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## The Law, the Loss and the Lives of Palestinian Refugees in Lebanon

Are Knudsen

**WP 2007: 1**



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## Dreaming of Palestine<sup>1</sup>

Lebanon has been a reluctant host to Palestinian refugees since 1948. A mainstay of Lebanese policies vis-à-vis the Palestinian refugees has been preventing their permanent integration and settlement in the country. Nowhere is the festering refugee problem more evident than in Ayn al-Hilwa, the sordid capital of the Palestinian diaspora. There more than 70 000 refugees – almost twice the official residency figures – are confined within 1.25 sq. km. Ayn al-Hilwa is the most conflict-ridden camp in the country, with frequent skirmishes between political factions. Yet inside the camp, residents struggle to come to terms with the loss of their homeland and endure the daily hardships of a life in exile. Here, outside Sidon, they have waited, cursed and hoped for a return to their homes in Palestine. This is the longest exile in history, the most enduring refugee problem in the world. Unable to return and marginalised by the host society, they are caught in a legal limbo:

“Who do you want to see next?”, my two young guides ask me. “Someone told me of one of the eldest residents in the camp”, I reply, “one who still keeps the keys of his home in Palestine”. A legend in the camp, they quickly identify him as Abu Saleh Mi’ari and take me to his house close to the entrance to the camp. Soon we are all warmly welcomed into the house of Abu Saleh – known in the camp as “the man with the keys” – and seated in the small living room. Abu Saleh is a tall thin man with a moustache and creased face. He wears a traditional brown gown and sips a cigarette. Although sick and frail, he has a stately manner and was surely an impressive man in his youth. Seated in white plastic chairs, we are served several rounds of strong Turkish coffee. The living room is simple with faded white walls and dominated by a shiny glass-framed cupboard. After wrestling with his purse and emptying his pockets he finally finds the small, fiddly keys and unlocks the cupboard. There he pulls out the heavy iron keys to his family home in A’kbara (Galilee) and the faded yellow land deeds he has kept since departing in 1948. The large iron keys were used to lock the doors when they left. He was twenty-two then. The family first settled in Bint Jbeil (in the south). In 1952 they moved to Ayn al-Hilwa, at the time a tent camp. Over the years the tents were replaced by houses made of corrugated iron. During the civil war (1975–90), residents disregarded building restrictions and built brick houses.

“How does it feel to be exiled for so long,” I ask hesitantly, recognising the emptiness of a question posed before by countless visitors. Abu Saleh slams the rolled deeds on the chair in front of him and speaks in a loud and indignant voice that belies his frail health. “Many people come asking me the same question”, Abu Saleh complains, “perhaps 100 people in all.” After letting the implication sink in, he continues: “When we left our house we took nothing with us, thinking we would return in one week’s time. Here I always feel homesick. Here I dream of Palestine, I would give up everything to return to Palestine. When I left Palestine, I lost myself. I would leave today without any of my belongings if I was allowed to return to my village”. Tired from speaking, he lights yet another cigarette before fetching a plastic bottle displayed in the cupboard. The scratched soda bottle is half-filled with grainy sand and soil from his natal village and was brought to him as a gift by two foreigners. When he was presented with the bottle, Abu Saleh opened it and ate several mouthfuls.

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<sup>1</sup> This paper was prepared under the multidisciplinary research project “The Poor and the Judiciary” funded by the Research Council of Norway (2005–07). I am grateful to Jaber Suleiman for organising interviews and translation in Lebanon and commenting on an earlier draft. I owe special thanks to Siri Gloppen for detailed comments to a later version of the paper presented at an in-house seminar at CMI in March 2007. Finally, I am indebted to Maja Brix who in 2005 suggested that I should focus on the legal situation of Palestinian refugees. The usual disclaimer applies.

## Between a rock and a hard place

One of the few remaining octogenarians left in the camp, Abu Saleh's fate is the epitome of the Palestinian trauma of displacement and exile in Lebanon. Unable to solve the "Palestinian problem", refugees remain incarcerated in camps resembling urban slums. The more than 300,000 refugees are Lebanon's poorest and most disenfranchised community. In the refugee camps, poverty is the norm. Of all Arab countries hosting refugees, Lebanon has the highest number of individuals living in abject poverty. While the poverty and social problems facing refugees are well documented (e.g., Khawaja and Tiltnes 2002, Pedersen et al. 2001, Sletten and Pedersen 2003, Uglund 2003), less attention has been paid to the legal discrimination that underlies the social and political marginalisation of the refugees. This is deplorable, because the refugee population is subject to stringent policy measures designed to limit their social and political freedom and curtail their employment opportunities. In the post-war period (1990-present), the refugees' situation has progressively worsened as a result of new laws and administrative decrees aimed at reducing their civil liberties and preventing them from settling permanently in Lebanon. The question of naturalising refugees is one of the most contentious political issues in Lebanon today. In order to understand the legal plurality that governs their refugee status, it is necessary to examine their rights as refugees in international law, regionally as hosted by Arab League states and nationally as residents of Lebanon. The rights regime is complex and contributes to a critical "protection gap" for the refugees. In particular, there is a need to explore the "politics of citizenship" in post-war Lebanon that widened the protection gap and institutionalised legal discrimination of refugees. Drawing on recent studies in legal anthropology (Harris 1996, Merry 2006, Moore 2001), Arab legislatures (Baaklini et al. 1999, Takieddine 2004), international (Akram 2002, Takkenberg 1998) and Lebanese refugee law (Al-Natour nd, Schulz and Hammer 2003, Suleiman 2006), this paper argues that legal discrimination of Palestinian refugees was instituted amidst growing fears of their permanent settlement in the country and institutionalised through the executive's patronage of the legislature and the judiciary. The paper builds on interviews with Palestinian and Lebanese officials and visits to refugee camps in the period 2005–07.

## Palestinian refugees in international law

In 1948, the first Arab-Israeli war forced more than 700,000 Palestinians to flee their country. The international response to the crisis aimed at providing shelter and provisions to destitute refugees.<sup>2</sup> On 11 December 1948, the UN General Assembly adopted resolution 194 recognising Palestinian refugees' right of return or compensation and established the UN Conciliation Commission for Palestine (UNCCP).<sup>3</sup> Under strong US pressure, Israel was forced to accept the repatriation of 100,000 refugees as part of the peace settlement, an offer rejected by Arab states. Faced with a regional refugee crisis involving close to a million people denied repatriation (Takkenberg 1998: 69), the UN General Assembly established the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) on 8 December 1949. UNRWA was mandated to provide relief and assistance (Resolution 302 (IV)), but when the agency began its operations in May 1950, there were neither statutes nor specific guidelines for its work.<sup>4</sup> Most importantly, there was no provision in UNRWA's mandate for who qualified as a Palestinian refugee and hence was eligible for assistance (Takkenberg 1998: 69). UNRWA's provisional definition of eligible persons

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<sup>2</sup> The first phase of the relief effort was mandated to the UN Disaster Relief Project (UNDRP) and due to its poor performance, transferred to the Red Cross and then to UN Relief for Palestine Refugees (UNRPR) (Takkenberg 1998: 23).

<sup>3</sup> The UNCCP was unable to reach its objectives vis-à-vis resolution 194, but was never formally abolished (Takkenberg 1998: 280).

