



**Frontiers Ruwad Association**

**email: [info@frontiersruwad.org](mailto:info@frontiersruwad.org)**

**[www.frontiersruwad.org](http://www.frontiersruwad.org)**

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## INTRODUCTION

In collaboration with the Center for Refugee Rights/Aidoun and under the aegis of the Lebanese-Palestinian Dialogue Committee (LPDC), Frontiers Ruwad Association (FR) organized a regional conference titled "Undocumented Palestinians: A Common Regional Plight" on 6-7 October 2010 at the American University of Beirut.

Frontiers sees this conference as one more step in its ongoing work to push for the creation of a policy and legal framework for undocumented Palestinian refugees that would provide them protection and ensure the respect of their basic human rights. In 2005, the organization published a major, groundbreaking legal study "Falling through the Cracks: Legal and Practical Gaps in Palestinian Refugee Status". This was followed by the convening in late 2005 of the first Meeting of Experts, that brought together representatives of the Lebanese government and UN agencies, as well as national and international experts and members of civil society to discuss the findings of the above mentioned study and to come out with practical recommendations. Subsequently, Frontiers continued its advocacy activities with, among other things, the launch of a two-year campaign between 2006-2008. The campaign consisted of a variety of activities organized by Frontiers, including several awareness raising workshops inside the Palestinian refugee camps and with Lebanese organizations; press conferences; meetings with the Lebanese Palestinian Dialogue Committee (LPDC); the formation of an informal coalition of 14 Palestinian associations; and the submission to the competent Lebanese authorities of a policy paper with recommendations, as well as representing individual cases for registration before either the United Nations Relief and Works Agency (UNRWA), the United Nations High Commissioner for Refugees (UNHCR), and the Lebanese authorities.

The Lebanese authorities reacted positively and acknowledged the existence of the problem of the undocumented Palestinian refugees and decided to issue them special temporary identity cards. Despite this positive development, Frontiers raised its concern that these cards did not constitute a durable solution, and there was therefore a need for discussions at the regional and international levels to find a comprehensive and permanent solution. Indeed, it was evident that Lebanon could not single-handedly resolve this phenomenon, since the issue of undocumented Palestinians is inseparable from/related to national, regional and international factors.

Frontiers believed that a permanent solution for undocumented Palestinian refugees would require the cooperation of other host countries in the region. The organization therefore decided to organize a conference that would bring together the directly concerned countries in the region to examine the phenomenon of undocumented Palestinians, and come up with practical recommendations for legal and policy framework that would resolve existing cases and prevent the emergence of new ones in the future.

The conference was the first meeting of decision-makers and experts at the regional level aimed at discussing a problem that has always been of a sensitive, complex and at times obscure nature: the refugee status of Palestinians currently living outside the scope of any legal protection whether on the international, regional or national level.

Conference participants included representatives from the Arab concerned countries - Jordan, Egypt, Syria, and Lebanon - the Palestinian Authority, the League of Arab States, UNRWA, the UNHCR, Arab and European embassies, and the European Union, as well as experts and academics.

Participants included:

- Abd Rida Hanane, Embassy of Germany in Lebanon
- Abou Bakr Mohammad, Palestine Liberation Organization
- Asadi Mahmoud, Embassy of Palestine in Lebanon
- Azayze Wajih, Department of Palestinian Affairs, Jordan
- Azzam Fateh, OHCHR
- Bahr Ouloum Hachem, Embassy of the Republic of Iraq in Lebanon
- Cabrera Roda Irene, Spanish Agency for International Development Cooperation (AECID)
- Deeb Raja, Aidoun, Syria
- El -Malak Lena, Researcher, Jordan
- Fanous Majed, Aidoun, Syria
- Fares Marwan, Lebanese Parliamentarian
- Fernandez Maria, Solidaridad Internacional
- Franjeh Ghida, Ruwad Frontiers Association
- Habib Berna, Ruwad Frontiers Association
- Haidar Bassem, League of Arab States
- Hammouri Assaad, Embassy of Palestine in Lebanon
- Ismail Kahen, UNHCR
- Jaradat Mohammad, BADIL Resource Center for Palestinian Residency and Refugee Rights
- Jebai Randa, Ruwad Frontiers Association
- Jomaa Chawkat, Lieut., Directorate General of the Lebanese General Security, Lebanese Palestinian Dialogue Committee

- Khouriyeh Souhail, Col., Lebanese Army, Lebanese Palestinian Dialogue Committee
- Knudsen Solveig, OHCHR
- Le Rutte Mathijs, UNRWA
- Lombardo Salvatore, UNRWA
- Majzoub Maya, Lebanese Palestinian Dialogue Committee
- Neaimah Layal, Royal Norwegian Embassy in Lebanon
- Refaei Enass, Regional Human Security Center, Jordan
- Reig Rafael, Embassy of Spain in Lebanon
- Rempel Terrance, BADIL Resource Center for Palestinian Residency and Refugee Rights
- Sadat Karim, Embassy of the Republic of Egypt in Lebanon
- Shiblak Abbas, Expert in Palestinian Refugees Affairs, London
- Sleiman Jaber, The Center for the Rights of Refugees/Aidoun, Lebanon
- Sondergaard Elna, Researcher, Syria
- Takkenberg Lex, UNRWA
- Testoni Alessandra, Embassy of Italy in Lebanon
- Trad Samira, Ruwad Frontiers Association
- Wansa Sarah, Ruwad Frontiers Association
- Wilkinson Peter, United Kingdom Embassy in Lebanon
- Yaseen Abdelkader, Writer and historian, Egypt

The following papers were presented during the conference:

- Palestinian Refugees Protection, by Ms. Samira Trad, Ruwad Frontiers Association
- Palestinian Refugees in Lebanon, by Me. Maya Majzoub
- The Identity Cards for the Undocumented Palestinians in Lebanon, Lieut. Chawkat Jomaa, The Directorate General of the Lebanese General Security/ Lebanese Palestinian Dialogue Committee
- The Status of Palestinians in Jordan, by Dr. Wajih Azayze, Department of Palestinian Affairs, Jordan
- Palestinian Refugees in Egypt, by Dr. Karim Sadat, Embassy of the Arab Republic of Egypt in Lebanon
- Palestinian Refugees in Syria and the Collaboration with UNRWA, by Mr. Ali Mostafa, General Authority for Palestinian Arab Refugees, Syria
- Palestinian Authority Identification Documents, by Mr. Mohammad Abou Bakr, Palestine Liberation Organization, Department of Refugee Affairs, Jordan
- Palestinian Refugees in Jordan, by Ms. Enass Refaei, Regional Human Security Center, Jordan
- The Legal Status of Palestinian Refugees in Syria, Me. Majed Fanous, Aidoun, Syria

