

ADVOCACY PRACTICUM
FOR NGOS REPRESENTING PALESTINIAN REFUGEES IN LEBANON

Conducted by
PALESTINIAN HUMAN RIGHTS ORGANIZATION - PHRO

Supported by
ASSISTING PROGRAM IN THE EMBASSY OF THE NETHERLANDS

ADVOCACY MISSION
Netherlands, European Union and United Nations
June 19th – 29th, 2005

THE PALESTINIAN REFUGEES SITUATIONS
IN LEBANON

Mission's Report

Prepared by
Mohammad Al-Najjar, Rola Badran and Wassim Ahmad

TABLE OF CONTENT

ABBREVIATIONS	3
I. INTRODUCTION.....	4
II. PALESTINIAN REFUGEES IN LEBANON - A BRIEF HISTORY.....	5
1. WHO ARE THE PALESTINIAN REFUGEES?	5
2. EXPLORING THE HISTORY OF PALESTINIAN DISPLACEMENTS.....	6
3. FACTS AND FIGURES ON PALESTINIAN REFUGEES IN LEBANON.....	9
4. PALESTINIAN REFUGEES IN NUMBERS.....	10
III. THE LEBANESE CONSTITUTION.....	13
IV. LEBANON’S GENERAL PRACTICES.....	13
V. RIGHTS AND VIOLATIONS.....	14
1. THE RIGHT TO A FAIR TRIAL.....	14
2. FREEDOM OF MOVEMENT.....	15
3. THE RIGHT TO NATIONALITY.....	16
4. THE RIGHT TO OWN PROPERTY.....	18
5. THE RIGHT TO WORK.....	19
6. ABSENCE OF SOCIAL SECURITY.....	22
7. RESTRICTION ON THE FREEDOM OF ASSOCIATION.....	22
8. RIGHT TO HOUSING.....	23
9. RIGHT TO EDUCATION.....	23
10. RIGHT TO HEALTH.....	25
VI. CONCLUSION.....	26
VII. RECOMMENDATIONS.....	27
VIII. REFERENCES.....	28

ABBREVIATIONS:

UDHR: Universal Declaration of Human Rights

ICCPR: International Covenant on Civil and Political Rights

ICESCR: International Covenant on Economic, Social and Cultural Rights

CSR: Convention relating to the Status of Refugees

CERD: International Convention on the Elimination of all Forms of Racial Discrimination

CEDAW: Convention on the Elimination of all Forms of Discrimination against Women

CAT: Convention against Torture and other Cruel, Inhuman or degrading Treatment or Punishment

CRC: Convention on the rights of the Child

I. INTRODUCTION

In accordance to its work in Human Rights Education and Advocacy, the Palestinian Human Rights Organization - PHRO has conducted a project titled "**Advocacy Practicum for NGOs Representing the Palestinian Refugees in Lebanon**". This project was supported by the Assisting Program in the Embassy of the Netherlands and was designed on the requirement basis for human rights activists in the field of human rights protection, organizing and conducting advocacy campaigns as peaceful means of civil struggle.

This report has been prepared by the Human Rights Activists who have participated in the three phases¹ of the project as a mean to serve our advocacy and lobbying mission that is targeting the Netherlands, the European Union and the United Nations where we will be advocating for the Palestinian Refugees Situations in Lebanon.

This report presents the severe situations of the Palestinian Refugees living in Lebanon relevant to: the International Human Rights Conventions namely ICCPR, ICESCR, CSR, CERD, CEDAW, CAT, and CRC, Article 2 of the Association Agreement between the EU and the Republic of Lebanon, and the Arab League Resolutions. A full account of their situation is not possible within the realm of this document and it should be noticed that the aspects presented in this report do not in any way present the whole picture of the Palestinian Refugees Situations in Lebanon.

In the case of Lebanon and Palestinian Refugees, it is not possible to understand the intensely complex relationship between these two parties without considering the historical context. To that end, this report will give a brief overview of the Palestinian Refugees' history in Lebanon as well as a more general description of their current situation. This part will be followed by a brief presentation of the Lebanese Constitution general principles to provide a deeper understanding of the problematic and intricate nature of the Lebanese attitudes towards the Palestinian Refugees. Subsequently, a general comparison between Lebanese legislation from one side and the International Conventions, Article 2 of the Association Agreement between the EU and the Republic of Lebanon, and the Arab League Resolutions from the other side will be accessible which will be followed by a presentation on how different articles of these conventions, agreements and resolutions are being violated by Lebanon.

¹ Training Course on UN & EU Mechanisms of Protection and Organizing Campaigns (Jbiel – Lebanon from April, 3 to 10, 2005; Training Course Follow Up Mechanism April – May 2005, and the Advocacy Mission from June 19 to 29, 2005

Finally, a conclusion explains how these violations may affect the Palestinian Community and its surroundings in addition to our recommendations to the international agencies that are involved in promoting, defending and protecting Human Rights.

It is also noted that this report is not a compilation of surroundings facts but instead address only the legal problems related to the current soul of this advocacy mission.

II. PALESTINIAN REFUGEES IN LEBANON - A BRIEF HISTORY

1. WHO ARE THE PALESTINIAN REFUGEES?

Palestinian Refugees are part of the indigenous inhabitants of historic Palestine, a land stretching from the Mediterranean Coast east across Jordan River, and from the Gulf of Aqaba north beyond the Sea towards Galilee "southern Lebanon". Today this geographical area is divided into the state of Israel (established in May 1948), and the West Bank including eastern Jerusalem and the Gaza Strip (which Israel occupied in 1967). Palestinian cities, villages, and most of the 19 official refugee camps in the latter areas were transferred to a self-governing Palestinian Authority in the 1990s under the Madrid/Oslo 'peace process.' The area, however, remains under Israeli occupation with the bulk of the land area under full Israeli military control.

Over the course of the 20th century, the Palestinian people have experienced several periods of major displacement, beginning in 1947-48 during the first Arab-Israeli war, followed by a second major displacement in the 1967 Arab-Israeli war. Also in 1970 - 1971, certain number was displaced from Jordan during what is known as "Black September". Recently as 1991, tens of thousands were displaced from Kuwait during the Gulf War.