<sup>4</sup> UNRWA's mandate was given in resolution 302 (IV) and was "remarkable for its lack of precision concerning the objectives of UNRWA" (Bowker 2003: 125).

therefore developed alongside its relief effort and over the years went through several revisions. To qualify as a refugee under UNRWA's mandate a person must both have lost his home and livelihood<sup>5</sup> and reside in a country where UNRWA operates. The term "Palestine refugee" as used by UNRWA was never formally defined by the United Nations (Takkenberg 1998: 68ff.),<sup>6</sup> nor did it specify whether refugee status applied to descendants of refugees. However, UNRWA's registration instructions registered as refugees descendants in the male line of Palestinian refugees. Because of this, refugee status was also given to male descendants, even though UNRWA's refugee definition did not include it (Takkenberg 1998: 80).

When the Palestinian refugee crisis broke out, the United Nations had been working since 1946 to find a solution to the European World War II refugees (Takkenberg 1998: 57). On 3 December 1949, just a few days prior to establishing UNRWA, the UN General Assembly adopted resolution 319 (IV), which established the United Nations High Commissioner for Refugees (UNHCR). The UNCHR's statutes were adopted a year later and the first international refugee convention, "Convention Relating to the Status of Refugees of 28 July 1951" (hereafter, "1951 Convention"), was signed in Geneva on 28 July 1951. Unlike UNRWA, which was created to assist "Palestine refugees", the 1951 Convention is generic; it provides a universal definition of a refugee and prohibits the forcible return of refugees ("refoulment"). The 1951 Convention applies to all those who became refugees before 1 January 1951, yet the refugees fleeing Palestine in 1948 were excluded (Takkenberg 1998: 54ff.).<sup>7</sup> The reason is that several Arab states feared that submerging Palestinian refugees within the 1951 Convention would weaken the "separate and special status" accorded them (Takkenberg 1998: 62). Moreover, Arab states hosting refugees were concerned that if the Palestinian refugees were included in the 1951 Convention this would make them responsible for their upkeep. To this end, they proposed an amendment to the draft 1951 Convention that excluded refugees already under support from UNRWA. The amendment was approved and inserted as a separate exclusion clause (Article 1D) in the final version of the convention.<sup>8</sup> Despite seeing the amendment approved, Arab states neither acceded to the 1951 Convention nor ratified it.<sup>9</sup>

While Palestinian refugees are excluded from protection under the 1951 Convention, they are protected by a range of other international instruments and covenants.<sup>10</sup> However, the Arab countries hosting refugees have failed either to abide by them or to integrate their provisions into their national laws (Takkenberg 1998: 68). This means that – despite disagreements over how to interpret the exclusion clause in the 1951 Convention – no international body secures legal protection for Palestinian refugees. Nor is UNRWA's assistance fully international. Being recognised as a refugee under UNRWA regulations is contingent on being resident in one of the countries covered by the agency's "area of operations".<sup>11</sup> Even there, while UNRWA provides

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<sup>5</sup> UNRWA's current definition of a Palestine refugee is: "Palestine refugees are persons whose normal place of residence was in Palestine during the period 1 June 1946, to 15 May 1948, and who lost both their homes and means of livelihood as a result of the 1948 conflict" (UNRWA 1993, in Schulz and Hammer 2003: 36).

<sup>6</sup> There is no valid legal definition of the "Palestinian refugee" beyond the provisional definition of UNRWA (Takkenberg 1998: 68).

<sup>7</sup> However, the amended "1967 Protocol" removed geographical and temporal restrictions from the original 1951 Convention, see (Takkenberg 1998).

<sup>8</sup> Article 1D: "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" (Takkenberg 1998: 56, see also, pp. 96-123).

<sup>9</sup> Only Egypt, a country outside UNRWA's area of operation, ratified the 1951 Convention, but it did not observe its provisions (Shiblak 1996).

<sup>10</sup> The United Nations Universal Declaration of Human Rights (1948), the Convention Regarding Stateless Persons (1954), the International Covenant of Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1996). For a detailed review of these conventions in Lebanon, see (Aasheim 2000).

<sup>11</sup> Jordan, Syria, Lebanon, the West Bank and the Gaza Strip.

assistance to eligible refugees it offers no protection (Takkenberg 1998: 67). In sum, this has resulted in the refugees' anomalous legal status and has caused a legal "protection gap" (Akram 2002). This first of all applies to Palestinian refugees in Lebanon, who were never accorded civic rights and remained stateless refugees.<sup>12</sup>

## From refugees to revolutionaries

In 1948–49, about 100,000 of the more than 700,000 Palestinian refugees fleeing Palestine crossed into Lebanon and gradually moved into 15 makeshift camps operated by UNRWA on land leased, rented or bought from the state or private owners. The majority of the refugees were blue-collar workers, peasants and fishermen from Galilee and the Haifa-Acre coastline (Brynen 1990: 25). Uprooted and destitute, the tragedy of displacement (Ar. *al-nakba*) had not only left them without their land, livelihood and belongings, but also robbed them of political leaders. Although the refugees remained politically passive well into the early 1960s, their presence was politicised and polarised (el Khazen 2000: 133). There were strong limitations on political activism and strict control within both the camps and the refugee community was exercised by the Lebanese army's security agency (*Deuxième Bureau*) and paramilitary security forces (Brynen 1990: 28). There were even restrictions on movement inside Lebanon. The tense relations vis-à-vis refugees were one reason why Lebanon, along with other Arab states, did not ratify the 1951 Convention. In the 1950s, nascent Palestinian nationalism was linked to the strong pan-Arab sentiments that swept the region after Nasser's rise to power in Egypt. This was divisive in country with a mixed Christian-Muslim population held together by a fragile power-sharing deal, the National Pact, and led to a political crisis that ended with a short civil war in 1958 (Attie 2003).

The first decade of the Palestinian presence in Lebanon politicised the refugee community and polarised it vis-à-vis the host population. The refugees were now residents in Lebanon but they were not citizens. In liberal democracies, civic rights are linked to permanent residency. In Arab countries, however, nationality is the key to obtain civic rights and serves as a primary right from which other civil rights and entitlements are derived. Because Lebanon had no refugee or asylum law, refugees and asylum seekers were treated as foreigners.<sup>13</sup> A 1962 decree singled out Palestinian refugees as a special category of foreigners "not holding documents from their original countries and residing in Lebanon" (UNHCR 2006). More specifically, decree number 319 made Palestinian refugees one of five categories of foreigner (Takkenberg 1998: 163). Deprived of the benefits of citizenship, the Palestinian refugees were not entitled to work, health care, higher education and, of course, the right to vote. Deprived of "civic rights", the refugees were barred from social and political rights beyond those secured by UNRWA. The marginalisation of refugees continued when, in 1964, Law 17561 barred Palestinians from joining professional syndicates, a precondition for employment in a series of high-status professions (medicine, engineering, law etc.).

In September 1965, the League of Arab States (Arab League) summit in Casablanca agreed on a regional rights regime applicable to "Palestinians",<sup>14</sup> termed the Protocol for the Treatment of Palestinians in Arab States, colloquially known as the "Casablanca Protocol" (1965). The Casablanca protocol called on Arab nations hosting refugees to grant them rights of work, travel and residency. In particular, the protocol's Article 1 called on member states to grant Palestinians the right to employment "in line with those of ordinary citizens" (text cited in, Takkenberg 1998:

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<sup>12</sup> Jordan is the only Arab country which historically gave citizenship rights to Palestinian refugees. Syria did not grant them civic rights, but they have the right to work and receive social benefits (Blome-Jacobsen 2003). Under legal protection from the host countries, refugees in Jordan and Syria do not need international legal protection (Takkenberg 1998: 54).