- Identification Documents for Palestinian Refugees in Egypt, by Mr. Abdelkader Yaseen, Writer and historian, Egypt
- The Legal Status of Palestinians in the Occupied Palestine, by Mr. Mohammad Jaradat, BADIL, Palestine
- The Role of the League of Arab States, by Dr. Bassem Haidar, League of Arab States
- The Role of UNRWA, by Mr. Salvatore Lombardo and Mr. Mathjis LeRutte, the United Nations Relief and Works Agency
- The Role of UNHCR in Protecting Palestinian Refugees, by Mr. Ka-hen Ismail, the United Nations High Commissioner for Refugees
- Palestinian Refugees and the International Protection Regime, by Mr. Terrance Rempel, BADIL

The two-day conference concluded with praise from the participants for having put the issue of undocumented Palestinians before all stakeholders, particularly regional government representatives, for the very first time. It was also recognized that the conference marked an official recognition of the existence of the problem of undocumented Palestinian refugees in the region, with variations in their situation and status depending on the host country. There was a consensus that the issue, in all its aspects - legal, political, security, and humanitarian - is both a national and regional responsibility, requiring national initiatives and regional cooperation, particularly through the League of Arab States. Finally, the need to maintain dialogue among the concerned authorities in the relevant countries on the one hand and with civil society, experts and activists on the other was affirmed.



## CONFERENCE PROCEEDINGS

The conference began with the welcoming of the participants by the organizers. Frontiers' opening speech established the scope and framework of the meeting. Executive Director Samira Trad acknowledged with pleasure the collaboration in organizing the conference with the Center for Refugee Rights/Aidoun, which enjoys wide credibility and experience in the area of Palestinian refugee rights, and the aegis of LPDC, currently headed by Me. Maya Majzoub. She noted in particular the LPDC's efforts over the past three years to find an appropriate solution for this category of Palestinian refugees in Lebanon, not only from a legal point of view but also from a human rights approach.

Ms. Trad then gave a brief account of the various actions taken so far at the national level and the reasons for focusing the discussions during this conference around two main axes: 1) why there is a category of Palestinians not registered with the Lebanese State and UNRWA in Lebanon; 2) the ways in which neighboring host countries - from where most unregistered Palestinians came to Lebanon late 1960s - might play a constructive role in resolving this problem. These two axes tackle the basic problematics of the Palestinian refugees that are supposed to be obvious but are becoming unclear with time, due to the prolongation of the forced displacement of Palestinians. The most important problematic is the definition of a refugee in general and of a Palestinian refugee in particular. This point is pivotal to understanding the phenomenon of unregistered Palestinian refugees from the perspective of the stakeholders' - the Lebanese State, the Palestinian Authority, UNRWA, the UNHCR, and experts. Linked to it is the question of the responsibility of the different actors, particularly since UNRWA's role is limited to providing services primarily to registered Palestinian refugees (i.e. the refugees of 1948) and some services to others, although only on humanitarian grounds, while UNHCR does not automatically provide them international protection. Moreover, the United Nations Conciliation Commission for Palestine (UNCCP), mandated to work on finding a durable solution for the Palestinian refugees, exists only on paper despite the fact that it still presents its annual reports to this day.

Ms. Trad indicated that with the existence of such a lacuna in international protection and the difficulty of amending the mandate of related UN agencies in the near future, all eyes are turned to the host countries to fill this gap. She hoped that the discussion in these two-days would set a minimum

level of coordination among the Arab-States, through the existing regional Arab mechanism, that is the League of Arab States - the Conference of the Supervisors of Palestinian Affairs in Arab Host Countries - that would come out with a solution that takes into account the best interests of the undocumented Palestinians who, today, do not have the choice to return to Palestine. She noted that the conference aspires to be the cornerstone for the development of regional dialogue and cooperation among all the concerned and responsible parties in order to find a solution for the problematic issue of unregistered Palestinians.

Concluding her welcome address, Ms. Trad stressed that Frontiers is confident that the discussions during these two days would be enriched by the contributions of the various participants from a legal and policy perspective, while avoiding from the ramifications of political and security discourse. Trad thanked all the attendees for their interest and willingness to participate in the conference. She particularly thanked the countries for delegating representatives to the conference as this was a clear expression of their interest in the issue and in finding a solution which would serve the best interests of the Palestinian refugees, so that they may live in their host countries in dignity, according to the principles of human rights, particularly the right to recognition and protection.

This was followed by the welcoming speech of the Coordinator of the Center for Refugee Rights/Aidoun, Mr. Jaber Sleiman, whose organization is concerned with the issue of the basic human rights of Palestinians in Lebanon - economic, cultural and social rights, as well as the right to return. He considered that one cannot address the right to return without looking at the basic human rights of Palestinians in Lebanon and in other countries. Having rights and a dignified life would empower the Palestinian people to maintain their fight for the right to return. He added that this constituted the basis for Aidoun's convening of numerous regional conferences and seminars on the rights of Palestinians in host countries. As a matter of fact, Aidoun has been collaborating with Frontiers since it produced its study on the issue, which was probably the first comprehensive study of its kind. He noted though the existence of earlier fragmented attempts to study the status of non-ID Palestinian refugees.

Mr. Sleiman went on to affirm that when the organizers chose for the conference a title that focused on "regional responsibility" they were well aware that this problem, and the problematic issue of Palestinian refugees in general, was a by-product of the Arab-Israeli conflict and a by-product of the Palestinian cause. However, pointing to regional responsibility is not meant to undermine responsibility at the national level. There is regional responsibility, which means that the countries of the region should cooperate among themselves with each other to solve the problem, but there is also responsibility at the national level, where each host country should deal with this problem and assume its obligations towards the Palestinian legal status. It may be that the extent of their predicament varies from one host country to another, but Sleiman as-

serted that the most serious problem exists in Lebanon, as everyone is aware, although he mentioned that the experience of Lebanon was a good one in terms of the cooperation between the various actors and responsible authorities. Suleiman stressed that the responsibility at the national level should not be taken to imply the responsibility of the Government or the State alone, but also includes UNRWA and other relevant UN agencies, as well as the Palestine Liberation Organization (PLO) and Palestinian and Lebanese civil society organizations. Suleiman indicated that the experience of Lebanon in this area was a pioneering one. In fact, the Lebanese and Palestinian non-governmental organizations were the first to raise the issue of undocumented Palestinian refugees by initiating dialogue and coordination with the PLO office, which conducted a key survey of the number and geographic distribution of this category of refugees and assumed the official relationship with the Lebanese Government through the LPDC. Sleiman noted that UNRWA also contributed in this regard and offered some services which were previously unavailable to this category.

