



المنظمة الفلسطينية لحقوق الإنسان (حقوق)

Palestinian Human Rights Organization (Rights) - PHRO

Member: Euro – Mediterranean Human Rights Network (EMHRN)

Member: International Federation for Human Rights (FIDH)



Translated Version

Beirut, August 29<sup>th</sup>, 2007

**The Negative Impacts of the Arbitrary Law no. 296/2001 that Perversely Denies the Palestinians the Right of Ownership Distress Naher El-Bared Camp Re-Building Attempts**

**"A Review of the Legal and Practical Complications that Affect the Rights of Naher El-Bared Displaced Palestinians"**

In light of the expected conclusion of the conflict which has been raging since over three months between the Lebanese Army and the so-called (*Fateh El-Islam*) group in Naher El-Bared Camp at a time where several local and international bodies are actively trying to find temporary shelters for the displaced dwellers of Naher El-Bared Camp where UNRWA is trying to rent plots of land for constructing temporary shelters pending the rebuilding of the camp and the return of those displaced dwellers to their homes in accordance with the Lebanese Government commitment, an extremely serious complication emerged, affecting the rights of landowners from the Palestinian refugees, in what has become to be known as the New Camp. Such obstacle requires serious and persevering efforts of all concerned parties for resolving it as well as finding fundamental and creative solutions for it.

Before 2001, the Palestinian refugee had the right to own property in Lebanon subject to the provisions of **legislative decree no. 11614 issued on 4 January, 1969 and related to foreigners' property ownership in Lebanon**. The decree stipulates that all foreigners wishing to own property in Lebanon are required to obtain the pre-approval of the Council of Ministers and the area of the property should not exceed a given ratio. Foreigners from Lebanese origin as well as Arab nationals are exempted from the government's pre-approval stipulation within the stated ratio, but all foreigners have to pay 10% of the value of the property in addition to the basic charges of 6.7% of the value of the property for registration in the Land Registry Department.

Since the above-mentioned Lebanese decree did not exclude Palestinian refugees from its text classifying him/her as a foreigner despite the fact that he/she is a refugee, many Palestinian refugees and over the years have bought properties (apartments or plots of land) either for use as residences or for investment purposes. It must be pointed out that some of these Palestinians convinced with the initial contracts of purchase without registering in the Land Registry Department to avoid the payment of the exuberant fees and the costs of registration. And since the Lebanese legislator does not acknowledge the transfer of property in Lebanon from one owner to another except after registration in the Land Registry Department in accordance with the law, considering that initial contracts of sale only entitle the holder to take legal action against the seller in case the later breached his/her obligations, accordingly, all Palestinians purchasing properties without registering the sale are considered non-owners before of the law. With all what that means from the emergence of complications and legal



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disputes, Palestinians have very soon experienced such problems, after the amendments to the 2001 **foreigners' property ownership law** that were revealed in the arbitrary law 296 which stated in its first article: **"no person who is not a holder of a recognized nationality is permitted to own property of any kind. This applies to any person if ownership is in conflict with the provisions of the Constitution regarding the repudiation of settlement"**. In the legal interpretation and the practical application, this has resulted in denying only the Palestinians the right to ownership in Lebanon whether by contract or by any other legal means. This is a clear and frank contravention to all international covenants and pacts which guarantee the right of every human being to ownership regardless of race, colour or national origin. Also, if it is understood that the application of the provisions of this amendment do not apply to deals ratified before its issuance but only to subsequent deals, yet and in practice, the Lebanese authorities barred even those from their right to register through a lame interpretation of the first article of the arbitrary law no. 296 through the claim that ownership can only be considered conclusive by registration. Thus, the Palestinians who have contracts of purchase made prior to the issuance of this amendment can no longer register their ownership. This right was limited to those who have had registered their ownership.

In the context of what is happening in Naher El-Bared Camp and in view of the extensive damage in both what is known as the Old Camp, which was built on land rented by UNRWA, and in what is called the New Camp that was built on mixed Lebanese and Palestinian property, the rebuilding of the later seems more complicated especially when we know that UNRWA will undertake the re-building process in the Old Camp while it seems unclear how it will be dealt with owners of rights in the new camp.

Mixed ownership in the New Camp where there is excessive joint ownership whether between members of the same family or different Lebanese and Palestinian families, the obscurity ownership of some plots as a result of non-registered properties governed by irrevocable powers of attorney<sup>1</sup> that are unrecognized as far as Palestinians are concerned if they are back-dated, all this means depriving Palestinians who had engaged in such actions prior to 2001 from their right to ownership. Furthermore, other types of sale which have neither been listed nor investigated or audited where fraud was employed (sale of property to a

<sup>1</sup> This power of attorney includes the right to sell the relevant property. Signature of this document denotes that the sale has been completed and that payment has been received while the transmit of the ownership to the name of the buyer when he submits it for registration in the Registry Land Department has been performed. Until such a time, ownership remains in the name of the seller at the real estate department and liable for any material rights that may befall the property registered in his name inclusive of the property sold by means of an irrevocable power of attorney which is annulment proof even in the case of the death of any of all signatories.



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Lebanese when the real beneficiary is a Palestinian) ... all this adds to the difficulty of rebuild the area smoothly without complications and within the suitable time.

In the same vein, all parties responsible for the rebuilding programme, the Lebanese Government in particular, will come face to face with the negative impacts of the arbitrary law no. 296/2001 and the complications it raised in the face of Palestinian refugees since its inception and until the present day. Taking into consideration its obligations and undertakings to rebuild the demolished buildings and to compensate damages, and in view of its inability to make any amendments at present because of the prevailing conditions in the country and the political upheaval between the Lebanese which has led to the disruption of the work of constitutional institutions such as the Parliament, the Lebanese Government will find itself searching for legal escapes and finding solutions that guarantee returning the conditions to the their previous state before the emergence of Naher El-Bared clashes - i.e. whether to acknowledge the rights previously gained by the Palestinians, or for the procedures required to starting the rebuild - so that the rights of people whose only sin is they are Palestinians deprived by an unfair and arbitrary law from their simplest human rights.

Further, and in accordance with the dictates of the Universal Declaration of Human Rights, in particular article 17 of the Declaration, which stresses the inalienable right of every person **to own property, alone as well as in association with others** and **that no one shall be arbitrarily deprived of his property**, for this reason so that Palestinian rights owners are not subjected to loss of their property, we stress the importance of forming a mixed committee, which should include in addition to representatives of the Lebanese Government, the Palestine Liberation Organization and UNRWA, persons to represent affected Lebanese and Palestinian rights owners as well as specialized experts, with the responsibility of setting the basis for cutting through the legal and executive obstacles, besides the estimation and assessment of all damage to all movables and immovable and for establishment and payment of fair reparations in order to achieve the expected and anticipated results.

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