<sup>13</sup> For this reason, Lebanese authorities still detain, jail or deport asylum-seekers (Daily Star 2006g).

<sup>14</sup> The protocol does not distinguish between refugees and non-refugees, see (Takkenberg 1998: 141).

141). Seven member states signed the protocol without reservations.<sup>15</sup> Lebanon signed the protocol with several reservations that made the right to work conditional on the country's economic situation and restricted entry into and exit from Lebanon. Among other things, this allowed the Lebanese authorities to adjust the number of work permits to the state of the Lebanese economy and made re-entry into the country more difficult.

By the late 1960s the Palestinian presence in Lebanon had become progressively more complex, politicised and militarised (Brynen 1990, el Khazen 2000: 140ff.). In November 1969, the PLO leadership was able to conclude a controversial agreement with the Lebanese authorities, the so-called "Cairo Agreement" (ibid.: 149). The agreement provided administrative autonomy to the camps, lifted the ban on employment and, for the first time, authorised Palestinian attacks on Israel from Lebanese soil.<sup>16</sup> During the first phase (1975–82) of the fifteen-year-long civil war, Palestinian militias under PLO command were involved in cross-border attacks that subsequently led to the Israeli invasion in 1982 (a.k.a. Operation Peace in Galilee). The expulsion of Palestinian fighters from Lebanon and the exile of the PLO leadership to Tunis were followed by the massacre of more than 800 refugees in the refugee camps Sabra and Shatila (Shahid 2002).<sup>17</sup> With the PLO leadership and fighters exiled, the Labour Ministry in 1983 issued decree 38/11, which barred refugees from working in 72 professions (Al-Natour nd). The Cairo Agreement was not a durable political compromise, and following the bloody War of the Camps (1985–87), it was unilaterally repealed by the Lebanese cabinet in May 1987 (Takkenberg 1998: 146).<sup>18</sup> This meant that as the civil war was nearing its end the Palestinian refugees' privileges under the Cairo agreement, including the right to work, were repealed, although this was not fully enforced. The camps' political autonomy remained in place, however, principally because Lebanon was obliged to accept Syrian stewardship of the camps.

## Post-war Lebanon: Legal discrimination

The Lebanese civil war "came to an end in a state of nearly universal defeat and bitterness" (Picard 2002: 153). Yet, there was no post-war reconciliation process, truth commissions, public apologies or other forms of public conciliation processes. Without any formal reconciliation between former adversaries, sectarian tensions remained. Due to the Palestinian's role in igniting the war, many blamed them for the country's misfortunes. Finding a solution to the "Palestinian problem" now took on a new urgency and became a crucial part of the country's peace accords. To this end, the Taif Agreement that marked the end of the civil war included special provisions as to the residence of refugees, stating that "there shall be no fragmentation, partition, or settlement of non-Lebanese in Lebanon" (Taif Agreement Online: section I, h). The full name of the Taif Agreement, "Charter of National Reconciliation", underlines that the agreement's main purpose was to facilitate post-war reconciliation, heal war-time divisions and solve the most sensitive and intractable problems afflicting the country. The fact that rejection of the permanent settlement of Palestinian refugees was included in the "Taif" illustrates the political importance attached to this issue for Lebanon's national interests as well as confessional concern over the permanent settlement of the refugees in the country. Settling refugees now became unconstitutional and prefigured the fact that in post-war Lebanon support for the Palestinian cause was diminishing and gradually being replaced by mistrust and legal and political discrimination (Halabi 2004: 42).

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<sup>15</sup> Jordan, Algeria, Sudan, Iraq, Syria, Egypt and Yemen.

<sup>16</sup> In 1971 Lebanon ratified the Convention on the Elimination of All Forms of Racial Discrimination (CERD), but failed to abide by its provisions (FIDH 2003:10).

<sup>17</sup> The number of victims remains disputed and range from 350 to more than 3,500 (Shahid 2002: 44).

<sup>18</sup> The "War of the Camps" (1985–87) was one of the bloodiest chapters in the civil war and was an attempt by the Shia Amal militia to drive out the remaining PLO forces pinned down in the refugee camps.

After the war, the precise number of refugees was not known and hence contested. Those opposing settlement, including the government, tended to inflate the number. By 1990, the about 100,000 refugees that entered Lebanon in 1948 had more than tripled. The threat of permanent settlement of perhaps 300,000 refugees, most of them Sunni Muslims, was now considered a serious threat to the country's confessional balance. With refugees comprising about 10 per cent of Lebanon's population, naturalisation of the refugees would upset the precarious demographic and religious balance between Christians and Muslims. The threat of naturalisation was not new; introduced in the 1950s, it was one reason why Lebanon did not ratify the 1951 Convention (FIDH 2003: 10). By the 1970s, naturalisation was a perennial issue in the troubled Lebanese-Palestinian relations, especially among right-wing Maronite groups (el Khazen 2000: 319). Now, however, the rejection of naturalisation, colloquially described by the evocative term "implantation" (Ar. *tawteen*), was mainstreamed and seen as a vital part of reclaiming the country. Rejecting refugee settlement now became a rallying cry that unified the Lebanese, summed up in the slogan "Lebanon for the Lebanese" (Petet 2005: 174).

The three common UNHCR solutions to protracted refugee problems are either integration into host society (assimilation), resettlement to a third country or voluntary repatriation. Palestinians have rejected the first two, while embracing the latter, colloquially referred to as the "right of return" (Aruri 2001). Widely considered the only durable solution to the refugee problem, the "right of return" (Ar. *haq al-'awda*) remains one of the most complex, politicised and intractable aspects of the refugee problem (Bowker 2003: 99ff.). The three pillars of Palestinian political activism in Lebanon are the provision of civic rights to the refugees, resisting naturalisation and upholding the right of return to their homeland/natal villages. The Lebanese government, on its part, refused to participate in any multilateral negotiations over the Palestine question, rejected any regional settlement of the Palestine conflict that involves settling refugees in Lebanon and rejected all domestic attempts at settling refugees in Lebanon (el Khazen 1997: 280). This coincided with a regional weakening of the legal protection for refugees following the end of the civil war.

In 1990, the Casablanca Protocol, which had served as a provisional regional protection regime, came up for review. The protocol had in general been poorly implemented by member states and violated in letter and spirit. In late 1991, the League Council met for the first time since the first Gulf War. Two members of the Council, Saudi Arabia and Kuwait, proposed an amendment that weakened refugee rights under the Protocol. The amendment opened the way for member states to subject refugee policies to national priorities. This was widely interpreted as a move to punish Palestinians for the PLO's support of the regime of Saddam Hussein. The League Council approved the amendment in its resolution 5093 (12 September 1991), which made the status of refugees a national responsibility based on the laws of each member state (Takkenberg 1998: 149).<sup>19</sup> In the case of Lebanon, this helped legitimise a systematic legal discrimination aimed at revoking refugee privileges and curtailing refugee rights.

