>

of obtaining a permit, do not necessarily benefit from social security, though they have, like other workers, to make their social security contributions, for example, in **Lebanon**, where the right to social security for Palestinians is also dependent on the reciprocity of treatment (Suleiman 2006, 16).⁸³

The labour regulations applicable to Palestinian refugees in host Arab states is presented first (4.4.1.1), followed by the question of employment in the public sector (4.4.1.2).

4.4.1.1. Labour Regulations and Palestinian Refugees

Labour laws in Arab states distinguish between ‘nationals’ and ‘foreigners’ with regard to equal opportunity and benefits. Palestinian refugees are treated in most Arab states as non-nationals and, therefore, need work permits. Work permits for Palestinians are, to one extent or another, difficult to obtain, depending on the state in question and the current political climate. In the 1990s, following the Gulf crisis, most Arab states put in place restrictions with regards to Palestinians. Restrictions imposed on Palestinian refugees made them, for the purposes of work, foreign nationals and this and the stagnant Arab economies led to a high incidence of unemployment among Palestinians (Shiblak 1996, 43). Some Palestinians opted to profit from UNRWA work opportunities, but others migrated to third countries in their search for work (mainly to the Gulf States, Yasin 1999). Those who remained in host countries resolved to work illegally. Not having the legal documents necessary for legal work means that Palestinian refugees cannot benefit from rights provided in the labour laws of host states.

In **Syria**, Palestinians who are deemed refugees according to Syrian law are treated as nationals. Other refugees need a visa of entry and need to work as foreign workers. **Palestinian nationalized Jordanians** have the same rights as other citizens, while **Palestinians holding temporary Jordanian passports** are treated as foreign nationals. In **Tunisia**, the labour code (Article 258-2) demands that foreign nationals have a permit for work.

In **Egypt**, a series of laws were passed in 1954 that allowed Palestinians to practise liberal professions in Egypt as if they were Egyptians. According to Decree No.657/1989, (art.11, para. j.), Palestinians who were in possession of an Egyptian TD with a non-tourist visa, were formally exempted from the requirement that native workers be given priority for employment (Takkenberg 1998, 153). However, in the late 1970s regulations applicable to Palestinian refugees changed. Presidential decrees issued in July 1978 (No. 47 and 48) cancelled earlier decisions which had treated Palestinians like Egyptians. The Ministry of Human Resources also prohibited the employment in trade of foreign nationals including Palestinians, particularly in imports and exports, unless these had been married to Egyptians for more than five years (Shafie 2008).

Decree No. 43/1988 related to conditions for granting work permits to foreign nationals.⁸⁴ The decree provides that special concessions are available to foreign nationals married to Egyptians.

⁸³ Article 9 of the Social Security Law issued on 26 September 1963, defines the conditions of foreign wage-earners' eligibility for social security in Lebanon: 'the said foreign wage-earners shall benefit from the provisions stipulated in the Social Security Law, provided they hold work permits in accordance with the laws and rules and regulations in force and provided that reciprocal treatment is afforded its own nationals where social security is concerned.' (Al-Natur 1997, 270).

⁸⁴ Article (1) provides that foreign nationals will not be allowed to work in Egypt until they have obtained a proper permit from the Office of Manpower and Training in the relevant Governorate. Article (3) provides that certain matters should be considered by the Manpower and Training Office before granting a foreigner a work permit. First the foreign national should not be competing with equally or better qualified persons of Egyptian nationality. Also the necessity of the foreigner's work for the economy of Egypt should be considered, as should the intended place of work's need for such an employer. If the foreign national is a person working in a field where the Egyptian law provides regulation of employees as to skills and experience, the foreigner should comply with the necessary regulation. Also a foreign national born and permanently resident in Egypt should be given priority over a complete foreigner. Under Article (4), the number of foreign employees in any establishment may not exceed 10 per cent of the total number employed. Exception may be made if it is in the interests of the Egyptian economy. Article (5) provides for certain fees to be charged. On the first application by any foreign national, 1000LE is charged for foreigners and members of Arab countries. Monks and nuns

Further anyone of undetermined nationality who has been continuously and permanently residing in Egypt for 15 years or more should be given priority, as should political refugees who have a certificate from the Political Refugees Office of the President. Special considerations should also be given to foreign nationals who were born in Egypt and who were permanently resident there. Palestinian refugees legally residing in Egypt are not treated as citizens, but rather as foreign nationals. Accordingly, in order to work, they do not need permits issued by the concerned authorities. The permit depends on presenting documents such as having been a resident in Egypt for the previous 5 years and the type of residency permit (Shafie 2008).