In conclusion Mr. Sleiman emphasized the legal dimension of the issue, where he deemed very important the recognition of the legal personality of this category, i.e. granting them identification papers. Indeed, the Lebanese State has already started issuing such papers via the PLO office. However, there is also the problem of the daily situation of such persons. As a result of their uncertain legal status, such categories of Palestinian refugees are exposed to hardships and challenges in accessing health and educational services. Here lies the responsibility of UNRWA and civil society, Palestinian, Lebanese and international alike, as certain international organizations also contributed to this effort and provided some services to this category of refugees.

The President of the LPDC, Me. Maya Majzoub, concluded the welcome session. She outlined four reasons behind the LPDC's patronage of the conference:

- 1) The policy of the Lebanese Government which, in 2005, assumed responsibility for changing the nature of the longstanding Lebanese-Palestinian relationship. As such, it adopted a new quality approach to the relationship, based on ensuring the respect of the sovereignty of Lebanon over its territories and working in collaboration with the international community towards improving living conditions to allow Palestinian refugees to enjoy a dignified life in Lebanon. Moreover, the approach stemmed from maintaining the right to return and refusing all forms of naturalization. This policy continues with the current Hariri Government and was reflected through a clear text established in clause 11 of the Governmental Statement (2009) which garnered the confidence of the Parliament without reservation in this regard.
- 2) The functions and powers of the LPDC, a government commission created in late 2005 as a result of the abovementioned policy, and comprised of the representatives of ministries concerned in one way or another with

Palestinian affairs. The LPDC was tasked with executing the policy of the Government and reflecting the content of the Governmental Statement in this regard, as a link between the involved parties and a body for coordination and the exchange of information. The LPDC strives to create a unified reference authority and to promote dialogue and trust between the Lebanese and Palestinian people. It aspires to improve the living conditions of Palestinian refugees, including the so-called third category refugees, i.e. the undocumented known as non-ID refugees.

- 3) Affirming the partnership between the LPDC and all stakeholders in Palestinian affairs. This is a key partnership with the Palestinian Embassy, UNRWA and other UN agencies, civil society, and local and international NGOs. The partnership strives to achieve the goals which serve the common best interests of the Lebanese and the Palestinian people.
- 4) Placing at the service of this conference and its objectives the relevant procedures and measures which Lebanon has undertaken since 2008, with their positive impact on the life of this category of Palestinians.

Me. Majzoub explained that the conference primarily aims to shed light on a delicate situation, in which a human being is divested of all documents, thereby, denying his legal, or even real, existence. The conference also strives to highlight all the aspects of the issue, the local and regional realities and legal dimensions, and to make the best of the available expertise and experiences by putting them up for regional debate in order to activate the necessary communications process, and to foster constructive dialogue between all host countries concerned with the issue of non-ID Palestinians.

Me. Majzoub concluded by stating that the present conference addresses the situation of those Palestinians who, after being displaced from their land and their country and being exposed to unspeakable suffering, have also lost the capacity to prove their existence. Indeed, they were divested of all forms of protection granted by the law and international instruments. Majzoub called for concerted efforts by all the participants to make the conference an effective, productive and promising event leading to a unified regional vision which would contribute to a comprehensive and radical solution for this just and legitimate cause.

## Conference Debates

The conference touched on two main axis: the definition, causes and dimensions of the phenomenon of undocumented Palestinians refugees, commonly known as Non-ID Palestinians; and the scope of national, regional and international responsibilities.

### **I. Definition of Non-ID Palestinians and the Causes and Dimensions of this Phenomenon**

#### **Definition**

Discussions revealed that there is no single definition of non-ID Palestinian refugee, nor an accepted naming for them. In fact, this varies according to the party presenting the definition and the context in which it is being used. In general, members of this category of refugees are referred to as non-ID or unregistered persons. As for the definition, the problem lies in the lack of a clear definition for a Palestinian refugee in international law and in the national legislations in each host country. This led to the existence of gaps which the conference attempted to address. Indeed, there is no common definition accepted by all parties to serve as a basis for the discussion of a Palestinian refugee. This is particularly the case since this is a controversial issue from a legal point of view, which was magnified after the Oslo Accords. In addition, Palestinian refugees were excluded from the mandate of the UNHCR out of concern that the Agency's definition of a refugee would end the Palestinian refugees' rights as affirmed by international resolutions - the right to return.

There were various definitions for the undocumented Palestinian refugees put forward by the participants. Some considered as non-ID a person holding expired legal documents which he/she was unable to renew due to the fact that the issuing authority refused to renew them; or a person holding valid identification papers not recognized by the host country; or a person holding no identification papers whatsoever, including those born to persons holding expired and non renewable identification papers. Others stated that a non-ID person may not necessarily be Palestinian nor a refugee according to UNRWA's operational definition for not all Palestinians refugees are registered with the Agency. There was a consensus that the non-ID issue has legal and political causes that should be taken into account when discussing a definition.

Furthermore, many participants stressed the importance of keeping in

mind the fact that this issue emerged a long time ago and has since featured a multitude of individual and mass migrations, producing cases of varied nature and high particularities. Moreover, the numerous conflicts in the region have had an impact on this category of refugees and on how to define it. Some noted the existence of thousands of such cases of non-Palestinians in the Arab World.

The discussions highlighted the lack of standards and criteria for whether to consider non-ID Palestinians as refugees or not. There is, therefore a need to set criteria in order to be able to make this determination, for example being registered with UNRWA or with a host country. It was, however, noted that the majority of non-ID Palestinians are refugees as they may be already registered with UNRWA in field of operations other than the current hosting country. For example, in Lebanon, many of the non-ID Palestinians are registered in other fields of operation. As for those who are not registered at all with UNRWA anywhere in the region, they constitute a very slight percentage of Palestinians and most of them registered in 1992 following the Madrid Peace Conference and the Oslo Accords for various considerations, including compensation and protecting their right to return. This occurred when UNRWA opened the doors for registration during the leadership of High Commissioner Turkmen, whose name these new files carried. Most of these persons hold the nationalities of other countries. Furthermore, this category of Palestinians (non-ID) is part of the overall refugee population and shares with them the problem of lack of protection. What distinguishes this category, however, is its particular need for registration, i.e. gaining recognition of its legal personality. Others considered that there is perhaps no need for a definition since the issue touches on persons who are known to be Palestinians, and the circumstances which brought them to their current host country are clear.