The first example of the post-war legal discrimination against Palestinian refugees was their exemption from the General Amnesty Law. As part of Lebanon's post-war settlement, in 1991 the parliament passed the General Amnesty Law (Law 94/91), which ensured immunity against war crimes for militia leaders-turned-politicians. The law granted amnesty for all crimes committed by militias and armed groups before 28 March 1991 (Knudsen 2005b). The law provided amnesty to Lebanese citizens, but excluded non-citizens such as the Palestinian refugees. Consequently, Palestinians fearing prosecution were forced into hiding. A few were singled out for political reasons and sentenced to death in absentia. This meant that for refugees, the war was not over and, unlike Lebanese citizens, they lacked legal immunity against prosecution for war-time crimes and

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<sup>19</sup> The amendment added the following phrase to the original text; "in accordance with the rules and laws in force in each state". Whether this only weakened or revoked the protocol is debated, see (Shiblak 1996, Takkenberg 1998).

atrocities. Because Palestinians are often blamed for igniting the civil war, their exemption from the General Amnesty Law was particularly noteworthy.

The signing of the Oslo Accords in 1993 and the establishment of the Palestinian National Authority (PNA) a year later had a direct bearing on the status of refugees in Lebanon. The Oslo Accords made the prospect of Palestinian statehood a political reality, but left sensitive issues such as the final status of Jerusalem, the refugees' right of return, and the pull-out of Jewish settlements to be settled in the so-called "final status" talks (Brynen 1997). Although no agreement was reached on the status of refugees, there was a perception among the refugee community that the Oslo Accords weakened the refugees' "right of return" as enshrined in UN Resolution 194.<sup>20</sup> The Lebanese authorities, likewise, feared that the Oslo Accords could legitimise the permanent settlement of refugees. That the refugees themselves rejected permanent settlement had become irrelevant. The government not only rejected settlement, but argued that the Oslo Process and creation of the PNA opened the way for returning refugees to their homeland. The prospect of forcefully resettling refugees now assumed political centre stage. In the polarised political atmosphere that ensued, the Foreign Minister Fariz Buwayz proposed in April 1994 to expel Palestinian refugees as part of a regional resettlement scheme (Buwayz quoted in, Schulz and Hammer 2003: 61). This echoed a similar statement by President Elias Hrawi (1989–98), who argued that the nascent Palestinian state meant rejecting settlement in Lebanon.

To make matters worse, the Lebanese government was at the time reeling under a flawed naturalisation programme aimed at providing citizenship to a host of stateless groups that despite their historical ties to country had been unable to claim citizenship. In an effort to end this injustice, the first post-war government led by Rafik Hariri, in 1992 established a Commission on Naturalisation to register applications for naturalisation. In June 1994, the Minister of the Interior issued a decree (no. 5247) on naturalisation that soon became a political target. The special issue of the Official Gazette that was published along with the decree was 1,279 pages long and included the family names of those naturalised, but was devoid of any classification (i.e. alphabetical order, by area, by sect). The total number of those who received citizenship (for themselves and their families) was omitted. This made it impossible to confirm the real number of individuals naturalised, with estimates ranging from 150,000 to 350,000 people (iMonthly 2002). Among the Maronite Catholics especially, there were fears that naturalisation had skewed the demographic balance between Christians and Muslims. Keeping the confessional balance and putting the needs of the country first, colloquially referred to as the "Lebanese formula", was a key demand. The naturalisation imbroglio turned into a political firestorm from groups fearing that selective naturalisation was politically motivated and being used for personal gain (Abdelnour 2003). To rectify this, there were demands from the Maronite Church to naturalise additional Christians. About 30,000 Palestinians benefited from the decree, but not all of them were refugees.<sup>21</sup> Still, they were the main victims of the flawed naturalisation process. These tensions grew when later the same year plans were made to resettle refugees living in the Bourj Barajneh camp to a new housing complex to make room for a new highway. The plans were seen as a prelude to naturalisation and strongly criticised (Thibaut 2006).<sup>22</sup>

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<sup>20</sup> The Oslo Accords fractured the Palestinian resistance and created a deep split between the PLO and Hamas and left-wing groups which rejected the accords, see (Knudsen 2005a).

<sup>21</sup> The exact number of Palestinians who were naturalised is not known. Among those naturalised were Palestinians hailing from seven border villages. The "Seven Villages" had originally been classified as Lebanese, and then transferred to Palestine before residents fled to Lebanon during the first Arab-Israeli war in 1948. The majority were left without any citizenship. The Seven Villages residents are Shia Muslims (Thibaut 2006: 8). Traditionally, Christian Palestinians have found it easier to obtain Lebanese citizenship. Under Camille Chamoun's presidency (1952–58), about 3,000 Christian refugees were naturalised (Hudson 1997: 250).

<sup>22</sup> The naturalisation "file" is still not closed and there have been attempts to revoke citizenship awarded to sections of the Palestinian refugee community under the naturalisation decree (AI 2003: 8).

In 1995, the government introduced new visa regulations that made return to Lebanon contingent on obtaining a re-entry visa. The pretext for this change was Palestinian work migrants expelled from Libya.<sup>23</sup> The Lebanese authorities were unwilling to absorb the deported refugees, referred to by the Deputy Foreign Minister (and Minister of the Interior) Michel Murr as a “human invasion”, cautioning that the country would never accept being a “dump for “human waste” (Murr, cited in Schulz and Hammer 2003: 61, see also, ). In an attempt to stem the flow of returning Palestinian migrants, the Ministry of the Interior issued a decree (no. 478), Regulating Entry and Exit of Palestinians. Article 2 of the decree made it mandatory for Palestinians residing outside Lebanon before 1 June 1995 and wishing to return to apply for a re-entry visa through Lebanese missions. Those wishing to leave Lebanon were required to obtain an exit permit from the same authorities (Suleiman 2006: 15). The new laws left thousands of refugees stranded abroad and prevented those in Lebanon from returning to their jobs abroad. This effectively undermined the Gulf job market, which at the time was slowly reopening to refugees. Later the same year, the domestic labour situation for refugees worsened when a ministerial decree banned them from several jobs. In addition to the long list of high-status jobs permanently banned for refugees since 1962, the Ministry of Labour each year issues its own list of professions that are closed to “foreigners”. In mid-December 1995, the Ministry issued a ministerial decree (621/1, 15 December 1995) that, in addition to the more than 70 jobs banned since 1962, added another 46 salaried jobs and independent professions. The text of the decree underlined that the principle of national preference should be employed to all professions, so in principle “any employment which could compete with Lebanese workers” could contravene the decree ( see also, AI 2003: 8ff., text of decree, quoted in, FIDH 2003: 13).

By the late 1990s, the Lebanese economy was fast improving, fuelled by an ambitious borrow-to-build policy (Najem 1998). Palestinians benefited from neither the construction boom nor the post-war economic recovery; ruined camps were not rebuilt, repairing or enlarging existing houses was banned and the majority still worked in the informal sector if at all. In early 1998, Prime Minister Rafik Hariri made an official statement on national television that acknowledged that the refugees’ situation was “extremely bad” but that improving their living conditions would facilitate their permanent integration into Lebanon. Lebanon was not prepared to foot the bill for their integration, nor were the refugees themselves in favour of permanent settlement (Bowker 2003: 75). In a later statement the same year to an international news medium, Hariri went much further in rejecting all forms of support to Palestinian refugees (Hariri, cited in Bowker 2003: 75):

Lebanon will never, ever integrate Palestinians. They will not receive civic or economic rights, or even work permits. Integration would take the Palestinians off the shoulder of the international agency [UNRWA] that has supported them since 1948.