Moreover, Palestinians experienced internal displacement in Lebanon itself. That started in 1974 when Nabatieh Camp which was situated in Southern Lebanon was destroyed by Israelis War planes. Then and during the Lebanese War 1975 - 1990 two other camps were totally destroyed (Dikwaneh which was known as "Tal El-Zaatar" and Jisr Al-Basha - both were situated in Northern-Eastern of Beirut).

Additional displacement has resulted from Israeli government policies and practices inside Israel and in the 1967 occupied Palestinian territories, including land confiscation, house demolition,

revocation of residency status, and deportation, as well as government policies and armed conflict in various countries of asylum in the region.

Palestinian refugees from 1948 and their descendents comprise the bulk of the Palestinian refugee population today numbering over 5 million persons and constituting nearly two-thirds of the Palestinian people.

If one includes Palestinians displaced from the first time in the 1967 war and internally displaced Palestinians inside Israel, approximately three-quarters of the Palestinian people have been uprooted from their traditional lands over the past five decades, making Palestinian refugees the largest and one of the longest standing unresolved refugee cases in the world today.

The majority of these refugees reside within 100 miles of their places of origin inside Israel and in the occupied West Bank including eastern Jerusalem and the Gaza Strip but are unable to exercise their right to return to their homes and lands of origin. The State of Israel opposes the return of Palestinian refugees based on the desire to maintain Israel as a "Jewish State" characterized by a Jewish majority and Jewish control of the land.

2. EXPLORING THE HISTORY OF PALESTINIAN DISPLACEMENTS

Mass exoduses are caused by multiple and complex factors.

The mass exodus of Palestinians, during periods of conflict as well as in times of relative calm, is related directly to the ongoing denial of the right to self-determination and the persistent violation of many of the most basic human rights of the Palestinian people.

i. THE PALESTINIAN RIGHT TO SELF-DETERMINATION FIRST RECOGNIZED IN 1919

The right of the Palestinian people to self-determination was firstly recognized by the League of Nations in 1919. Palestine (which had been part of the Ottoman empire until its collapse at the end of the First World War) was among a number of non-self-governing Arab territories in the Middle East that were placed under the temporary '*tutelage*' or administration of foreign powers until such a time as the peoples of these territories were deemed '*ready*' for independence.

ii. THE 1922 MANDATE FOR PALESTINE

In 1922, the League of Nations entrusted the Mandate for Palestine (considered to be "Class A" or closest to independence) to Great Britain. Contrary to the intent and purpose of that temporary

system (to administer Palestine and its peoples through to independence) Great Britain also recognized demands of the establishment of an exclusive Jewish state in Palestine.

Under the terms of the 1922 Mandate for Palestine (drafted by the British government and which also incorporated the 1917 Balfour Declaration whereby the British government first recognized demands for an exclusive Jewish state), the British Administration in Palestine was required to *'secure the establishment of the Jewish national home'* in Palestine through Jewish immigration and settlement. As for the majority of the inhabitants of the country (i.e., Palestinian Arabs), who were referred to as the 'non-Jewish communities', the 1922 Mandate only recognized their civil and religious rights rather than political rights, including the right to self-determination.

iii. 1947 – THE UN AGREES TO DIVIDE PALESTINE INTO TWO STATES – ARAB AND JEWISH

In early 1947, the British government informed the United Nations of its intention to withdraw from Palestine ending more than two decades of mandatory rule. Despite the fact that the League of Nations had recognized the provisional independence of Palestine, the UN General Assembly decided to establish a special committee of inquiry to formulate recommendations for the future status of Palestine. Repeated requests by key Arab states to obtain an advisory opinion from the International Court of Justice (ICJ) concerning the legal obligation of the UN to recognize the independence of Palestine under the terms of the League of Nations Mandate system were rejected by the General Assembly.

In November 1947 the UN General Assembly adopted a plan (UN General Assembly Resolution 181), based on the recommendations of the majority of the members of the special committee of inquiry, for the division of Palestine into two states – one Arab and one Jewish. The recommendation was adopted despite the wishes of the majority of the inhabitants of the country. Irrespective of unresolved legal issues, and provisions in the plan for the protection of minority rights in each state, opponents of Resolution 181 argued that its terms were inequitable: the proposed Jewish state was allotted 56% of the territory of historic Palestine even though Jewish inhabitants of Palestine comprised less than one-third of the population and owned not more than 7% of the land. The collapse of the UN-sponsored initiative, after key supporters backed away from implementing it by force, and the subsequent war in 1948 led to the depopulation of some 530 villages and displacement/expulsion of some 750,000 Palestinians. Israel has refused to allow the refugees to return to their homes, apart from a very small number of family reunification cases.

iv. 1967 ISRAEL OCCUPIES ADDITIONAL TERRITORY

Some twenty years later, the United Nations Security Council adopted Resolution 242, calling upon Israel to withdraw from the territories it occupied in the 1967 Israeli-Arab war, including eastern Jerusalem, the West Bank, and the Gaza Strip. Several hundred thousand Palestinians, including 1948 refugees, were displaced during the war and have been denied the right to return to their homes and lands in these territories due to Israel's continued military occupation. Again, only a very small number of Palestinians have been able to return through family reunification. These territories comprise only 22% of the land of historic mandate Palestine. The United Nations has repeatedly affirmed the right of self-determination of the Palestinian people in these territories. General Assembly Resolution 3236 adopted in 1974, for example, reaffirmed the inalienable right of the Palestinian people to self-determination and the inalienable right of Palestinian refugees to return to their homes and lands from which they were uprooted.

v. MASS EXODUS OF PALESTINIANS ACCOMPANIED BY SYSTEMATIC HUMAN RIGHTS VIOLATIONS

The mass exodus and displacement of Palestinians were also accompanied by systematic human rights violations. During the 1948 war, the Palestinian Arab population was displaced and expelled in large numbers by Jewish militias and later by Israeli forces after the unilateral establishment of the state of Israel in May 1948. Through a combination of tactics that violated basic principles of international law included indiscriminate military attacks on civilians (including those fleeing areas of conflict), massacres, looting, destruction of property (including entire villages), and forced expulsion. Israeli military forces later instituted 'shoot to kill' policies at the front lines to 'prevent infiltration' - i.e., the spontaneous return of refugees to their homes.