In summary, it was reiterated that the discussion is referring to Palestinians living outside Palestine. Since they cannot go back to Palestine and they have no place or country to return to, what are they if not refugees? Palestinians are refugees regardless of the multitude of definitions of their status, and they should be dealt with as such whether they are within their country or abroad. Given that the United Nations made an error in its definition of Palestine refugee, and is ignoring the fact that the problem did not end in 1948 and overlooked post-1948 "refugees", the question becomes the following: should we maintain this narrow definition and limit ourselves to its confines? Some indicated that Arab host countries are keen on keeping UNRWA records absolutely intact. Indeed, these records have been maintained since the beginning of the Palestinian refugee crisis in the early fifties. Therefore, the definition of Palestinian refugees should be maintained as it was established in the UN Resolutions for UNRWA and the records of UNRWA should be kept in line with this definition, since many hostile parties may take advantage of loopholes to alter these records through false registration. Care should be taken in this regard since the issue touches on the rights of an entire people displaced from their homeland.

It was therefore concluded that as far as the issue of defining non-ID persons was concerned, there was no consensus and participants agreed that there is a need for more meetings in the future to continue the discussion in order to arrive at a definition accepted by all parties.

### **Categories**

As for the existence of the different categories of non-ID Palestinians, the reasons varied between Palestinians within the Occupied Palestinian Territories (OPT), Gaza and the West Bank, and Palestinians in Arab countries.

In the Palestinian Territories there are at least four different categories of non-ID or stateless persons, including:

- 1- Persons excluded from the post-occupation Israeli census of 1967.
- 2- Persons who used to exit from and return to the Occupied Palestinian Territories, who lost the right to an ID due to their prolonged absence abroad.
- 3- Inhabitants of Jerusalem, who were not covered by the Oslo Accords, who lost the right to residency and ID due to their prolonged absence abroad.
- 4- The fourth category, consisting of persons who entered the Palestinian territories on grounds of family reunification and did not obtain an ID.

When it comes to the Arab countries, the undocumented Palestinians include Palestinians who were unable to renew their identification papers or, in other words, those denied the renewal of their documents by the authorities which issued them. Indeed, a category of Palestinians left Jordan for political reasons and for reasons related to resistance, and lived in Syria and Lebanon. There are an estimated 15,000 to 40,000 Palestinians in Syria and around 3000 in Lebanon whose papers Jordan refused to renew. Moreover, there are Palestinians who arrived from Iraq, a category who found it difficult to renew documents due to the ongoing circumstances of the war in Iraq. They were denied renewing their documents in Iraq and were expelled from the country. Many Palestinians in Iraq did not hold documents reserved for Palestinians in the country. In fact, a number of them had arrived from Kuwait in the wake of the Kuwait war and carried no documents. Others were Palestinians expelled from the Gulf States to Iraq without being in possession of documents. Of course, there is also the problematic issue of documentation for Palestinians from Gaza who hold Egyptian travel documents which Egypt has recently refused to renew.

There was a consensus among participants that the foremost reason for the problematic issue of Palestinian refugees, including non-ID Palestinians, remains the Israeli occupation. A number of participants maintained that the conference should take into consideration the political causes of this phenomenon.

Finally, all attendees agreed that the problematic issue of non-ID Palesti-

nians has both political and legal dimensions. However, one cannot overlook the individual rights dimension, as this matter cannot wait for the political resolution of the Palestinians' plight, since it concerns the life and rights of human beings. The political dimension of the issue must also be addressed, as this matter is the result of a political situation, and often the law is adopted after political decisions are made.

## II. Non-ID Persons and Responsibility for Protection

### 1- Non-ID Persons, Host Countries and Regional Cooperation

It became clear during the conference that each host country has its own approach for handling the non-ID issue. Four approaches were presented - Lebanon, Jordan, Syria and Egypt - in addition to a review of the legal situation of Palestinians in the Occupied Territories/ Palestinian Authority.

#### Palestinians in Lebanon

According to the LPDC representatives there are three categories of Palestinian refugees in Lebanon. These are:

- Palestinian refugees registered with UNRWA and the Ministry of Interior and Municipalities - Directorate General for Political and Refugee Affairs. (Estimated to be more than 400,000).
- Palestinian refugees registered with the Ministry of Interior and Municipalities - the Directorate General for Political and Refugee Affairs, but not with UNRWA. (Estimated at around 40,000)
- Non-ID Palestinians who are registered neither in UNRWA (Lebanon office) records nor in Lebanese Government records. (Approximately 5,000).

Most of the Non-ID Palestinians arrived in the early 1970s following the Black September incidents in Jordan. They enlisted in the resistance in Lebanon and were settled inside the camps on Lebanese territory. Nevertheless, the non-ID Palestinians fall under several categories:

- Those holding Jordanian travel documents which expired and were not renewed by the Jordanian authorities due to their political activities.
- Those holding Egyptian travel documents arriving from Gaza, who were unable to return or even renew these documents.
- Students from the West Bank who were unable to return or renew their documents.
- Those holding identification cards or birth certificates issued by various Arab countries, who were included in the statistics of the PLO office in Lebanon and who were dealt with on a case by case basis.

In addition, as a result of inter-marriage among the above mentioned categories, the second generation of Palestinian children acquired various documents, such as birth documents, or "habitual residence attestations" issued by



the mokhtar or other local authorities, however this attestation does not imply that the person is legally resident.

Based on the recommendation of the Lebanese Council of Ministers and following meetings with the LPDC and the recommendations of the Minister of Interior and the Director General of General Security, a decision was taken in 2008 to issue a special identification card labeled "ID cards for undocumented Palestinians" (ID for Non-ID) to reflect the fact that the beneficiaries are currently not holding any valid identification document. The LPDC representatives stressed that the reasons behind this decision were firstly humanitarian given the challenges of being a non-ID person and to facilitate their movement inside the country, and secondly to facilitate monitoring and surveillance for security purposes.