In the 1998 parliamentary elections, Hariri and his cabinet were voted out of office and replaced by that of Selim Al-Hoss. In January 1999, the Al-Hoss government revoked the visa laws that had been instituted under Hariri’s tenure in 1995. Nonetheless, work was still hard to come by for Palestinian refugees: in 1999 only 350 work permits were granted to resident Palestinians, compared to more than 18,000 permits issued to Egyptian labourers (Suleiman 2006: 16). In November 2000, Hariri returned as Prime Minister. The incoming Hariri cabinet changed the official name of the directorate in charge of Palestinian affairs. Following a ministerial decree (no. 4082), the Department of Palestinian Refugee Affairs (DAPR), an office under the Ministry of

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<sup>23</sup> Libya, protesting the establishment of the Palestinian National Authority (PNA), expelled about 5,000 of the 30,000-strong Palestinian workforce (Ronen 2004: 91). In 1991, Kuwait deported more than 400,000 Palestinians in response to the PLO’s support for Saddam Hussein’s invasion of Kuwait.

Foreign Affairs established in 1959, was renamed “Direction of Political and Refugee Affairs”.<sup>24</sup> The new name was widely interpreted as a move to end Lebanon’s official host status for Palestinian refugees (FIDH 2003: 12).

## Inside and outside the law: Refugee camps

As shown, the first post-war decade saw a progressive marginalisation of the refugees’ legal status and worsening living conditions squarely aimed at undermining the Palestinian presence in the country. The stringent policy measures were designed to keep the refugees trapped inside cramped and squalid camps and shanty towns from which there is no escape – except by leaving the country. From 1990, the government had actively encouraged Palestinians to leave the country (Mattar 2000: 261). This led to Palestinians leaving in large numbers so that by the end of the decade their number was – unofficially – around 200,000 (Ziade 2002: 57). Despite their dwindling numbers, the refugees’ presence was still problematic and more contested than ever. The main reason was two aspects that make Palestinian refugee camps unique: the camps are self-governed and the factions armed. Despite the formal abrogation of the Cairo Agreement in 1987, the refugee camps retained their semi-autonomous status and remained under Syrian stewardship. By the same token, Palestinian factions stayed out of the official disarmament process and did not disarm (Picard 1999). However, in 1991 a high-level dialogue between PLO representatives and a Lebanese Ministerial committee reached an unwritten agreement to grant refugees social and civil rights in exchange for their handing over heavy weaponry to the Lebanese Army. In June 1991, PLO fighters surrendered their heavy weaponry following an armed confrontation with the Army. Soon after, the Army took control of the southern camps, yet formal dialogue was never resumed, possibly because the Lebanese authorities wanted to await the outcome of the Madrid Process.<sup>25</sup>

In the post-war period, the popular image of refugee camps deteriorated. Camps now became synonymous with drug dealing, gun-running and hideouts for militants wanted by the authorities. Several high-profile man-hunts inside the refugee camps for Islamic militants added fuel to the popular perception that the camps were a security threat (Knudsen 2005b). The perceived “freedom” inside the refugee camps was now translated into an idiom of lawlessness expressed in the term “security islands” (Ar. *juzur amniyya*, “islands of [self-policed] security”), a euphemism meaning that they were beyond the reach of Lebanese law, harbouring weapons and sheltering criminals and assassins (Suleiman 1999: 72). In an attempt to wrest control of the camps, Palestinian political leaders who fell out with government were subject to arbitrary arrest, legal prosecution and detention.<sup>26</sup>

Trying to contain to the growing anti-Palestinian sentiments, the refugee leaders adopted a conciliatory tone, using the term “guest” to underline that they were temporary guests respectful of the rules of the country (Peteet 2005: 174). Nonetheless, the refugees were now considered a threat to the country’s stability (Nasrallah 1997). This view was shared among Lebanese Christian and Muslim communities alike (Azar and Mullet 2002). This antagonism had been fuelled by popular imagery that portrayed Palestinian refugee camps as a security threat that had to be contained. Therefore, along with systematic legal discrimination, there was a gradual tightening of control of the refugee camps.

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<sup>24</sup> The Department of Palestinian Refugee Affairs (DAPR) is one of several agencies created since 1948 to govern the Palestinian presence in the country, see (Suleiman 2006).

<sup>25</sup> Salah Salah, *interview*, Beirut, 16 March 2007.

<sup>26</sup> Sultan Abu al-Aynayn, *interview*, Tyre, 15 November 2006.

In post-war Lebanon, the peri-urban camps were caught up in the rapid urbanisation process but, unable to benefit from the economic recovery, slowly amalgamated into low-income neighbourhoods and slums. Camps are overcrowded and open sewers, polluted drinking water and faulty electrical wiring represent health hazards to the inhabitants. Since 1991, special restrictions have applied to southern camps due to their proximity to the border; the camps were cordoned off with barbed wire, army check-points multiplied and security controls became daily routine (Peteet 1998). Moreover, camp boundaries are non-expandable, construction inside the camps is restricted and repairs have been forbidden.

A constant reminder of the refugee problem, refugee camps have both served to preserve Palestinian identity and prevent assimilation (Bowker 2003). Lebanon's post-war reconstruction programmes excluded refugee camps and the original 15 refugee camps were reduced to 12 following their destruction during the civil war (Schulz and Hammer 2003: 58).<sup>27</sup> Lebanon has the highest percentage of camp-dwelling refugees (approx. 51 per cent) of all the countries hosting Palestinian refugees. The most comprehensive study of present living conditions among camp-dwelling Palestinian refugees to date finds that the refugees suffer from widespread unemployment, poor living conditions, ill health, low education levels and rising illiteracy (Ugland 2003).<sup>28</sup> Yet, refugees are not eligible for public medical services, a special problem in a country with a largely privatised health care system. Few complete secondary education and even fewer enter higher education. This is a particularly acute problem in a country where higher education and later, employment, is based on graduating from a few elite institutions.

UNRWA was meant to be a temporary relief mission, but has now existed for 60 years, its mandate extended every three years. Lebanon also has the highest percentage of refugees who are living in abject poverty and who are registered with UNRWA's "special hardship" programme. In the post-war period, aid to refugees dwindled and UNRWA came under pressure to perform on a tighter budget.<sup>29</sup> The agency's efficiency also came under attack; it was blamed for both blatant corruption and patronage instituted over many years as the sole provider of relief to registered refugees (Halabi 2004: 42). After the PLO fell out with the Gulf States' benefactors over its support to the regime of Saddam Hussein, the PLO was also cash-strapped (Shiblak 1997: 270). Following the Oslo Agreement, the PLO's political support to refugees dwindled too. The dwindling support from UNRWA and the disagreement over the PLO's endorsement of the Oslo Accords hit the refugee community hard; it increased social problems in the camps and led to factional conflict and infighting.<sup>30</sup>

Despite the hardships faced by refugees, protests from the refugee community were muted by the fact that Palestinian refugees are not accorded freedom of expression. Palestinian refugees are also denied freedom of association and barred from creating their own organisations. Only NGOs headed by Lebanese citizens are allowed to register with the authorities. Although the ban can be, and is, circumvented, it limits the scope and potential role of Palestinian civic institutions in the country (Suleiman 1997: 401). Even though there is extensive grassroots activism aimed at preserving Palestinian identity in a cramped camp setting (Halabi 2004, Khalili 2004, Peteet 2005),

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<sup>27</sup> Lebanon's post-war reconstruction programmes excluded refugee camps (Schulz and Hammer 2003: 58). Camps that were not rebuilt included those that saw the heaviest destruction during the civil war.