Expulsion and internal transfer of Palestinian Arabs continued after the signing of armistice agreements in 1949 between Israel and its Arab neighbors. Israel subsequently adopted a series of laws concerning citizenship and nationality which effectively prevented Palestinian refugees from returning to their homeland, as well as a series of "abandoned property" laws to dispossess refugees of their property and transfer it to full Jewish control. Many of these same violations of international law were committed against Palestinians during the 1967 Arab-Israeli war, leading again to mass displacement and imposed exile.

vi. ONGOING VIOLATIONS - 'MULTIPLE DISPLACEMENTS'

The violation of the human rights of Palestinians inside Israel, the 1967 occupied territories, as well as in Arab states such as Jordan, Lebanon, and Kuwait has led to further cycles of displacement. While there are no exact figures to illustrate the impact of these policies, it is estimated that over three decades of Israeli policies of land confiscation, house demolition, revocation of residency rights, and deportation, have led to the forced displacement of several thousand Palestinians. The 1970 conflict between the government of Jordan and the PLO, the Lebanese War 1975 – 1990, Israeli invasion of Lebanon in the 1982 including the massacre of several thousands of the Palestinian Refugees in the camps of Sabra and Chatila in Beirut (by Lebanese Christian Phalangists allied with Israel), the camps war 1985 – 1987 (by Amal Movement), the 1991 Gulf War and the internal Palestinian clashes between the various political parties and militias in addition to the violation of basic human rights of Palestinian refugees residing in these areas, has led to further displacement, with many Palestinians having experienced multiple displacements in their lifetime.

3. FACTS AND FIGURES ON PALESTINIAN REFUGEES IN LEBANON

Total registered refugees - 399,152

Registered camp population - 210,155

Official camps 16 (Three were destroyed and never rebuilt again, and one was evacuated)

Elementary and preparatory schools - 82

Secondary schools – 5

Educational Staff – 1608

Enrolled pupils (2003/2004) - 40,549

Primary health care facilities – 25

Health Staff – 575

Annual Patient Visits (include medical and dental consultations as 2004) – 1057165

Refugees registered as special hardship cases – 45,460

Figures are according to UNRWA Statistics – December 2004

4. PALESTINIAN REFUGEES IN NUMBERS

Palestinian refugees in Lebanon can be divided into three groups:

- Registered Refugees; RR: those who are registered by both, United Nations Relief and Works Agency (UNRWA) and the Lebanese Authorities
- Non Registered Refugees; NR: those who are only registered by the Lebanese Authorities.
- Non Identified Refugees; Non-ID: those who are not registered at all, neither by UNRWA, nor by Lebanese Authorities, or by any other Agencies in Lebanon.

i. REGISTERED REFUGEES; RR (DECEMBER 2004 – 399,152)

UNRWA figures for December 2004 numbers claim that 399,152 Palestinian refugees (approximately 10% of Lebanon's total population) reside in Lebanon. 53% of this number (210,155) lives in 12 registered refugee camps scattered throughout the country (see the map – page 12). The remaining lives in non-registered camps (Gatherings) and Lebanon's different cities, suburbs and countryside. (Originally, 16 refugee camps existed in Lebanon, 3 were destroyed during the Lebanese War (1975 – 1990) - were never rebuilt again; and one was voluntarily evacuated before the war).

Registered Refugees hold 3 to 5 years validity travel documents issued from the Lebanese General Security.

ii. NON REGISTERED REFUGEES; NR: 30,000 - 35,000

There are approximately 35,000 refugees unregistered by UNRWA. Before 2004, they were able to benefit from some minor services provided by UNRWA (but none of the major services as hospitalization). But since 2004, a temporary UNRWA Project funded by EU aside from UNRWA's typical mandate and Budget allowed NR to access hospitalization services.

Nearly half of these refugees were registered by the Red Cross and, consequently, by the Lebanese Government, while the second half was registered by orders of former Prime Ministers (1969-1976). Non Registered Refugees hold one year validity travel documents issued from the Lebanese General Security.

iii. NON-IDENTIFIED REFUGEES; NON - ID: 4,000 - 5,000

Are Refugees who were displaced mainly from Jordan to Lebanon during Black September Events (1970 – 1971). This category includes around 5,000 Palestinians who do not possess any kind of IDs. This group of refugees does not benefit from UNRWA services, and does not receive any assistance from the Lebanese Government. Most of the Non-IDs first generation hold expired un renewable passports, where as their decedents don't hold any kind of IDs.

Theoretically, the overall number of Palestinian refugees in Lebanon falling under the above three categories is around 435000. However, less than two thirds of these numbers actually live in Lebanon. The events of the Lebanese War (1975-1990), Israel Invasion (1982), Camps War (1985 – 1987) and the internal Palestinian clashes between the various political parties and militias in addition to the difficult economic conditions and the Lebanese laws against Palestinian Refugees (defined as foreigners within the Lebanese law) have led to massive migration of Palestinian refugees towards Western Europe in general and Scandinavia in particular.

Though many of the immigrants to Europe have permanently settled down and those in Arab Gulf states have legal work permits, many of those in Europe and all of those in Arab Gulf states still retain their status as Palestinian refugees registered in Lebanon. While non-ID refugees face the most difficult of circumstances, all Palestinians refugees are subject to discrimination at a variety of levels.



III. THE LEBANESE CONSTITUTION

The Lebanese Constitution stated in its preamble on paragraph B: "Lebanon is Arab in its identity and in its association. It is a founding and active member of the league of Arab States and abides by its pacts and covenants. Lebanon is also a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Right. The Government shall embody these principles in all fields and areas without exception". Further, Article 2 of the Code of Civil Proceedings states that: "In the case of a conflict between national and international law, the latter shall prevail".