A more restrictive policy against foreign nationals in general and Palestinians in particular exists in **Lebanon**. It is true that some legislation regulating the labour market there does not address the issue of Palestinian refugees in Lebanon and has left Palestinians in a legal limbo (Al-Natour 1997, 366). However, the work of Palestinians in Lebanon, as much as other foreign nationals, is subject to regulation included in Presidential Decree No. 17561 of 18/9/1964.⁸⁵ A Palestinian willing to work in Lebanon shall satisfy three conditions: a) the obtaining of a work permit;⁸⁶ b) national preference;⁸⁷ c) reciprocity of rights and obligations (Suleiman 2006, 15-16). As was the case with Egypt, the reciprocity clause targets stateless Palestinians (FIDH 2003, 13).

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 needs arising in the Lebanese labour market, a power that has often been used (Al-Natour 1997, 366-371; FIDH 2003, 13; Suleiman 2006, 16-17):

- **Ministerial Decree No. 621/1 of 1995** (updating **Ministerial Decision No. 1/289 of 18 December 1982**) enumerated about 50 jobs, trades and independent professions in the private sector where nationals were to be given preferential treatment. Jobs not mentioned in the decree need permits. Palestinian refugees disadvantaged with regards to Lebanese nationals and even some foreign nationals, i.e. Syrian workers who do not need work permits.⁸⁸ In certain cases (residence in Lebanon since birth; Lebanese origin; married to a Lebanese woman for more than one year), it is possible for foreign nationals to win an exemption from the Minister (Article 2).⁸⁹ Palestinian refugees may enjoy such an exemption, but data shows that only a limited number of permits are issued for Palestinian refugees in Lebanon. According to Al-Natour (1997, 368) ‘In

(Contd.) _____

practicing a religious activity within monasteries and convents and not performing services outside their religious institutions are also charged. On renewal, the fees are halved. Article (7) provides that the establishment employing foreigners must keep a register, containing the foreigner’s name, family name, nationality and date of birth. The register should also contain details of his or her work, qualifications, work permit number, date of issue and wages.

⁸⁵ This author notes that there is confusion in the literature over this issue, concerning the act (law or decree) and the year. SULEIMAN (2006, 15), for example refer to it as ‘Decree No. 17561 of 18/9/1962’, FIDH (2003, 12) refers to it as decree no. 17561 dated July 10, 1962, while AL-NATOUR (1997, 366-371) and NATUR (2005) refer to it as Law no. 17561 of 18 September 1964. The local researcher refer to it as: Decree No. 17561 du 18/09/1964. The confusion is mainly between the law no.319 of 10 July 1962 (Law Regarding Entry to, Residency in and Exit from Lebanon) which requires that foreigners wishing to work in Lebanon obtain a license from the Ministry of Labour and Social Affairs (AL-NATOUR 1997, 366). While Presidential Decree No.17561 of 1964 regulated the way that such a permit for foreign nationals is granted. Palestine Studies Organization published the Memorandum of 2005, in which reference is made to Presidential Decree (*marsoum*) No.17561 issued in 18/9/1964, which this author adopts.

⁸⁶ 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’.

⁸⁷ 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’.

⁸⁸ There is no information available as to whether this is still the case or not.

⁸⁹ Article 2 is available at: <http://www.humanrightslbanon.org/arabic/LLaw.html#FORG>

principle, every Palestinian can obtain a work permit under these conditions. But for the vast majority of Palestinians in Lebanon, this principle is purely hypothetical and cannot be applied.'