<sup>28</sup> Most men (and women) are engaged in unskilled temporary work for which they are paid lower wages than Lebanese workers with similar educational qualifications, Marwan Khawaja, *pers. com.*, 16 March 2007.

<sup>29</sup> In 2004, UNRWA's budget was about USD 350 million, with more than half of this used to fund the education programme (UNRWA Online). Most of the agency's funding comes from voluntary contributions from donor states and UNRWA frequently experiences shortfalls in its funding.

<sup>30</sup> Those worst hit were the about 3,500 refugees not entitled to UNRWA support, so-called Non-ID refugees. Non-ID refugees lack valid identification documents. They are first and second-generation refugees that arrived in Lebanon without valid identification and were never able to obtain new ones. Fearing arrest, many seldom venture outside the refugee camps (Daily Star 2006b).

such activism could not withstand the cumulative effect of more than a decade of systematic legal discrimination by the Lebanese legislature and executive.

## Legislative meddling and interference

Arab legislatures have generally been ignored by political scientists and are therefore poorly understood (Baaklini, Denoeux, and Springborg 1999: 1). This oversight is based on the misconception that they are of little importance in autocratic Arab states. Traditionally, Arab countries have left the legislation to the executive branch of government, with the parliament only approving executive decrees.<sup>31</sup> This imbalance in favour of the executive is a “crippling disadvantage of Arab legislatures” (ibid.: 51). Lebanon’s legislature, the unicameral parliament known as the “Chamber of Deputies”, is one of the most developed in the Arab world, although it has traditionally functioned under strong Syrian influence (ibid.: 42). In post-war Lebanon, the Lebanese legislature took an active legislative role, with the percentage of bills proposed by the legislature against draft bills proposed by the executive rising from 9 per cent in 1992 to 20 per cent in 1995. Although this places the Lebanese legislature above the world average, it underlines the fact that the executive branch, the Council of Ministers, proposed the lion’s share of the new laws. When the country’s leadership troika agrees (and Syria does not oppose), the legislature blindly approves ministerial decrees without debate (Salem 1998: 20). This explains why, in post-war Lebanon, ministerial decrees curtailing the refugees’ rights have, almost without exception, met with unanimous approval. An important reason for this is that in post-war Lebanon, the opposition has been marginalised and “unable to hold [the] government accountable” (el Khazen 1998: 70).

The Lebanese judiciary is neither an independent part of government nor does it serve as a checks-and-balances restraint on other parts of the government. The weak role of the judiciary has been linked to the fact that in the French civil law tradition, of which Lebanon is part, a judge does not make new law; he or she merely interprets the intentions of “the legislator”. As with other branches of government, the Lebanese judiciary suffered as a result of the civil war. Prior to the war, the Lebanese justice system mirrored many features common to West European systems and especially that of France. The Ministry of Justice had official authority over the judicial system, but the Supreme Council of Justice exercised actual jurisdiction over the various courts. In post-war Lebanon, the independence of the judiciary was enshrined in the Lebanese constitution (Article 20, 1926) and ratified in the National Reconciliation Document (Taif Agreement) that ended the war. In addition, a series of amendments was introduced that collectively aimed at strengthening the independence of the judiciary and judicial bodies and at protecting judges from interference and politically motivated transfers (Takieddine 2004: 27). Despite these amendments, the Minister of Justice retained the final say in the appointment of judges, meaning that the highest legal body, the Higher Council of the Magistrature, remains subordinate to the Ministry. This means that the “executive branch controls all appointments and promotions ... [and] ... politicians exert direct influence on judges and courts in cases that are of particular concern to them” (Salem 1998: 21). This fact is acknowledged by leading politicians and religious leaders and by the judges themselves (Takieddine 2004: 23ff). As might be expected in a system based on patronage, political interference in judicial affairs is common and pressures from political leaders (Ar. *zaim*, pl. *zuama*) often influence rulings.<sup>32</sup> Leading politicians, including the late Prime Minister Rafik Hariri, have supported meddling and interference in judicial affairs as a legitimate practice: “I have interfered, I

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<sup>31</sup> Egypt typifies this problem with thousands of ministerial decrees, which have the force of law, dwarfing the few hundred pieces of legislation produced by the parliament (Baaklini, Denoeux, and Springborg 1999: 51).

<sup>32</sup> For a detailed analysis of the pre-war system of political patronage, see (Johnson 1985). Post-war clientelism is discussed in (Hamzeh 2001).

do interfere and I will continue to interfere in the work of the judiciary because this is how it is done in this country” (Hariri, quoted in, Takieddine 2004: 24).

Confessionalism also mars the judicial system, not only in the selection of judges but also in the determination of criminal penalties. The long list of judicial malpractice also includes rampant corruption that predates the Syrian dominance in Lebanon (Daily Star 2006c). Yet, sharp public criticism of the judiciary and calls for immediate judicial reform has so far been ignored (Daily Star 2006d, Daily Star 2006e). The country’s judiciary has also been compromised by the inability to solve the many political assassinations in post-war Lebanon, including deadly attacks on judges themselves (Knudsen 2005b).<sup>33</sup> Against this background, it is not surprising that the Lebanese judiciary is manipulated by political patrons and too weak to intervene in politically charged issues or, indeed, provide a legal opinion not supported by patrons or public opinion.<sup>34</sup> Additionally, there is a strong sense of self-censorship among judges and surveys show that lawyers fear repercussions if they express their personal views publicly (Daily Star 2006f).

With their legal status as “foreigners”, Palestinian refugees are at the outset excluded from several laws reserved for Lebanese citizens. In addition, Lebanese law is restrictive when it comes to who can register a case with the country’s judiciary. Lebanese law does not allow a person not directly affected by a legal ruling the right to contest this in a court of law, in legal terms referred to as “legal standing”; so, for example, a NGO cannot launch a case on behalf of a refugee or the refugee community. The remaining option is influencing the legislative bodies, in particular the legislature. At the same time, the laws that govern legal rights are easily assailable (Takieddine 2004: 36), hence subject to abuse. Thus the “rights” enjoyed by Palestinian refugees are better viewed as privileges rather than rights and can be withdrawn at any time.

## Legal abuse: The ban on property ownership

The most telling example of the systematic legal abuse aimed at weakening refugee rights is the 2001 amendments that barred Palestinian refugees from owning property. In 2001, the Lebanese authorities carried the restrictions on property ownership one step further by amending the 1969 property decree (decree no. 11614 of 14 January 1969). According to the 1969 decree, Palestinians (in their capacity as Arab citizens) were entitled to acquire immovable property on a limited scale up to 3000 m<sup>2</sup> in Beirut and up to 5000 m<sup>2</sup> in the rest of Lebanon. The amendment (no. 296, dated 3 April 2001) prohibited anyone not having the “nationality of a recognized state” or anyone whose ownership of property is contrary to the constitution’s ban on naturalisation “to possess real rights of any nature” (FIDH 2003: 13). Palestinian refugees are the only foreigners not having a “nationality of a recognized state”. The law, hence, deliberately excluded Palestinians from owning, bequeathing, or even registering property. Those who owned property before 2001 could not pass it on to their children because property was no longer inheritable.