This means from a legal point of view that all the international covenants, conventions and treaties Lebanon has ratified, come at the top of the Lebanese legal hierarchy, thus every law or legislative procedure must be compatible with them. In fact Lebanon, till now, has not completely adopted its laws or other measures to give effect to the rights recognized in the international or regional covenants or conventions, in the way Palestinian refugees could benefit from, and this violates firstly paragraph B of the Lebanese constitution and secondly the ICCPR, especially the article 2 paragraph 2.

These violations will be reflected in this report through many aspects and according to many rights.

IV. LEBANON'S GENERAL PRACTICES

In the case of Palestinian Refugees in Lebanon, the limitation on their rights is primarily based on the pretext of their lack of citizenship. The root of the issue is that they are recognized as Refugees (Palestinian Refugees' IDs issued by Lebanese Authorities certify that they are Refugees), yet they are treated as foreigners (but still do not benefit from Foreigners Law as per the "Reciprocity Policy" revealed in all the Lebanese Laws). So while the language used in the Lebanese law is not openly discriminatory against Palestinians, the spirit and underlying meaning clearly and directly aim at the Palestinian population. In fact, several Parliament and Government Members are actually *open* about their desire towards not having the Palestinians to remain on the Lebanese territory- citing resettlement as the main justification for this attitude and this policy.

Many times Lebanon exploits provisions of the International conventions in a way contradicting the spirit of these conventions. As article 1 of the CERD allows signatory states to have legislative

differentiation between groups if the regulation is related to differences being made between citizens and non-citizens, Lebanon applies the provisions of this article to target the Palestinian population in a deliberate and discriminatory attempt to ensure that the Palestinian refugees are not considered to remain on the Lebanese territory. Lebanon should be pressured to end this policy and make legislative changes so the situation of Palestinian refugees is ameliorated. Further, Lebanon must implement Article 2 and 7 of the CERD whereby every effort should be made through education, dialogue and informational campaigns to change the general attitude of Lebanese civil society towards Palestinian refugees. The current attitude is one of resentment, hostility and overt discrimination. Thus, the situation is very much that the Palestinian population has been attacked both directly through discriminatory legislation as well as indirectly through everyday attitudes towards them.

In their defense, the Lebanese believe that if they provide basic civil rights, the Palestinian refugees residing in Lebanon will relinquish their fight for right of return to historic Palestine and remain in Lebanon permanently. This fear is largely unfounded given that the vast majority of Palestinians does not wish to remain in Lebanon and vow never to give up the right of return. However, with the fear of *resettlement* having been so embedded in the structure and mentality of the society *and* incorporated into the Constitution, every remote step to improve the situation of the Palestinians in Lebanon is easily hindered.

V. RIGHTS AND VIOLATIONS

1. THE RIGHT TO A FAIR TRIAL

Article 10 of the UDHR and Article 14 in the ICCPR state that all persons have the right to a fair trial regardless of race, color or ethnic origin. Article 5(a) of the CERD also states that every person must be treated equally before tribunals and other organs administering justice. Article 5 (b) of the CERD states that all persons have the right to security and protection by the state against violence or harm whether inflicted by government officials or by any individual group or institution.

Despite the harsh Lebanese laws that deprive people on the Lebanese territories from reviewing their conviction sentences on certain courts (Justice Council) by a higher tribunal where article 366 of the Criminal Procedure Code stated that: "... the sentence of the justice council can't be reviewed by a higher court ...) which contradicts with Article 14 paragraph 5 of the ICCPR that

states " everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law"

Under Lebanese law, (Article 425 of law-decree 90/83), Lebanese citizens who cannot afford a lawyer are provided with one by the State. Article 426 of the same law offers foreign nationals legal aid under the reciprocity principle. As discussed above, the reciprocity principle is based solely on the foreign national having a State from which they originate- thus again excluding Palestinians from benefiting from legal aid. Indeed, the Palestinian population, more often, cannot afford to hire a lawyer and are thus left unrepresented and vulnerable within the Lebanese legal system. Furthermore, without legal representation, there is a much greater risk of being held in protective custody longer than those who do have legal counsel. This means that Palestinian refugees are not only more represented than other groups but they are even more at risk of being tortured (mentally and physically) than other impoverished groups who have been availed the right to counsel.

We see in the Articles 425 and 426 of law decree that once again Lebanese legislation is excluding Palestinians from the basic rights offered to other nationals residing in Lebanon. The exclusion clause for States to derogate from the Convention rights during times of emergency (Article 4 of the ICCPR) does not excuse or justify the treatment of Palestinian refugees within the Lebanese "justice" system.

2. FREEDOM OF MOVEMENT

Article 13 of the UDHR states that everyone has the right to freedom of movement and residence within the borders of each State, as well as the right to leave any country including his/her own. This applies to both individuals on the territory of signatory States as well as those subject to their jurisdiction under the ICCPR (article 2 and 12). According to Article 4 of the ICCPR, signatory States may derogate from the rights outlined in the Convention in times of public emergency (i.e. when the existence of the state is threatened) *as long as* the derogation does not involve discrimination solely on the grounds of race, color, sex, language, religion or other social origin. Article 5 (d) (i) of the CERD reiterates these principles by stating that signatories to the Convention undertake to "prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color and national or ethnic origin, to equality before the law when it comes to the enjoyment of the right to free movement and residence within the border of the state".

Unfortunately, this provision is not being implemented with regard to Palestinian refugees in Lebanon. The refugees are prohibited from living in border areas in the South, thus limiting their choice of places to live even within the country. Palestinians are only allowed to go near the border crossing with prior authorized permission from the Lebanese Military Intelligence. In addition, if Palestinian refugees wish to leave or enter certain refugee camps (South), they are subjected to identity checks carried out by the Lebanese Army Checkpoints surrounding the camps. It must be emphasized that these discriminatory practices apply *only to* Palestinians. Moreover, if foreigners want to enter the Southern Camps to visit institutions or even to conduct social visits (i.e. one wants to visit his/her Palestinian friend who lives in these camps) especially Ein El-Hilweh they need to issue a prior authorized permission from the Lebanese Military Intelligence.