- On 27 June 2005, **Ministry Memorandum No. 67/1** was issued permitting Palestinian refugees who were born in Lebanon and registered with DAPR to work legally in manual and clerical jobs previously not open to them. But the ban on Palestinians seeking professional employment has remained in place (Suleiman 2006, 15-18).⁹⁰ A step that was welcomed by organizations defending the rights of Palestinian refugees,⁹¹ since few obstacles to Palestinian work were left out (Hassan 2008)

4.4.1.2. Employment in the Public Sector

Egyptian Law No.66/1962 was issued to permit Palestinians to work in government and public-sector jobs and to be treated as nationals of the United Arab Republic (Shafie 2008). However, in 1978, law No.48 was adopted which stipulated that the employment of Arab nationals from other countries should be conducted on a reciprocal basis (Section 1, Article 16). This condition cannot be satisfied by stateless Palestinians (Shafie 2008).

In **Lebanon**, the public sector is not accessible to non-Lebanese nationals. However, Palestinians in Lebanon, as in Jordan and Syria, have access to jobs offered by UNRWA. In Lebanon, this was possible since the exchange of communications between Lebanon and UNRWA of 28/10/1954 and 26/11/1954 (Hassan 2008). In **Syria**, Palestinians are treated as citizens.⁹²

Palestinians who have **Jordanian** nationality have equal rights as citizens with regards to public services. However, according to some authors, Palestinians still suffer from discrimination, especially in employment in the public sector and representation in government (Said 2005, 351): they are denied equal political participation and subjected to subtle forms of discrimination (Shiblak 2006, 8-9). As for those holding temporary TDs (Palestinians from the WB, or GS Palestinians residing in Jordan), they are treated as foreign nationals and access to public service is restricted as it is for other foreign nationals.⁹³

4.4.2. *The right to education*

As mentioned earlier, **Syria** grants Palestinians the same rights as Syrian citizens; this applies to graduate and undergraduate studies. However, some areas were not covered by the law and were left at the discretion of various government institutions. This is true of education where, according to Takkenberg (1998, 168), in keeping with the spirit of the law; elementary and preparatory education is provided for Palestinian refugees in UNRWA schools, while secondary education is provided in national schools. Syrian institutions and universities are open to Palestinians on equal terms with Syrians. A number of scholarships are available for Palestinians to study abroad (Takkenberg 1998, 167-169).

According to Decree Law No.820 of 5/9/1968, access to public schools in **Lebanon** is reserved for Lebanese nationals (Art. 3). However, it is possible, in exceptional circumstances, to accept foreign children, if there are free places (Art. 102). According to Al-Natour (1997, 372), at public secondary schools, ten per cent of places are reserved for foreign children and Palestinians are eligible for these places. They may even receive limited financial assistance from UNRWA to study in such schools or in private schools. The same rule applies for public universities. In practice though Palestinians would

⁹⁰ The memorandum is available in Arabic at: <http://www.palestine-studies.org/files/word/mdf/7517.doc>

⁹¹ Such as the Palestinian Commission for Refugees Rights Protection:
<http://www.hrinfo.net/palestine/pcrp/2005/pr0701.shtml> (accessed on 11 September 2008).

⁹² There is no information suggesting that they are treated differently with regards to work in the public sector.

⁹³ There is no information available with regards to any legal impediment for access to public service of Palestinians in Tunisia.

never be admitted to certain institutions. For this reason, most Palestinians study in the private sector, paying their way. Other educational institutions accessible to Palestinians include: UNRWA schools (for children from 6 to secondary-school level) and PLO institutions or NGOs for those younger than six years of age and for secondary schools (Hassan 2008). It should be noted that UNRWA has its own schools which are generally to be found wherever there is a concentration of Palestinians (not only in the camps) (Al-Natour 1997, 372). In addition, given the difficulties young Palestinians encounter in getting a secondary education, UNRWA exceptionally operates five secondary schools in Lebanon. It also runs a program for university education funded by some UNRWA donors in the international community (Suleiman 2006, 20).