The property law was subject to trenchant national and international criticism and labelled a “racist” human rights breach. In 2003, a Palestinian grassroots protest against the property law was followed by a petition signed by thousands of refugees calling upon the government to revoke the property law (AlJazeera.net 2003). A year later, ten members of parliament (representing three political blocks, including Hizbollah’s, which had originally voted in favour of the bill) proposed a draft bill that would allow Palestinians to own up to 5,000 m<sup>2</sup> of land, a provision similar to that granted other

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<sup>33</sup> In 1999, unidentified gunmen shot and killed four judges in a court building in Sidon (BBC News 1999).

<sup>34</sup> Suleiman Takieddine, *interview*, Shouf, 3 May 2005.

foreigners. The proposal fell after heavy opposition by the government (AlJazeera.net 2004).<sup>35</sup> An attempt to appeal the decision was rejected later the same year when the Lebanese Constitutional Council (LCC) “affirmed the constitutionality of the text, arguing that the new legislation safeguarded what it called the ‘national interest’” (Suleiman 2006: 19).<sup>36</sup> The constitutional judges serving in the LCC could have supported a more restrictive interpretation of the ban on naturalisation, but endorsed the legislature’s view that the constitution’s ban on naturalisation legalised banning property ownership. Because of the growing legal discrimination against the refugees, in 2003 the European Parliament passed a resolution urging the Lebanese authorities to end such discrimination and ratify the 1951 Geneva Convention (FIDH 2003: 16).

## From confrontation to consultation

Deprived of civic rights and therefore of political representation and “voice”, the Palestinian refugees need to explore alternatives to safeguard their minimal rights. Because formal political channels have been closed to Palestinians, they have developed informal relationships with political, religious and secular parties and institutions that range from consultative to clientelistic (Knudsen and Suleiman 2007). In post-Taif Lebanon, Hizbollah has become the Palestinian refugees’ staunchest supporter and closest ally (Khalili 2007).<sup>37</sup> Alone among political groups and parties in the country, Hizbollah does not see the granting of civic rights to Palestinians as being opposed to their “right of return”. Instead, improving their living conditions is seen as a precondition for an effective campaign in favour of their right of return. Hizbollah is therefore the only non-Palestinian party that publicly supports granting civic rights to the refugees.<sup>38</sup>

The assassination of the former Prime Minister Rafiq Hariri in February 2005 and the subsequent Syrian troop withdrawal two months later abruptly reshaped the Lebanese political landscape and opened the path for a renewed dialogue on several issues that had been kept under wraps during Syrian stewardship (Knudsen 2005b). The parliamentary elections brought to power a coalition government headed by Prime Minister Fouad Seniora. After years in the opposition, Hizbollah for the first time joined the cabinet and obtained two ministerial posts. In May, Hizbollah’s Labour and Agriculture Minister, Trad Hamade, announced his intention to lift the laws that since 1983 had barred Palestinian from more than 70 jobs (Daily Star 2005c). In June, Hamade signed a memorandum (Ar. *muthakara*) that lifted the ban on manual and clerical jobs (Daily Star 2005a). The memorandum did not include high-status professions requiring membership in professional syndicates (e.g., medicine, engineering, pharmacy), which since 1964 had been reserved for Lebanese citizens. Faced with criticism over his failure to annul the 1964 law (Daily Star 2006b), Hamade defended his actions by saying this would have required cabinet approval and was therefore beyond his ministerial powers.<sup>39</sup> Moreover, in order to qualify for the new jobs and professions made available, refugees need to obtain a work permit.<sup>40</sup> The prohibitively high fees charged for a permit, ranging from USD 133 to USD 1,200, helps to explain why only a few refugees applied (UNHCR 2006). The scheme was not popular with employers, who were obliged to pay 75 per cent of the fees, in addition to social security taxes, even though their workers were

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<sup>35</sup> According to Suleiman (2006: 19), the parliament never brought the amendment up for discussion and rejected it outright.

<sup>36</sup> The Constitutional Council was created by a provision in the Taif Agreement and reviews the constitutionality of laws.

<sup>37</sup> Hizbollah and Palestinian refugees have also found common ground in rejecting UN Security Council Resolution 1559 (adopted on 2 September 2004), which called for Lebanon to “disband all Lebanese and non-Lebanese militias” (Daily Star 2005b).

<sup>38</sup> Hassan Hodroush, *interview*, Beirut, 6 May 2006.

<sup>39</sup> Trad Hamade, *interview*, Beirut, 17 November 2006.

<sup>40</sup> Available statistics suggest that in 1991 the Ministry of Labour issued about 18,000 work permits to Egyptian workers, but only about 350 permits to Palestinians (Sondergaard 2005, cited in Suleiman 2006: 16).

not eligible for any benefits due to the lack of “reciprocity requirements”.<sup>41</sup> The amendment legalises the large Palestinian workforce already engaged in unregulated informal sector work where payment is scarce and work mostly temporary. However, despite the many laws restricting Palestinians from entering the formal job market, the authorities traditionally did not take action to prevent Palestinians from working in the informal sector.<sup>42</sup> This, however, means that refugees remain a permanent underclass relegated to the lowest paid jobs, often in direct competition with Syrian guest workers, who dominate the informal labour market.

In 1991 a special committee was formed by the government to improve Palestinian–Lebanese relations. Unable to make any progress, the committee was soon shelved (el Khazen 1997: 290). Since then, the Palestinian–Lebanese political dialogue has been irregular, informal and purely consultative. The 2005 “Beirut Spring”, Syrian withdrawal and election of a new cabinet opened the way for a more dispassionate handling of the “refugee file”. In mid-October 2005, the new cabinet of Prime Minister Seniora set up the “Lebanese Ministerial Committee in Charge of Dialogue on the Palestinian Refugee Issue”, headed by ambassador Kalil Makkawi.<sup>43</sup> This paved the way for a long overdue rapprochement between the government and Palestinian officials representing the major Palestinian groups and factions (Knudsen and Suleiman 2007).<sup>44</sup>

Further underlining the rehabilitation of Lebanon-Palestine dialogue, in May 2006 the PLO Office in Beirut was reopened after having remained closed since 1982 (BBCNews 2006b). The reopening was an important symbolic gesture,<sup>45</sup> yet the formal status of the office is disputed and plans to turn the office into an embassy was criticised as a first step towards naturalising refugees (BBCNews 2006c). Hizbollah has strongly supported the creation of the PLO Office and dismissed its link to naturalisation.<sup>46</sup> However, assigning the official Palestinian representation in Lebanon to the PLO is politically sensitive in a situation where Hamas won the January 2006 elections to the Palestinian Legislative Council (Knudsen and Ezbidid 2006).<sup>47</sup>

After being delayed for months (Daily Star 2006a), a ministerial delegation headed by Makkawi (appointed by Prime Minister Seniora) finally visited the Ayn al-Hilwa camp in July 2006 to review the living conditions of the refugees (BBCNews 2006a).<sup>48</sup> This was the first ever visit by a minister to the camp and reflects the increased interest in the “refugee file” among political parties and their representatives (Knudsen and Suleiman 2007).<sup>49</sup> However, the deep political crisis gripping Lebanon since the 2006 July War has precluded any progress on sensitive issues. The crisis has rocked the country’s political stability and wrecked the economy. Anxious not to be dragged into yet another war, refugee officials have stressed the importance of staying outside what is termed an “internal Lebanese conflict”. The nascent Palestinian-Lebanese dialogue is therefore in limbo – again.

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<sup>41</sup> Palestinians are not considered to be citizens of an “officially recognised state”, hence are not eligible for reciprocity arrangements. The UN Convention Relating to the Status of Stateless Persons (1954) would require Lebanon to grant “stateless” Palestinians reciprocity rights, but Lebanon has not ratified this convention (FIDH 2003: 12).