Thus, despite the provisions of the UDHR and ICCPR, the rights to freely move within the country, as well as to freely choose one's residence, are restricted as applied only to Palestinian refugees in Lebanon. Although the ICCPR affirms that a State may derogate from adhering to the rights in this covenant when the existence of the state is threatened, even if Lebanon were threatened (which is not arguable), such restrictions on Palestinians would still be in violation because they are based solely on national origin- and thus non arguable.

Despite that Order no. 48 annulled in 1999 canceled the Ministerial Decision Order No. 478 of September 23, 1995 which states that a Palestinian refugee residing in Lebanon needs an entry or exit visa to leave or reenter the country, but its reactant still exist in a way that not only looming precedent discourages fearful of Palestinian Refugees to go abroad but also makes other countries reluctant to grant them visas.

3. THE RIGHT TO NATIONALITY

In Article 15 of the UDHR it is stated that everyone has the right to a nationality. Article 24 of the ICCPR states that every child has the right to acquire a nationality. According to Article 4 of the ICCPR, derogations are permitted from the rights included in the Convention (except certain enumerated rights) in times of public emergency if such derogations do not involve discrimination based on the grounds of race, color, sex, language, religion or other social origin. In article 5 (d) (iii) of the CERD every one has the right to nationality without distinction as to race, color, national or ethnic origin. In addition, it is stated in article 1 (3) of the CERD that nothing in the Convention may be interpreted as affecting the legal provisions of signatory states

concerning nationality, citizenship or naturalization *as long as such provisions do not discriminate against any particular nationality.*

The Lebanese Government and the majority of the Lebanese people reject any permanent settlement of the Palestinian refugees. The reason is mainly that granting citizenship to Palestinians, who are mostly Sunni Muslims, will upset the delicate sectarian balance in Lebanon. In the past some Palestinian refugees were granted Lebanese citizenship. In late 1950s and early 1960s thousands of Palestinian Refugees were granted Lebanese nationality. The majority of them were Christians, but a smaller group of middle class Muslim families were also granted such nationality.

In June 3, 1994 naturalization decree 5247 was issued which included granting of the Lebanese nationality for thousands of Palestinians. However, these citizenships would be revoked after the decree was challenged by the Maronite League as apposed to the Lebanese constitution. If this occurred, then the naturalized persons will return to the status of refugees, confiscating their rights to own property and acquire professional job positions. Moreover, many of them have gotten married since and have Lebanese born children; also many have served in the obligatory army and fulfilled their civil duties as citizens.

Article 3 of ICCPR states that every state parties to the present covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present covenant.

The Lebanese nationality law number 15 (date 19\1\1925) stated in its article 15, that every person born from a Lebanese father no matter where is deemed Lebanese. Consequently, the Lebanese mothers can not grant their nationality to their children and are deprived of their basic rights as citizens. By this way Palestinian refugee from a Lebanese mother, is prohibited to acquire the Lebanese nationality, in violation to the article 3 of ICCPR and the third paragraph of article 24 of the same covenant, which gives every child the right to acquire a nationality upon birth.

Even though UNRWA as a UN agency should not apply distinction among beneficiaries from its services according to sex, race, religion ... etc, but such distinction exists. (i.e. If a Palestinian Refugee registered woman married a Non-Registered man she can't grant her children the services she benefits from. Vice versa, if such situation occurred "a man is registered and a woman is not" then he can grant all the services he benefit from and have access to her and their

children, and hereby UNRWA is applying the Lebanese Law instead of the International Conventions.

4. THE RIGHT TO OWN PROPERTY

According to article 17 of the UDHR everyone has the right to own property alone and in association with others and shall not be arbitrarily deprived of his/her property. Article 5 of the CERD prohibits racial discrimination in all its forms and guarantees the rights of everyone, without distinction as to race, color, or national or ethnic origin, to be equal before the law when it comes to (among other rights) the right to own property (article 5 (d) (v)) and the right to inherit (article 5 (d) (vi)).

In April 2001, the Lebanese legislature issued a law which took precedence over a law decree from 1969 relating to the acquisition of immovable property by foreigners in Lebanon. The specific restriction in the 2001 law explicitly refers to the constitutional clause regarding *resettlement* as a legal justification to prohibit Palestinians from acquiring real estate, by purchase and registration. This is by far the most detrimental development that has occurred for property law in recent years for the Palestinian refugees of Lebanon. Under the pretext of encouraging foreign investment, the Lebanese passed the new law which claims to allow foreigners to buy real estate under certain conditions. Unfortunately, the condition once again excludes only the Palestinians from acquiring property. The law states: “it is prohibited for anyone who is not a national of a recognized state, or anyone whose access to property is contrary to the Constitution’s provisions relating to *resettlement*”. The two prerequisites the law cites for owning land are obviously aimed at excluding Palestinian Refugees in Lebanon. It is worth noting that this law passed unanimously in the Lebanese Parliament.

It is true that some of the deputy council members had taken the text of the law to the Lebanese Constitutional Council due to its non-conformity to the provisions of the covenants and conventions ratified by the state of Lebanon. The council, nonetheless, rejected the deputies’ demands for adherence to international law and affirmed the constitutionality of the text, arguing that the State is entitled to restrict certain rights of “non-citizens” under certain provisions of these international treaties.

The Council thus once again affirmatively encouraged the principles of *resettlement* by approving this law – an act which amounts to the inability of stateless foreign nationals to acquire real estate property.

As discussed above, the right to own property is guaranteed in the UDHR, which by most international law scholars has earned the status of customary law. The right to own property without discrimination is also guaranteed by the CERD. Despite the general clause of the CERD in Article 1 paragraph 2 which allows signatory states to make “distinctions, exclusions, restrictions and preferences between citizens and non-citizens”, the Lebanese legislation on property ownership is hardly defensible from this point. Indeed, the nuanced and insidious Lebanese legislation has the unique aim of effecting Palestinian refugees, *not foreigners in general* and thus targets a particular group not based on *lack of citizenship*, but based on being a Palestinian Refugee “from a non-recognized country”.