However, this card does not grant its holders the right to register marriages or births in the official records or the right to travel outside the country. In case a non-ID Palestinian has to travel abroad, he/she files a request with the Directorate General of General Security which studies each case separately in order to grant a three-month transit passport: this usually does not entail permission to return to Lebanon and the Non-ID ID is withdrawn. These cards are a temporary, not a permanent solution, as the holders are not considered Palestinian refugees and the document is granted for one year, renewable.

Following the decision to re-issue the ID cards in early 2010 (after being suspended in 2008), 1,913 identification cards have been issued to date to non-ID Palestinians. It was highlighted that not all non-ID Palestinians benefited from obtaining these cards for security and administrative reasons among others.

Participants considered that despite the fact that such cards do not provide their holders full rights and are an insufficient measure, they may be deemed a necessary temporary means to address the problem. However, they were concerned that many of the non-IDs who have applied for the ID card were rejected, despite the fact that they hold expired documents and were not able to renew them. This is the situation for example of a number of non-ID Palestinians holding expired Jordanian passports, despite the fact that they had acquired the Jordanian nationality by virtue of Article 3 of the 1954 Jordanian nationality law, and their families are still living in Jordan, but their documents are not valid and non renewable, and apparently they were deprived of their nationality. Further, the representation of the PLO in Lebanon and a number of participants raised the problem of 989 Palestinian originating from Gaza and holding expired Egyptian documents. These have filed requests with the Egyptian embassy in Lebanon to renew their documents, and were rejected.

These concerns were addressed by the participants who concluded that there is a need to establish dialogue with Jordan and Egypt to find appropriate and reasonable solutions, as part of the joint responsibility.

The LPDC representative affirmed that before initiating the issuance of Non-ID ID, several communications were made in 2007 and 2008 with the Jor-

danian and Egyptian Embassies. However, these communications did not reach concrete and positive results.

In response, the Jordanian delegate stated that the situation of such persons is different from the withdrawal of nationality after the disengagement decision. Indeed, the majority of these persons left Jordan illegally 40 years ago without passports or travel documents. As such, they already had no passports upon their departure. This is a security and political issue par excellence before being one of a legal nature. Consequently, handling the issue should be based on these considerations before taking a legal approach. Discussing the issue from a legal perspective is a different matter. From a political and security aspects the political and security channels are known and are being addressed.

As for the Egyptian representative, he stated that the exact number of Palestinians from Gaza holding Egyptian travel documents who applied for renewal recorded at the Consulate in Lebanon is 191, not 989. He affirmed, however, that these cases may be re-examined in details if the PLO representation were to submit a list of the names of these persons for review with the authorities in Egypt - a matter that the PLO representation agreed to. Assuming that 989 cases is an accurate number, and the Egyptian security authorities were to reject the requests, it is still a very small figure compared to more than 250,000 cards already issued by Egypt. As for reasons for non-renewal, he confirmed that the Egyptian security authorities would not justify the rejection. Further, the decision of non-renewal may be revoked at anytime, a request may be rejected in a given year but may be accepted again in a later year.

The Egyptian delegate also addressed the issue of communications raised by the LPDC representative and offered to address what seems to be a lack of adequate means of communication. For this, he requested that the Lebanese General Security brings to their attention, at their earliest convenience, all such written and documented communications in order to look at them. The LPDC representative affirmed that there were written communications, for each case of Palestinian detainee holding Egyptian travel, and in the process of issuing identification cards, the communication was conducted through the PLO representation.

In conclusion, the session affirmed the national and regional dimensions of the problem of non-ID Palestinians in Lebanon, and showed that the first host countries (especially Jordan and Egypt) have a role and responsibility and could contribute to a more permanent and durable solution for the non-ID Palestinians in Lebanon who hold expired documents issued by these countries, and in the immediate terms, to renew such documents in order to enable them to obtain legal identity.

### **Palestinian Refugees in Jordan**

According to the Jordanian representative, there are four categories of Palestinian refugees and displaced persons in Jordan:

1. Refugees who were displaced as a result of the 1948 war. They are Jor-

- danian citizens in addition to being refugees.
2. Displaced Palestinians from the West Bank prior to the 1967 war. They are also Jordanian citizens in addition to being displaced.
  3. Displaced refugees who moved to the West Bank after the 1948 war and then were displaced to Jordan after 1967.
  4. Palestinians from Gaza strip. They fall under two groups:
    - o First group: Palestinians from the Gaza strip. They were among refugees who moved to the Gaza strip and were then displaced to Jordan after the 1967 war.
    - o Second group: Palestinians from the Gaza strip not registered with UNRWA. They do not have Jordanian citizenship rights but benefit from exceptional privileges and facilitations than other foreigners. They are registered Palestinians with identification papers but without a national number. They have passports valid for two years and enjoy all rights, excluding political rights and employment in the public sector. None of them is undocumented.

The existence of different categories of Palestinian refugees in Jordan is linked to the historical and political context of the time of their plight. Following the displacement and dislodgment of Palestinians after the 1948 war, the Jordanian state granted them many facilities. They were provided with Jordanian passports after the 1948 Passport Regime Number 1 entered into force. The 1954 Jordanian nationality law promoted Palestinian refugee integration into Jordanian society. In fact, it stated in article 3, paragraph (2) that: "The following shall be deemed to be Jordanian nationals:... (2)Any person who, not being Jewish, possessed Palestinian nationality before 15 May 1948 and was a regular resident in the Hashemite Kingdom of Jordan between 20 December 1949 and 16 February 1954". Thus, Palestinian refugees in Jordan became Jordanian citizens bound to all rights and obligations set forth in the Jordanian constitution, and enjoy political, economic and social rights. They have a national number and have the right to acquire all relevant official documents, including a Jordanian passport and personal identification documents. This was reiterated in the 1988 legal and administrative disengagement decision with the West Bank. Jordan granted Jordanian nationality to almost 2 million Palestinians.

The problem of Palestinian refugee, which was a subject of disagreement before, was settled at the 1974 Rabat conference when it considered the PLO as the sole representative of the Palestinian people. This may have been the turning point towards a new reality for the definition of 'Palestinian'. Before that date, everyone who left Jordan illegally (ex. to Syria or Lebanon) benefited from amnesty, knowing that most of these Palestinians had left illegally or in violation of the legal procedures. A great number of them benefited from the amnesty and eventually returned to Jordan, while others were excluded. Hence, the current group of 3000 or 5000 undocumented Palestinians in Lebanon (in-

cluding families and children) were originally less than 1000 who left Jordan and were later banned from returning.