<sup>42</sup> Khalil Shattawi, *interview*, Beirut, 13 May 2003.

<sup>43</sup> Khalil Makkawi, *interview*, Beirut, 13 March 2007.

<sup>44</sup> The Palestinian delegation to the committee was formed before Hamas came to power (in the PLC elections of January 2006) and therefore only comprised representatives from PLO factions. J. Suleiman, *pers.com.*, 11 February 2007.

<sup>45</sup> Abbas Zaki, *interview*, Beirut, 18 November 2006.

<sup>46</sup> Trad Hamade, *interview*, Beirut, 17 November 2006.

<sup>47</sup> Oussama Hamdan, *interview*, Beirut, 17 November 2006.

<sup>48</sup> The ministerial delegation was headed by Kalil Makkawi and included Education Minister Khaled Qabbani, Health Minister Mohammed Khalifeh, Culture Minister Tarek Mitri and Labour Minister Trad Hamade (Daily Star 2006a).

<sup>49</sup> Bahia Hariri, *interview*, Sidon, 18 November 2006.

## Conclusion

The first Arab-Israeli war created a refugee crisis that continues to this day. Among the long sufferers of the refugee disaster are the Palestinian refugees in Lebanon. The refugees in Lebanon are subject to international support regimes specific to this group of refugees (UNRWA). Secondly, regional agreements among Arab countries hosting refugees specify minimum provisions for the treatment of refugees (Casablanca Protocol). Thirdly, national laws and decrees regulate the rights and privileges of the refugees. After the amendment of the Casablanca Protocol in 1991, only the humanitarian support provided by UNRWA and national legislation in the host countries remained. This created a critical “protection gap” that opened the door for systematic legal discrimination against the refugees. This has been made worse by deliberate neglect by host states, who have either failed to ratify the UN conventions or failed to honour them.

In Lebanon, domestic legal discrimination against the refugees was instituted in the 1960s and refined after 1990, robbing them of basic civic rights. The main source legitimising these restrictions is the threat of permanent settlement and naturalisation of refugees. The fact that Palestinian refugees in Lebanon are campaigning for civic rights, not naturalisation, is ignored. To the refugees, the right of return is the key demand because accepting naturalisation would erase the refugee problem and let Israel evade its historical responsibility for the refugee problem. When politically expedient, the executive has proposed new bills curtailing refugee rights which have been endorsed by the legislature and applied by the judiciary. This reflected the general climate of distrusting refugee that developed during the post-war period. The distrust and antagonism was strengthened by concurrent regional and national events that heightened the tensions and fears of naturalisation: the flawed naturalisation process, the Oslo Accords and the regional job market closure to name the most important. Only rarely do refugees protest legal discrimination but they did mobilise against the property law. The petition gained the support of several parliamentarians but still failed to have the law repealed. The fact that the Constitutional Council attested to the constitutionality of the bill, shows that appealing to the constitution is futile when the issue at stake goes against state (executive) interests and is opposed by powerful elites and patrons supported by public opinion. However, since 2005 steps have been taken to revive a formal dialogue between the government and refugee officials that might improve living conditions and ease restrictions on refugees. Yet, the inability to repeal the draconian labour laws exposes the limits on ministerial powers and explains why discriminatory laws are not revoked.

Lebanon’s treatment of refugees is a breach of international conventions, both those few ratified by the country (such as CERD in 1971) and the many more that Lebanon has neither ratified nor acceded to. To make matters worse, Lebanon has treated civic rights and naturalisation as mutually exclusive. In addition, the international regime for Palestinian refugees has contributed to a legal paradox: being under collective assistance from UNRWA excludes refugees from individual protection by the UNHCR (1951 Convention). When international law does not provide such legal protection, it is not to be expected that Lebanon would be willing to provide it. The fact that UNRWA assistance and refugee residence in Lebanon were always meant to be temporary serves to justify the present system and prevents change. Palestinian refugees are therefore left suspended in a critical “protection gap”. Lebanon is not alone in being responsible for this misery – so is Israel, which from the start rejected refugee repatriation and claims for reparation.

Rafik Hariri and his cabinets governed Lebanon for most of the post-war period and have been credited with the country’s remarkable economic recovery. However, Hariri also presided over a period of unprecedented legal discrimination led by his cabinet with backing from the parliament. This was made possible by the universal rejection of naturalisation but, most of all, by the executive’s patronage of the legislative and judiciary. In line with legal anthropology’s shift from

formal procedures and laws to social processes (Harris 1996, Moore 2001), the case of Lebanon shows that pervasive political clientelism has robbed the judiciary of an independent role and made it subservient to the executive, the Ministry and its political patrons. The weakness of the judiciary could also be linked to the fact that in the French civil law tradition, a judge is more likely to interpret laws based on the intentions of “the legislator”. In post-war Lebanon, the main legislator is not the legislature but the executive, which since 1990 has proposed a series of legal amendments and ministerial decrees that have radically curtailed the civil liberties of the refugees. The legislature unanimously approved these decrees, something that attests not only to the political consensus underlying this issue but also the subservience of the legislature to the executive. Likewise, the judiciary is a client of the Ministry, members of the cabinet and political leaders and bosses. Together, this has made the legislature and the judiciary tools in the legal discrimination against refugees.

Even after several decades incarcerated in camps, refugees have retained a distinct identity held together by the hope of a future return to Palestine. In 2008, it will be 60 years since the first Arab-Israeli war broke out, leading to refugees’ fateful flight from their homes, land and homeland. The UN General Assembly resolution 194 securing the refugees’ right of repatriation has been affirmed more than one hundred times since 1948. Yet, refugees like Abu Saleh have spent the past 60 years incarcerated in Lebanese refugee camps. For him and the cause he embodies, time is running out. Abu Saleh has seen many visitors to his tiny house in Ayn al-Hilwa, but he has not yet seen his homeland nor is he at home in Lebanon. Old and frail, he is left with a half-filled bottle of sand and half-hearted promises of a dignified life and return to his homeland. For him and his generation, Palestine is but a dream.

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## SUMMARY

Lebanon has been a reluctant host to Palestinian refugees since 1948. A mainstay of Lebanese policies vis-à-vis the Palestinian refugees has been preventing their permanent integration and settlement in the country. The question of naturalising refugees is one of the most contentious political issues in Lebanon today. Palestinian refugees tend to live in conflict-ridden environments, often at the margins of the host society. This first of all applies to the camp-based refugees, who languish in dilapidated and overcrowded camps. Unable to return to Palestine and marginalised by the host society, they are caught in a legal limbo. In order to understand the legal plurality that governs their refugee status, it is necessary to examine their rights as refugees in international law, regionally as hosted by Arab League states and nationally as residents of Lebanon. The rights regime is complex and contributes to a critical “protection gap” for the refugees. In particular, there is a need to explore the “politics of citizenship” in post-war Lebanon that widened the protection gap and institutionalised legal discrimination of refugees. This paper argues that legal discrimination of Palestinian refugees was instituted amidst growing fears of their permanent settlement in the country and institutionalised through the executive’s patronage of the legislature and the judiciary. The paper was prepared under the multidisciplinary research project “The Poor and the Judiciary” funded by the Research Council of Norway (2005–07). Field research for the paper was carried out in 2005, 2006 and 2007.

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