The 2001 property law in combination with the restrictions on building or repairing houses and the impossibility of acquiring property has forced the Palestinian refugees to move into the existing, already severely overcrowded camps. The policies concerning the right to property and the right to housing are not just based on differences between citizens and non-citizens, but calculated measures are taken to target the Palestinian population. Laws and regulations which appear non-discriminatory on their face (such as the property law), and in actuality have a devastating impact on a discrete group of people because of their national origin, should be required to be amended so as to be more in line with spirit of the international Human Rights Conventions.

5. THE RIGHT TO WORK

Article 23 of the UDHR and Article 6 of the ICESCR guarantees every one the right to work. Article 7 of the ICESCR further guarantees “the right to the enjoyment of just and favorable conditions of work”, meaning the right to fair wages and equal remuneration for work of equal value without distinction of any kind. In Article 4 of the ICESCR, derogation from the rights included in the Convention is possible, but only in circumstances determined by law and only in so far as the limitations are compatible with the nature of the rights of the Convention and for purposes of promoting the general welfare of a democratic society. The CERD states in Article 5 (e) (i) that “the right to work, to free choice of employment, to just and favorable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favorable remuneration” should be enjoyed by everyone without distinction as to race, color or national or ethnic origin.

In addition to the article 59 of the law of Work for Foreigners (1946) grants foreigner workers the same work rights as their Lebanese counterparts, including the benefits of health and social insurance and the right to join syndicates, provided that their country of origin exercise a policy of reciprocity. Because Palestinian Refugees do not hold nationality of any recognized country able to meet the required principle of reciprocity, they are denied the same work-rights as other foreigners employed in Lebanon.

Ministerial Decision number 289/1, issued by the Labour Minister Adnan Mrowe in 1982, restricted most of the professions to Lebanese citizens only. Later on 1995, Minister Assad Hardan and with Ministerial Decision 621/1 defined the professions that are restricted to Lebanese citizens (72 according to different Palestinian sources and 46 as to Lebanese sources) with few exceptions if work permit exists. All these exceptions are compatible with the conditions of the Palestinian Refugees, but and here again the Reciprocity Policy prohibits them from accessing such exceptions.

It is very upsetting to note that despite Lebanon's membership in the Arab League, which treats the Palestinian Authority (PA) as representing an Arab state, Palestinians in Lebanon are *not considered* to have a state for the purposes of the right to reciprocity with Lebanon. Such behavior is totally hypocritical and Lebanon should be pressured to define what the Palestinians are to them for purposes of making honest and fair laws regarding their status whether it be citizens, foreign nationals, refugees. The fact that these laws are so deliberate in their attacks on Palestinian rights, yet so innocently worded merely adds insult to injury for this oppressed and desperate population.

▪ **LEBANESE LABOR LAW**

Lebanese labor law outlines three types of work options for foreigners:

i. Work by membership in a syndicate:

In Lebanon many professions are directed by syndicates. Foreigners wishing to work in professions that require a syndicate registration must be members of such syndicates in their countries and Lebanese citizens can work in the same professions there "reciprocity policy".. Since Palestinians are from a non-recognized country, the reciprocity requirement prevents Palestinian refugees from becoming members of a syndicate and thus prevents them from being able to practice these professions.

ii. Work by work permit:

As of the 1995 Ministerial Decision number 621/1, the process of obtaining a work permit has become extremely complicated. If a foreign national is to be granted a work permit, the employer must produce a massive amount of documentation justifying his choice, plus pay a sizable fee to the authorities. This process must also be repeated every 12 months. While Palestinian refugees could theoretically acquire work permits, very few of their requests are granted even though many apply. Further, the same decree lists a large number of specific professions that are restricted to Lebanese citizens only, such as bankers, doctors, and lawyers. At the same time, Article 2 of the decree states that foreigners are exempt from Article 1 restrictions *if* he/she has been residing in Lebanon since birth, he/she is of Lebanese origin or his/her mother is Lebanese or if a man has been married to a Lebanese woman for more than one year. While many Palestinian refugees are second generation refugees who were born on Lebanese territory, due to these qualifications and restrictions (reciprocity policy and being from non-recognized country), they still experience great difficulty in obtaining work permits.

iii. Jobs not requiring work permits:

These jobs are primarily in the areas of agriculture, construction and other forms of manual labor.

As illustrated above, the difficulties for Palestinian refugees of finding a job in Lebanon are not only a matter of discriminatory legislation but also direct discrimination. These actions are indefensible. The debilitating impact on the Palestinian refugee community of not being able to work cannot be stressed enough.

The fear of *resettlement* permeates Lebanese society as a whole and affects Palestinians in every way imaginable. Lebanese law violates the rights and guarantees recognized in the very same international conventions to which Lebanon is a signatory. Unfortunately, Lebanon understands that impeding a peoples' ability to work is one of the most effective and brutal ways to oppress them and to quash their aspirations and development. Lebanon's wish for Palestinians to feel unwelcome is being granted, but only by sacrificing fundamental human rights and international law.

6. ABSENCE OF SOCIAL SECURITY

The right to social security is set out in Article 9 of the ICESCR and Article 22 of the UDHR. Article 5 (e) (iv) of the CERD guarantees everyone, without distinction as to race, color or national or ethnic belonging, the right to social security.

In Lebanon, employed Palestinian refugees, despite being contributing members to the social security funds, *are not* entitled to social security benefits. This is, once again, attributable to the reciprocity clause which denies them the social and welfare rights to which a foreign national *should* be entitled. The discriminatory legislation excluding Palestinians from the right to social security cannot be defended by reference to the derogation-clause in Article 4 of the ICESCR or by any other principle of law. Lebanon persists in ignoring the humanitarian situation of Palestinian refugees in Lebanon which leaves them without rights enjoyed by other groups. These actions render Lebanon in violation of their international obligations as described above.