The Orientation Law of 23 July 2002, concerning education does not include any special reference to foreigners or refugees in **Tunisia**. However, the Tunisian government demands that foreign nationals obtain an authorization from the Ministry of Education for undergraduate students. For graduate studies, restrictions on foreign nationals and refugees are in place. Only those who come in as part of bilateral agreements are admitted. Otherwise, a foreign national needs to obtain an authorization from the Minister of Higher Education and Scientific Research who has discretionary powers of admittance. Once admitted, the foreign national may obtain a scholarship according to fixed foreign-student quotas.⁹⁴

In **Egypt**, access of non-Egyptians to public schools is forbidden, unless provided for by the law. The children of Palestinian refugees are foreign; accordingly, they have not been allowed, since the early 1980s, to attend public schools (Shiblak 1996, 43) and they have had to pay special fees in foreign currency in private schools. Despite obligations under international law for children, even free access to primary education is exclusively for Egyptian citizens (Reeds 2006, 373), unless the law says differently. The situation is the same for universities where non-Egyptians have to pay 'foreigner fees'. Palestinian refugees are not allowed, in most circumstances, to join colleges of medicine, pharmacy, economics, political science or journalism (Shafie 2008). However, over the years, two decrees were adopted exempting certain categories from the above rule, thus allowing foreign children into Egyptian public schools:

- Decree No.24 issued by the Minister of Education on 22 January 1992; exempted from this rule such foreign nationals as were enumerated in the decree, including 'Children of Palestinian and other workers in governmental or public sectors or armed forces in Egypt, and children of those among them who are retired.' (Shafie 2008).
- In 2000, the Minister of Education issued another Decree extending the application of the 1992 Decree to other refugees (Grabska 2006, 20).

As for **Jordan**, the Ministry of Education announced in August 2006, that foreign children would no longer be allowed to attend either public or private schools in the Kingdom. Subsequently the Ministry rescinded its ban and declared that they would be allowed to attend private schools and institutions. The decision was an improvement on the previous ban, but would make education for the children of poorer refugee families virtually impossible. The Ministry of Education will now allow children from Arab countries to enrol in the country's public school system beginning in the 2006-2007 academic year. The decision was based on the Ministry of the Interior's recommendations which specifies groups of persons who will not be accepted in any school without the explicit approval of the Ministry of the Interior. These persons include holders of Palestinian, Iraqi, Syrian, Lebanese, and Egyptian TDs, holders of temporary Jordanian passports, and holders of Palestinian passports (Olwan 2007, 101).

⁹⁴ In accordance with Decree No.86-688 of 10 July 1986 modified by decree No.2001-2438 of 22 October 2001.

4.4.3. *The right to health*

In **Tunisia**, law No.91-63 of 29 July 1991 reserves free access to public health institutions and reduced-cost treatment for nationals. Palestinian refugees in **Syria** have the same rights as Syrian citizens with regards to access to health care (Saleh 2008). In **Jordan**, Palestinians who have obtained Jordanian nationality have the same rights as citizens while others, holding temporary Jordanian passports, are treated as foreign nationals with regards to access to public health services.

In **Egypt**, Palestinian refugees legally residing in Egypt do not have access to medical care, or the social benefits provided routinely to Egyptian citizens (Reeds 2006, 373). In fact, as with other governmental services, Palestinians are treated under Egyptian national policies on health care as foreign nationals. Recognized refugees were referred by UNHCR to Caritas where they received subsidized treatment through the Caritas office. In February 2005, the Minister of Health issued new regulations allowing access to public primary and preventative healthcare services for all foreign nationals residing in Egypt (Grabska 2006, 23)

In **Lebanon**, Palestinian refugees have no access to government hospitals or other related health services. 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 (Suleiman 2006, 20). Palestinian refugees legally residing in Lebanon receive no reimbursement for surgical operations from the Ministry of Health: Lebanese nationals do (Hassan 2008).