There was a big confusion during the discussion about the number and status of different categories of "Non-citizens Palestinians" in Jordan and their rights. A number of participants indicated that there are around 130,000 non-ID Palestinian in Jordan. These are not undocumented persons per se, but their documents do not grant them the same rights as other Palestinians in Jordan. It was acknowledged that UNRWA and the Jordanian government are trying to seek an adequate solution to this issue. Other participants said that the majority of these persons are Palestinians, more than 100, 000 from Gaza, and do not have the right to acquire a two or five-year passport from the Jordanian authorities. The Jordanian representative asserted that this issue concerns in reality some 152,000 Palestinians from Gaza living in Jordan since 1967. They are registered with the state and have identification papers, passports and civil status cards. They enjoy the same rights as other Palestinians except political rights and the right to be appointed civil servants. None of them is a non-ID Palestinian. They have two-year passports allowing them to travel abroad, and just like any Jordanian citizen they have an ID card but no national number. The Jordanian representative also indicated that there are 40,000 Palestinians in Jordan not registered with UNRWA, but they have some kind of Jordanian identification papers.

Furthermore, some participants raised the issue of the two-year Jordanian passport's practical effectiveness as well as all ensuing rights. They believe that it is more of a "convenience passport". In the legal sense, this means that holders of this passport do not have an automatic right to enter Jordan and that the security forces can prevent them from entering the country at any time. Hence, there is no secure and stable residency, and this passport can be withdrawn at any moment. Moreover, if holders of this passport wish to travel abroad, they are not given visas by foreign embassies, which highlights yet another major difficulty. In this regard, the Jordanian state representative remarked that the passport granted to Palestinians from Gaza is closer to an internationally recognized laissez-passer used for travel. There are thousands of such passport holders living in the Gulf region where they work, and enter and exit Jordan freely without any restrictions or the passport ever being withdrawn. Many Western Countries refuse to recognize the validity of this document, but this is their responsibility not Jordan's.

Other participants highlighted some ambiguity in the application of the provisions of the disengagement decision, for example the case of citizens of Palestinian origin who used to live in the Gulf at the time of the disengagement and then fled to Jordan during the Gulf war (1990-1991). Before the disengagement, Palestinians from the West Bank living in the East Bank used to have yellow cards while residents in the West Bank had green cards. After the disengagement, holders of green cards found themselves officially deprived of Jordanian nationality because their cards indicate that they lived in the West

Bank. This led to a controversial situation, notably after some yellow cards in Jordan were turned into green cards under the pretense that some holders of yellow cards failed to renew their documents issued by the occupation authorities and could not be granted Jordanian citizenship until they did so, a condition that may be difficult to meet for many Palestinians.

Some other participants doubted the real intention of the withdrawal of Jordanian nationality to be for family reunion in the Occupied Territories. There are some persons who lost their nationality without asking for family reunion or having any kind of family link in Palestine. The Jordanian state representative stated that Jordan does not withdraw the nationality but only rectifies irregular situations that are resulting from the disengagement decision. Those who are targeted by these measures are not Palestinians as refugees but only residents of the West Bank who all have IDs and are registered with the occupation and Palestinian Authority records. The number of rectified cases is less than 3000, whereas more than 190,000 Palestinians got their national numbers validated after the yellow and green cards controversy. In all cases, rectification is an administrative decision open to judicial challenge. However, there is no case of withdrawal where a person lost Jordanian nationality and was left undocumented. All those concerned received either another nationality or document. There is the problem of many residents in Jordan who are originally from the West Bank but who never went back to renew their residencies and thus lost their right to residency according to the instructions of the occupation authorities. These persons had many children, but never returned to their homeland in order to validate their children's national numbers, which will result in the eventual 'emptying' of the Occupied Territories. Therefore, if the objective is to show proof of humanitarian sympathy with the danger of emptying the Palestinian Territories, then this is another issue. In all events, there are no undocumented persons in Jordan. There may be other types of documentation but never total loss of documentation.

The discussion also covered the issue of transferring UNRWA individual records from other areas of operation to Jordan or vice versa. The official position was reiterated that this would be possible in coordination between UNRWA and the concerned states, providing that residency in both states is legal. For instance, registration, permanent residencies may be transferred through marriage. A Palestinian holding a Jordanian nationality who transfers his residency may resort to the Palestinian Affairs Department and apply for record transfer from his previous place of residence to Jordan. This procedure excludes Palestinians from Gaza, in order to prevent displacement.

In conclusion, the official Jordanian position was that there are no undocumented Palestinians in Jordan. Palestinians are either citizens or holders of a travel document or a temporary passport (as is the case of Palestinians from Gaza). As for those who are denied the right to return by Jordan their documents are not renewed, these are few cases compared to holders of Jordanian documents. The latter category has actually left Jordan illegally without any

documents and did not benefit from the amnesty due to political reasons, and as such this should be dealt with politically.

### **Palestinian refugees in Egypt**

According to the Egyptian representative, there were waves of Palestinians who have flowed into Egypt for many centuries, with some settling there permanently. In the twentieth century, Palestinian migration was mainly the result of Arab-Israeli clashes. Large numbers of Palestinians fled to Egypt following the Nakba. Another wave followed the 1967 war. Between these two waves, many Palestinians migrated to Egypt before and during the tripartite aggression. Egypt always had special arrangements for newcomers from different Palestinian regions, including the West Bank and the Gaza strip. These arrangements evolved through the issuance of travel documents periodically renewable for one to five years and were subject to a number of considerations such as the year in which the person entered Egypt, their activity in Egypt, and the political, security and economic situation. There exist a number of international and bilateral conventions governing the Egyptian treatment of newcomers and the issuance of documents in terms of number and type, including agreements and arrangements with the Palestinian Authority itself. The Egyptian authorities have issued about a quarter of a million travel documents for Palestinians. However this number has changed, due to multiple considerations such as the acquisition by the document holder of a nationality or a document from another state, or even a passport issued by the Palestinian Authority.

Further, the travel documents issued by Egypt are renewed periodically at expiry whether through the General Consulates or at the Consular Department of the embassy. The renewal procedures require that the Embassy checks with the relevant authorities in Egypt in most cases, and with the relevant authorities of the state where the applicant is requesting the document renewal, to check if the applicant has acquired another nationality or identification. It was further stressed that some persons who ask for replacement of lost documents would be issued such documents by the embassy as long as they have proof of possession of a travel document issued by the Egyptian authorities. These are the directives of the Egyptian Ministry of foreign affairs and the passport administration. The state representative also added that what has been happening and was implemented in the past three or five years is a result of the recent security situation of Palestinians coming from Gaza in particular or those wishing to return there. However, some individuals, not only Palestinians, are on a travel ban to Egypt. They are from all nationalities, including Egyptians deprived of their nationality. This ban is based on security considerations, and as such is a matter of Egyptian state sovereignty.