7. RESTRICTION ON THE FREEDOM OF ASSOCIATION

According to Article 20 of the UDHR and Article 22 of the ICCPR, every person has the right to freedom of association. Article 5 (d) (ix) of the CERD also guarantees everyone the enjoyment of the right to freedom of peaceful assembly and association without any distinctions as to race, color or national or ethnic belonging.

Associations in Lebanon are regulated according to Outman Law - 1909 which organized associations' establishment where it stated that: "any association under construction must send a notification announcement to the Ministry of Interior Affairs". Despite that this law didn't distinguish between citizens and foreigners, Law no. 369 LR dated 31 December 1939 stipulated that foreigner associations should have a prior permission that must be issued by a special governmental decree. Thus the Lebanese Government and prevailing procedures deprive the Palestinian Refugees from establishing associations as to the "reciprocity policy".

Such restrictions on the freedom of association are contrary to the ICCPR and the UDHR. By including the principle of reciprocity as a condition precedent, the Palestinians are effectively barred from forming associations. Because of their continued conscious avoidance of the desperate situation of Palestinian refugees residing in Lebanon, the measures taken by Lebanese authorities *must be* considered violations of the principles of the CERD, and adherence to the laws should be required.

8. RIGHT TO HOUSING

Article 11 of the ICESCR and Article 25 of the UDHR recognizes every persons' right to an adequate standard of living (including adequate housing), and to the continuous improvement of living conditions. Further, Article 5 (e) (iii) states that this right should be enjoyed by everyone regardless of race, color, national or ethnic origin.

Once again Palestinian refugees do not receive the benefit of these rights. One example is that they have been prohibited from rebuilding three UNRWA refugee camps that were completely destroyed during the Lebanese civil war. They are also deprived from repairing demolished or damaged houses within the camps or taking building materials of any kind easily into the camps (Southern Camps) due to the various Lebanese restrictions. This means that Palestinians are already living in severely over-crowded, unsanitary and squalid camps are disallowed from expanding irrespective of the natural growth of the population.

The restrictions on rebuilding, repairing or expanding Palestinian houses and camps have had serious consequences on the Palestinian population in Lebanon. To wit, all of UNRWA's plans for construction since 1994 have been reduced because of the government ban. Finally, the long and short term health consequences of such severe overcrowding are grave.

Lebanese measures towards Palestinian refugees when it comes to the right to adequate housing are clearly in violation of these human rights Conventions. The drastic and harsh measures which Lebanon takes to prevent Palestinians from obtaining adequate housing are indefensible. Neither Article 4 of the ICESCR nor the permissible distinction between citizens and non-citizens according to article 1 (2) of the CERD can justify such callous treatment of a country's inhabitants based solely on their national origin. But this lack of a right to adequate housing is only one of many examples which comprise Lebanon's overarching scheme to exclude Palestinians from living a normal, healthy, human existence on their land and to reinforce the fact, again and again, that Palestinians are not welcomed there.

9. RIGHT TO EDUCATION

According to Article 26 of the UDHR, every person has the right to education. The UDHR further states that education shall be free, at least in the elementary and fundamental stages and that higher education shall be equally accessible to all on the basis of merit. Further, the ICESCR states in Article 13 that the right to education is recognized as applied to all people and, among other

things that higher education shall be made accessible to all on the basis on capacity. Article 5 (e) (v) of the CERD states that everyone has the right to education and training without being subjected to distinction based on race, color or national or ethnic grounds. These rights are not respected under Article 4 of the ICESCR.

UNRWA provides lower education to those refugees registered with the agency through 87 elementary and intermediate schools including 5 secondary schools. UNRWA does not, however, provide Palestinian refugees with higher education; there is a training center in Sibliin outside the Camps. It is both dormitory and external center. This means that if Palestinian refugees want to pursue higher education, (although many see this as pointless given the utter lack of job opportunities for Palestinians with or without degrees), they must resort to Lebanese Universities and other costly educational institutions. This means that since Palestinian refugees are treated as foreigners in Lebanon, despite their status as refugees, they have to compete with all other foreigners for acceptance into educational institutes. The quota for admitting foreigners has an upper ceiling but not a lower one (especially Technical Colleges), meaning that Lebanese students can be given the seat of a foreigner if the need should arise. Needless to say even if they were admitted, it would be financially very difficult for them to actually attend.. Since the employment situation for Palestinian refugees is as it is, most families cannot afford to send their children on to higher education. This barrier in education is yet another way the Lebanese can force Palestinians into poverty, degeneration and despair through subtle and insidious legal means.

As for the children UNRWA sponsors their educating in Elementary (5 years), Intermediate (4 years) and Secondary (3 years) stages. But this favor is retreating. Therefore the pupil's results are deteriorating and the percentage of slipping from schools increased from 4% into 24% in the last four years. There is a round 88 kindergartens distributed from north to south camps. Many of these kindergartens submitted to improvements by the aid of NGO's. Some of these kindergartens lack wide areas for playing and don't have the suitable programs that accompany the new curriculum.

UNRWA didn't build extra schools thus the increasing number of students make classes crowded consequently healthy and educationally unfit. The number of students in one class may exceed 50 students. Automatically graduate from one class into another created a big problem. Thus the elevated failing students multiplied in different classes and teaching level deteriorated.

Statistics of UNRWA in the year 2002 states: 65.9% of the pupils in the elementary stage don't reach the intermediate level either by failing or by slipping from schools; 71% of intermediate pupils don't reach the secondary stage; 91% of the elementary and intermediate stages don't reach the secondary stage.

It is a series problem in the educational procedure and it threatens the future of coming generations. The main reasons are the limited services regarding crowded schools, books, lack of libraries, computers and science laboratories, in addition that the new curriculum is still unfamiliar to both students and teachers.

In the other side amusement activities like scout camping, clubs, trips and sport teams are not available for all since it is not part of the school curriculum. These activities are managed and implemented by local NGO's that offer re creative programs for children.