4.4.4. *The right to housing and property.*

In host states where refugee camps exist, strict procedures are in place with regards to re-building or renovating residence inside the camps or permits for refugees residing therein: this is the case, for example, in Lebanon (Suleiman 2006, 18-19).

Nearly all Arab states restrict Palestinian property ownership. Some restrictions are part of general rules regulating foreign property ownership rights. So Palestinians holding temporary passports in **Jordan** are subject to new regulations for buying property similar to those pertaining to foreign nationals. Even in **Syria**, where Palestinian refugees enjoy in principle full residency rights, restrictions were imposed preventing them from owning property (Jarrad 1999) except for a personal residence and then only after following certain procedures (Shiblak 1996, 44-45). Palestinian refugees are also banned from purchasing arable land (As-Salhy 1999; Said 2005, 352).

Since the early 1980s, new restrictions have been imposed on Palestinian refugees in **Egypt** with regards to their right to own property (Reeds 2006, 373). New regulations, with retroactive effect, ended the previous ownership of agricultural land; those who owned land were required by law to terminate their rights within five years or face seizure of the land by the government (Shiblak 1996, 44-45).

In **Lebanon**, the freedom of foreign nationals to own property was regulated until 2001 by Decree No. 11614 of 14/1/1969 relating to the acquisition of immovable property for foreigners, which imposes special procedures⁹⁵ and conditions (Suleiman 2006, 18-19). Accordingly, only in exceptional cases is it possible for Palestinian refugees legally residing in Lebanon to buy a personal residence, and even then the procedure is expensive and takes years (Shiblak 1996, 44-45).

Other restrictions targeting Palestinians with regards to the right to own property (Elsayed-Ali 2006, 14; Said 2005, 353), came with the adoption of law No. 296 of 3 April 2001, which amended the

⁹⁵ As per Article 9 of Decree No. 11614/1969, non-Lebanese foreign nationals (including Palestinians) need to file an application for a license with the Minister of Finance, who in turn transfers it, along with a recommendation, to the Council of Ministers of the Cabinet. The Cabinet may then grant the license by decree. The power of the Cabinet to grant or refuse the license is final and its decisions are not subject to any appeal (AL-NATOUR, 1997, 372).

first article of decree No. 11617 of 1969 regarding the non-Lebanese acquisition of property, to read as follows: *'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.'* This law was deemed constitutional by the Lebanese Constitutional Council (LCC) arguing that the new legislation safeguarded what it called the 'supreme interest' (Suleiman 2006, 18-19; Diab 2008, 3). A decision criticized by FIDH (2003, 13-14) since it encourages the State to pass measures affecting Human Rights'.

5. Conclusion

This paper has tackled the issue of Palestinian refugees in host Arab states, their legal status and rights. The criteria on which this paper is based can be found in those universally accepted standards applicable to refugees, as a special category of persons in need of national and international protection and assistance, and on those minimum guarantees (human rights and freedoms) which are present in international conventions and declarations, applicable both in times of armed conflicts/occupation and peace.

This paper suggests that international measures adopted for Palestinian refugees (through UNRWA's assistance rather than through the 1951 Refugee Convention's protection) are unsuitable and inadequate in long conflicts and in cases of prolonged occupation. In fact, unlike other refugees, the Palestinians are willing to return to their country of origin, but the successor state, Israel, refuses their re-admittance. Besides, contrary to the UNHCR mandate and the 1951 Refugee Convention, the Palestinians, under UNRWA's mandate, are entitled only to assistance, not protection, where 'need' is a prerogative for entitlement to services.

It is true that the Palestinian refugee issue is unique. However, it is a legal distortion to understand this uniqueness as a reason to treat Palestinian refugees differently from other refugees, as if they stood outside the IRL. In other words, special treatment for Palestinians should not be understood as excluding Palestinians from international protection mechanisms guaranteed for all other refugees and should not be considered as privileges granted by host states; for even if these privileges are advantageous, a privilege is not an entitlement, but rather a grant that can be confiscated at anytime, based on political considerations.