Participants indicated that the status of Palestinian refugees in Egypt has gone through many phases, starting with quarantine under Nekrashi Pasha's government, in addition to an employment ban and preventing UNRWA from providing services to Palestinians, to equality between Palestinians and Egyptians, which was achieved under President Jamal Abdel-Nasser in 1954 and la-

ter reversed by President Sadat. Today, these restrictions are being eased. The phenomenon of undocumented persons began, around ten years ago, when a number of Palestinians were kept in prisons in Egypt after the expiry of their sentences as they lacked valid official documents, which had expired while serving their prison terms. Ultimately, Palestinian activists came to an agreement with the Egyptian security authorities, granting these prisoners three-month temporary documents to enable them to leave the country, with no right to return. This has since become the practice. Today, the Egyptian government automatically grants Palestinian prisoners who have served their prison sentence and do not hold valid legal document a three-month leave to stay in order for them to arrange to permanently leave the country. When diplomatic relations between Egypt and other Arab states were suspended following the Camp David Accords, some Palestinians holding Egyptian documents and present in Arab states were unable to renew their documents, since there was no embassy. As diplomatic relations resumed in the early 1990s, it was decided to consider null and void documents which had been expired for more than six months, without taking into account the fact that during the diplomatic freeze there were no Egyptian embassies in other Arab countries, and therefore Palestinians holding Egyptian travel documents were not able to renew these documents and became undocumented.

The discussions highlighted many loopholes relating to many current holders of Egyptian documents. For instance, whoever loses residency in Egypt cannot renew his/her documents. This affects mainly those dispersed in the Gulf countries. UNHCR is aware of this problem, affecting some 20,000 persons. Some participants stated that many holders of expired Egyptian documents cannot renew them. This happens particularly when these attempt to seek asylum in Europe and their application is rejected.

In conclusion, the official position was reiterated that there should not in principle be any problem renewing Egyptian documents held by Palestinians, but there may be some evolving security considerations according to circumstances, which prevent renewal in some cases.

### **Palestinian Refugees in Syria**

The paper prepared for this conference by Professor Ali Mustafa, Director General of the General Authority for Palestinian Arab Refugees, who was not able to attend the conference, was presented on his behalf by Dr. Raja Deeb. The paper gave a description of mainly the legal status of Palestinian refugees in Syria. It stated that by the end of 1948 some 94,856 Palestinian refugees had fled to Syria. In 1949, the Syrian State established the Arab Palestinian Refugees Institution charged, inter alia, with organizing their affairs, assisting them to meet their needs, and organizing records of their names and civil status. There were a number of laws and decrees and administrative decisions regulating the situation of Palestinian refugees in Syria. These included:

- Legislative decree number 33/1949 that stipulated that Palestinians

- were to be treated as Syrian citizens but were to keep their original nationality.
- Decree number 448/1955 regarding granting Palestinians Syrian travel documents.
  - Law 260, stipulating that Palestinians residing in the Syrian Arab Republic by the date of issuance of this law would be considered as Syrians in terms of placement and employment, and military service, without compromising their original nationality.
  - Decision 1311/1963, issued by the Minister of Interior, granting Palestinian refugees residing in Syria travel documents, and allowing Palestinians to return to Syria without a return visa, whereas before they needed a return visa by virtue of decree 448.

As for Palestinian refugees residing in Syria who do not have any records with the General Authority, i.e those coming from Lebanon, Jordan, the West Bank and Gaza strip at different times and who are originally registered in the regions they came from, in addition to holders of expired documents, they can retrieve their civil status documents from the PLO office in Damascus. They also benefit from both the Syrian state and UNRWA services. However, regularizing legal status would require a joint Arab decision.

Participants indicated that Palestinian refugees who fled to Syria after the Nakba in 1948 primarily come under law 260 of 10/7/1956, which considers Palestinians residing in the Syrian Arab Republic as of that date as Syrians, in terms of applicable laws and regulations relevant to rights of placement, employment, trade and military service, without compromising their original nationality. It does not include Palestinians who fled to Syria in 1948, and then left before the said law was passed, nor does it include Palestinian refugees who entered Syria after that date. As for Palestinian refugees in Syria who are not registered with the General Authority, they have problems with their identification papers resulting from well-known circumstances, most notably: in the aftermath of the 1970 events in Jordan, the 1967 war, the 1982 Israeli invasion of Lebanon, as well as after the 2003 US invasion of Iraq. The PLO's representation provides these refugees with different types of documents in order to facilitate their everyday life based on the kind of original document they hold, proving that they are Palestinian refugees. Despite the fact that their residency in Syria may strictly be considered illegal, different departments of the state accept documents issued by PLO's representation. These documents may be, for example:

1. A statement made by the concerned person saying that he/she came to Syria in 1970, that he/she does not have a passport or a travel document. The statement should carry the signature of two witnesses. This is the type of document presented in order to acquire a passport issued by the Palestinian Authority.
2. Letters addressed to the Egyptian embassy in order to help the concerned



person obtain a visa for Egypt and then for the Gaza strip. These letters are specific to Palestinians from Gaza.

This session concluded that Syria and Lebanon are the two countries most affected by the problem of undocumented Palestinians. Syria has dealt with this situation by accepting PLO issued documents, while Lebanon had issued temporary identification cards. However, these two models do not provide durable solutions. For this a more regional global approach is needed.

### **Undocumented Palestinians in the Occupied Territories/ Palestinian Authority**

The representative of the PLO, Refugee Affairs drew attention to the diversity and differences in defining the legal status or relationship between the Palestinian Authority and the different categories of the Palestinian people, but also to identification papers and their validity. In fact, there are different types of undocumented Palestinians:

- Palestinians from the West Bank who obtained Jordanian nationality after unification of the two Banks. They include refugees who became Jordanians with full rights but kept their refugee status.
- Palestinians in the Gaza strip and refugees who fled to Gaza. They were granted special documents as Palestinians by the Egyptian authorities.
- Palestinian refugees in Syria, Lebanon and Iraq.