10. RIGHT TO HEALTH

According to Article 12 of the ICESCR everyone has the right to enjoy the highest attainable standard of physical and mental health. Again Article 4 of the ICESCR makes it possible for signatory states to derogate from the rights included in the convention but derogations must be determined by law and only in so far as the limitations are compatible with the nature of the rights of the convention and solely for the purpose of promoting the general welfare in a democratic society. In Article 5 (e) (iv) of the CERD every one has the right to public health without being subjected to discrimination.

UNRWA provides for basic medical care for registered Palestinian refugees. However, the only services offered are in the area of maternity, childcare, family planning, and the prevention and control of infectious and non-infectious diseases. The principal factors limiting access to healthcare are an increase in the population, an increase in the cost of medical care and the budgetary restrictions that have been imposed on the UNRWA. Since 1993, UNRWA has had to introduce restrictive criteria which have led to reduced the coverage of the emergency treatments and medical staff recruitment and a reduction in medical equipment and the level of maintenance of the clinics.

Access to the public sector health care services is limited because the infrastructure is lacking and highly underdeveloped. The public hospitals are hardly sufficient for Lebanon's population *not even* including Palestinians- so the majority of the population is essentially forced to use private

hospitals if they want decent care. In the case of Palestinian refugees the access to public health care is denied *completely* since Palestinian refugees are *supposed to* receive health care from the UNRWA. However, as discussed above, this is not the case. Thus, the majority of Palestinian refugees are forced to seek help at private hospitals for which they may have to spend their life savings to attend.

The case of Palestinian refugees is truly unique. They are supposed to be assisted by an organ of the United Nations, yet the same organ's efficiency in delivering this help is inadequate due to various factors discussed above. The system which was expected to "handle" the Palestinian refugee situation has become ineffective thus the refugees are left without any proper medical care. The Lebanese action in relation to health care cannot be accepted as non-discriminatory or excusable in any other way with reference to the derogation-clause in article 4 of the ICESCR. Palestinian refugees are deliberately being denied public health care and UNRWA is used as a scapegoat to justify the reasons by revealing budget issues which don't match proportionally the increasing numbers in population compared with the increase in needs and requirements and their expenditure costs. There is no justification or excuse for either UNRWA's lack of services, or Lebanon's refusal to allow the Palestinians' basic health services.

VI. CONCLUSION

The Lebanese adopted policies against Palestinian Refugees residing in Lebanon through depriving them from their fundamental humanitarian rights, stated and guaranteed by the UDHR and other UN Covenants, Conventions and Resolutions for every human being – if he/she is a refugee, immigrant, citizen of/or in a country – under the excuse of protecting the national rights of Palestinians (right of return and right to self determination) that contributes in complicating the social and economic situations for Palestinian Refugees and affect their security status.

The continuous discrimination in the Lebanese Legislations affects the Palestinian Refugees life, starting from their rights to a standard adequate living conditions, education, housing and medical care, in addition to the right of work and necessary social services may frustrate the Palestinian society especially the youth and cause them to lose confidence in the future that may lead towards being pessimistic in a way which could make them fundamentalist and extremists where they will adopt aggressive and violent actions, that may harm the Palestinian society and consequently its surroundings.

VII. RECOMMENDATIONS

Due to such violations, deprivations and discrimination against the Palestinian Refugees in Lebanon, we recommend from the UN & EU agencies, donors and organizations concerned in promoting, protecting and defending the human rights to:

- Put pressure upon the Lebanese Government to respect all the International conventions and covenants and Implement conventions' obligation which states that signatory states shall assure to everyone within their jurisdiction effective protection and remedies through the competent national tribunals and other institutions against any acts of racial discrimination.
- Activate Article 2 of the Association Agreement between the EU and the Republic of Lebanon and put pressure on Lebanon to respect and implement this agreement.
- Expand UNRWA's mandate to include protection for all the Palestinian Refugees Categories (NR + Non-ID)* and increase its budget to suit proportionally the increase in the number of population taking into consideration the increase in their needs and requirements and the increase in their expenditure costs.
- In addition to relief and infra-structure programs conducted in the Palestinian Camps and Gatherings in Lebanon, we trend towards finding and implementing programs related to the support of human and humanitarian structure development such as raising awareness, education, protection and advocacy which could enhance the concept of peaceful means of civil struggle and the human rights protection mechanisms.

* NR: Palestinian Refugees registered with Lebanese Government but not with UNRWA

* Non-ID: Palestinian Refugees registered neither with UNRWA nor with Lebanese Government

VIII. REFERENCES

- 1- Reports Published by the Palestinian Human Rights Organization - PHRO
www.palhumanrights.org
- 2- UNRWA: <http://www.un.org/unrwa/publications/index.html>
- 3- Mission to Lebanon and Jordan 17-28 September 2000” by Mohammad Tahri and Maria de Donato, published by the Euro-Mediterranean Human Rights Network (EMHRN)
www.euromedrights.net
- 4- Report by Shafie, Sherifa, “Palestinian refugees in Lebanon, basic information” from 2002 published by the Euro-Mediterranean Human Rights Network (EMHRN)
www.euromedrights.net
- 5- FIDH report no. 356/2 March 2003 www.fidh.org
- 6- Article by Nayla Assaf published January 21, 2004 in the Daily Star and accessed February 9, 2004 <http://www.lebanonwire.com/0401/04012110DS.asp>
- 7- CERD/C/298/Add.2 - CERD Thirteenth periodic reports of States parties due in 1996 – States Parties Lebanon <http://www.hri.ca/fortherecord1998/documentation/tbodies/cerd-c-298-add2.html>



Palestinian Human Rights Organization - PHRO
Mar Elias Camp for Palestinian Refugees
P.O.Box: 114/5004 Beirut - Lebanon
Tele-Fax: 00 961 1 301 549
Tele: 00 961 1 306 740
E-mail: phro@palhumanrights.org
info@palhumanrights.org
Web : www.palhumanrights.org