The policies of host states and of the international community, this paper suggests, prove that basic rights and freedoms of individuals take second place in the formulation of national policies and in their legal texts. The exclusion of Palestinians from international protection mechanisms placed millions of Palestinians in host Arab states in a state of precariousness. Besides, in the case of Palestinians, 'refugeehood' is accompanied by statelessness; accordingly, it has become a source of instability, insecurity and risk, for both the country of first refuge, and third states, which are possible targets of secondary refugee migration.

The justifications for such an exclusion from international protection mechanisms are various. They are not, however, in line with the overwhelmingly accepted conviction of the need to ensure and enhance respect for basic human rights for each person, regardless of nationality, religion, ethnicity and gender. This paper has both challenged the approach of international law and international organizations and has largely rejected arguments used to justify the politics of exclusion exercised by a series of host Arab states in the name of Palestinian national interest. The basic rights of Palestinian refugees, including their right to a legal status (the right to have rights) cannot be sacrificed in the name of their right to return.

The reason behind such an assertion is the fact that Palestinian refugees, as human beings, have priceless dignity, a dignity which cannot be exchanged with other interests or goods, or made object of political or legal bargaining. This dignity cannot be a means even for the noblest objective for human beings shall always be the final objective of all politics and laws. What is more, this paper has tried to

show that Palestinian refugees have the right to assistance/protection and that they have the right to return. In other words, this paper stresses the need to provide assistance and protection to the Palestinian refugees in host states, but it does not suggest that this should be an alternative to their right to return.

The right of return, however, is an entitlement and not an obligation. It cannot be used as an excuse to force refugees back to their country of origin or even to a third country, including to the yet-to-be-established Palestinian state in the West Bank and the Gaza Strip. Such measures are not within the acts a state may perform. They would be internationally illicit. Recent developments in international criminal law suggest that such measures are criminal.⁹⁶

In this paper, the legal status of Palestinian refugees in various host Arab states and the way those refugees were identified, were set out. Based mainly on second-hand sources, but integrated with targeted original research carried out by local experts in Egypt, Jordan, Lebanon, Syria and Tunisia, this paper concludes that Arab states have hosted Palestinian refugees, but that they have not, and do not want to integrate them. Many arguments were presented to disapprove the objection that integration and citizenship would compromise the Palestinians' right of return.

The rights-based approach that this paper adopts underlines the need to take the rights of refugees seriously, and not only their needs, in order to identify certain standards of treatment to which an individual refugee is entitled. Besides, rights imply justiciability, responsibility and accountability. In other words, host Arab states have the obligation to 'integrate' Palestinian refugees by granting them rights and freedoms similar to those enjoyed by nationals, or rights and freedoms as given to the most favourably treated aliens, or, at least, rights and freedoms not less favourable than those given to other foreign nationals. The source of such obligation can be traced back to CIL and conventional international law. However, treaty-based obligations for Egypt and Tunisia can be found in the same 1951 Refugee Convention, while Jordan, Lebanon and Syria need still to ratify this Convention.

Finally, establishing a Palestinian state is presented by both international and regional actors and even by Palestinians themselves, as the end of the story.⁹⁷ This paper disagrees and argues that it is only by ending the tragic cycle of Palestinian refugees that the *questione Palestina* will find an end: a just and a durable one. The exclusion of the issue of refugees in the interim period and the establishment of the PA have further aggravated the separation between different categories of Palestinians. The refugees have been part of the problem since the beginning and they need to be part of any future solution.

⁹⁶ Article 7 of the Charter of Rome which established the International Criminal Court and entered into force in 2002 considers deportation or forcible transfer of population within the crimes against humanity, while defining it as '*forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law*'.
http://www1.umn.edu/humanrts/instreet/Rome_Statute_ICC/romestatute.html

⁹⁷ In all final status negotiations, including in Camp David (1999) and the unofficial Geneva Accords (2003), there was a reference to the end of pending issues and of the conflict.

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8. Annex: Ratification Status of the main IHRL by Surveyed Countries⁹⁸

	Egypt	Jordan	Syria	Lebanon	Tunisia
International Bill of Human Rights	Ratification	Ratification	Accession	Accession	Ratification
International Covenant on Economic, Social and Cultural Rights	14 Jan 1982	28 May 1975	21 Apr 1969	3 Nov 1972	18 Mar 1969
International Covenant on Civil and Political Rights	14 Jan 1982	28 May 1975	21 Apr 1969	3 Nov 1972	18 Mar 1969
Optional Protocol to the International Covenant on Civil and Political Rights					
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty					
Prevention of Discrimination on the Basis of Race, Religion, or Belief; and Protection of Minorities	Ratification	Accession	Accession	Accession	Ratification
International Convention on the Elimination of All Forms of Racial Discrimination	1 May 1967	30 May 1974	21 Apr 1969	12 Nov 1971	13 Jan 1967
Women's Human Rights	Ratification	Ratification	Accession	Accession	Ratification
Convention on the Elimination of All Forms of Discrimination against Women	18 Sep 1981	1 Jul 1992	27 Apr 2003	21 Apr 1997	20 Sep 1985
Optional Protocol to the Convention on the Elimination of Discrimination against Women					
United Nations Convention against Transnational Organized Crime	5 Mar 2004				19 Jun 2003
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime Preamble, supplementing the United Nations Convention against Transnational Organized Crime	5 Mar 2004				14 Jul 2003
Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime					

⁹⁸ Unless otherwise noted, the table is essentially based on information collected by University of Minnesota, Human Rights Library. Available at: <http://www1.umn.edu/humanrts/research/ratification-index.html>

Slavery and Slavery-Like Practices	Accession	Accession	Accession		Accession
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery		27 Sep 1957			
Slavery Convention	25 Jan 1928		25 Jun 1931		
Protocol amending the Slavery Convention	29 Sep 1954		4 Aug 1954		15 Jul 1966
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery	17 Apr 1958		17 Apr 1958		
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others	12 Jun 1959		12 Jun 1959		
Protection from Torture, Ill-Treatment and Disappearance	Accession	Accession		Accession	Ratification
European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment					
Protocol No. 1 to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment					
Protocol No. 2 to the European Convention for the Prevention of Torture and inhuman or Degrading Treatment of Punishment					
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	25 Jun 1986	13 Nov 1991		5 Oct 2000	23 Sep 1988
Rights of the Child	Ratification	Ratification		Ratification	Ratification
Convention on the Rights of the Child	6 Jul 1990	23 Jun 1991		14 May 1991	30 Jan 1992
Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts					2 Jan 2003
Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour	6 May 2002	20 Apr 2000		11 Sep 2001	28 Feb 2000
Freedom of Association	Ratification	Ratification	Ratification	Ratification	Ratification
Freedom of Association and Protection of the Right to Organise Convention	6 Nov 1957		26 Jul 1960		18 Jun 1957
Right to Organise and Collective Bargaining Convention	3 Jul 1954	12 Dec 1968	7 Jun 1957	1 Jun 1977	15 May 1957

Employment and Forced Labour	Ratification	Ratification	Ratification	Ratification	Ratification
Convention concerning Forced or Compulsory Labour	29 Nov 1955	6 Jun 1966	26 Jul 1960	1 Jun 1977	17 Dec 1962
Equal Remuneration Convention	26 Jul 1960	22 Sep 1966	7 Jun 1957	1 Jun 1977	11 Oct 1968
Abolition of Forced Labour Convention	23 Oct 1958	31 Mar 1958	23 Oct 1958	1 Jun 1977	12 Jan 1959
Discrimination (Employment and Occupation) Convention	10 May 1960	4 Jul 1963	10 May 1960	1 Jun 1977	14 Sep 1959
Employment Policy Convention		10 Mar 1966	10 May 1960	1 Jun 1977	17 Feb 1966
Convention concerning Occupational Safety and Health and the Working Environment					
Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	19 Feb 1993				
Education	Ratification	Ratification			Ratification
Convention against Discrimination in Education	Ratified	Ratified			29 August 1969
Refugees and Asylum	Accession				Succession
Convention relating to the Status of Refugees	22 May 1981				24 Oct 1957
Protocol Relating to the Status of Refugees	22 May 1981				Accession: 16 Oct 1968
Nationality, Statelessness, and the Rights of Aliens	Ratification				Accession
Convention on the Reduction of Statelessness					12 May 2000
Convention relating to the Status of Stateless Persons					29 Jul 1969
War Crimes and Crimes Against Humanity, Genocide, and Terrorism	Ratification	Ratification	Accession	Ratification	Accession
Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity					15 Jun 1972
Convention on the Prevention and Punishment of the Crime of Genocide	8 Feb 1952		25 Jun 1955	17 Dec 1953	29 Nov 1956
Rome Statute of the International Criminal Court		11 Apr 2002			
Law of Armed Conflict	Ratification	Ratification	Ratification	Ratification	Ratification
Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field	10 Nov 1952 (Rat./Acc.)	29 May 1951 (Rat./Acc.)	2 Nov 1953 (Rat./Acc.)	6 Jul 1951 (Rat./Acc.)	4 May 1957 (Rat./Acc.)
Geneva Convention for the	10 Nov 1952	29 May 1951 (Rat./Acc.)	2 Nov 1953	6 Jul 1951	4 May 1957

Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea	(Rat./Acc.)		(Rat./Acc.)	(Rat./Acc.)	(Rat./Acc.)
Geneva Convention relative to the Treatment of Prisoners of War	10 Nov 1952 (Rat./Acc.)	29 May 1951 (Rat./Acc.)	2 Nov 1953 (Rat./Acc.)	6 Jul 1951 (Rat./Acc.)	4 May 1957 (Rat./Acc.)
Geneva Convention relative to the Protection of Civilian Persons in Time of War	10 Nov 1952 (Rat./Acc.)	29 May 1951 (Rat./Acc.)	2 Nov 1953 (Rat./Acc.)	6 Jul 1951 (Rat./Acc.)	4 May 1957 (Rat./Acc.)
Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I)	9 Oct 1992	1 May 1979 (Rat./Acc.)	14 Nov 1983 (Rat./Acc.)	23 Jul 1997 (Rat./Acc.)	9 Aug 1979
Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims on Non-International Armed Conflicts (Protocol II)	9 Oct 1992	1 May 1979 (Rat./Acc.)		23 Jul 1997 (Rat./Acc.)	9 Aug 1979
Terrorism and Human Rights	Ratification	Accession	Ratification	Accession	Accession
International Convention Against the Taking of Hostages	2 Oct 1981	19 Feb 1986		4 Dec 1997	18 Jun 1997
International Convention for the Suppression of Terrorist Bombing					
International Convention for the Suppression of the Financing of Terrorism		Ratification: 28 Aug 2003			Accession: 10 Jun 2003
International Convention for the Suppression of Unlawful Seizure of Aircraft	Accession: 28 Feb 1975	Ratification: 18 Nov 1971	10 Jul 1980 (Rat./Acc.)	10 Aug 1973	16 Nov 1981
International Convention on the Prevention and Punishment of Crimes Against International Protected Persons	Accession: 25 Jun 1986	18 Dec 1984	Accession: 25 Apr 1988	3 Jun 1987	Accession: 21 Jan 1977
U.N. Activities and Employees	Accession	Accession	Accession	Accession	Accession
Convention on the Privileges and Immunities of the United Nations	17 Sep 1948	3 Jan 1958	29 Sep 1953	10 Mar 1949	7 May 1957
Convention on the Safety of United Nations and Associated Personnel				25 Sep 2003	Ratification: 12 Sep 2000
African Regional Conventions	Ratification				Accession
African [Banjul] Charter on Human and Peoples' Rights *	20 Mar 1984				16 Mar 1983
Convention Governing the Specific Aspects of Refugee Problems in Africa	Ratified (Abu Seada 2007, 43)				Ratification: 17 Nov 1989
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa *					
Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights *					
African Charter on the Rights and Welfare of the Child *	9 May 2001				

*No ratification information available.