After the Palestinian authority changed the legal status of Palestinians residing in the West Bank and Gaza strip following the Oslo accords, these Palestinians obtained documentation (Palestinian passports, ID cards, birth certificates, etc.) issued by the authority under a special regime applicable to all Palestinians living in these areas who were included in the demographic census established by the Occupation Authorities in 1967 and who have the so-called national number, or those who returned to these areas under family reunion measures (limited cases), in addition to those who returned as a result of the Oslo accords.

The Palestinian authority issues two types of passports. The first is for all purposes and includes the national number. It is valid for travelling to and from the Palestinian Authority's territories and to all countries where this passport is recognized. The second is for external use. It does not include a national number and does not allow its holder to access the Palestinian Authority's territories.

In light of the ongoing occupation and control of the Palestinian territories, and the incapacity of the Palestinian authority to exert its full sovereignty over the territories and the Palestinian people, mobility and the freedom of movement to and from the Palestinian territories depends on the occupation's laws. This freedom is further undermined in the case of Palestinians who are not residents in these territories. Therefore, issuing any documents for Palestinians anywhere outside the Palestinian territories reflects these circumstances and their repercussions.

According to Badil's expert, Palestinians in mandatory Palestine (Palestine before 1948) could be divided as follows:

- Palestinians holding Israeli nationality (in the 1948 territories).
- Palestinians in East Jerusalem. Their situation is different from those living in Jerusalem under the Palestinian Authority.
- Palestinians in the West Bank.
- Palestinians in Gaza.

Each category has its special legal situation in terms of identification papers. Before the 1995 Cairo agreement on civil status, Palestinians inside the territories were treated in one of two ways:

- The 1948 Palestinians who have Israeli nationality and are treated worldwide as Israeli citizens. In fact, in 1948 the Israelis established the first census of Palestinian citizens residing or staying in the 1948 territories. They were given special numbers, "the Israeli Defense Forces" number. This number is given at birth and grants its holder a legal personality. This number is directly added to the Israeli civil registrar.
- Palestinians from the West Bank who have a Jordanian passport and an Israeli laissez-passer that would allow them to cross the Israeli-Jordanian borders, and a Jordanian passport to travel from Jordan to another country. Till 1995, and even after the Jordanian decision to sever administrative and legal ties to West Bank in 1988, their birth and marriage certificates were issued by Israeli authorities and endorsed by Jordan.

Throughout the Palestinian-Israeli negotiations over the years, Israel has consistently tried to apply loss of citizenship to all those who lost their ID cards and rejected Palestinians proposals to apply it to those who lost residency. In fact, those who lost Citizenship or Residency in the Occupied Territories were those expelled by Israel or had exceeded the time period set by the Occupation authorities to return and renew their Exit permits (six months or three years according to the situation). The number of these Palestinians is estimated to be between 250,000 and 300,000.

Between 1990 and 1991, Palestinian Civil Society Organizations (CSOs) with the help of Israeli human rights organizations, reached an agreement with the Israeli Supreme Court of Justice covering husbands, wives and children who entered Palestine before August of 1990. In fact, many husbands, wives and children were not granted ID cards or residency by Israeli authorities and thus remained undocumented. Under the agreement, two thousand families were to be reunited per year. The agreement entered into force and was updated in 1993 under a new similar agreement that applied to all those who entered before August 1992. Family reunions continued under special agreements till 1993. In 1995, after Cairo agreement on personal status, the process achieved by Palestinian CSOs was seen as a victory and remained applicable till

2000, when Israel suspended family reunions. People who benefited from family reunion were those who entered Palestine until 1994. However, a limited number of persons were banned by the Occupation authorities from obtaining the ID cards, apparently because of their anti-Israel political/military activities. Nevertheless, they were given residencies valid for six months. These were renewable without the condition to exit and re-enter the country.

The issue of identity papers is further aggravated by the fact that those issued by the Palestinian authority are conditioned by having an Israeli code. As such, Palestinians holding passports issued by the Palestinian Authority without this code face difficulties at international borders or airports.

Nevertheless, this does not apply to residents of Jerusalem, who can acquire a Jordanian passport and therefore cannot obtain the Authority's passport based on 1995 Cairo agreement. In Jerusalem, there are about 40,000 to 50,000 Palestinians in danger of total loss of citizenship because they are permanent residents in, and not citizens of, Israel.

Some participants pointed that there is a problem of lack of documentation for different categories of Palestinians inside the Palestinian Territories:

- Palestinians not included in the 1967 census and who are denied Palestinian IDs issued by the Palestinian Authority because granting these IDs is subject to Israeli approval. There are estimated to be around 240,000 such persons.
- Palestinians who used to exit from and return to the Occupied Territories and who became subject to Israeli law as their status was changed from citizens to resident aliens. As such, if these persons leave their area they need a return visa to re-enter it, and if their absence exceeds a certain period of time they lose the right to reside in these areas and the right to an ID. They are currently estimated to number 150,000.
- Palestinians in East Jerusalem who were excluded from the Oslo accords. As such, the requirement to obtain a return visa was lifted but was kept in force for them. Consequently, they lose their right to reside in Jerusalem and lose their IDs if they leave Jerusalem and do not return within a certain period of time with a return visa. There are large numbers of such persons currently living abroad.

Some participants noted during discussions that the right to return following the Oslo Accords has been granted to some 350,000 Palestinians. The 70,000 who entered the West Bank were considered as undocumented Palestinians. However, the status of 30,000 of them has so far been regularized.

Some other participants considered that the issuing of Palestinian Authority documentation requiring the approval of the Occupation Authorities does not really constitute a solution, given the restrictions imposed by the occupation authorities, in addition to the ambiguity of these documents in the view of the international community.

## Undocumented Palestinian Refugees and the League of Arab States

As for the regional cooperation framework represented by the League of Arab States (LAS), participants unanimously called upon the League to address this issue through the Conference of Supervisors of Palestinian Refugees Affairs. For the existence of this category of Palestinian refugees resulted from regional circumstances that led to the division of the Palestinians into several categories, governed by different legal conditions in many countries, while at times different provisions are present in any one country, and thus requires regional solutions.

Participants stressed that this issue needs a united Arab political decision that exceeds national legal provisions, in order to reach a solution which complements the Casablanca Protocol (1965) and provides Palestinians with basic conditions for a decent life. The refugee title would then no longer be an accomplishment to be striven for. The representative of the LAS highlighted that the LAS secretariat supports the view that undocumented Palestinians should be granted necessary documents to have legal status and is ready to contribute to any effort and dialogue to this end.

Furthermore, conference participants indicated that the attitude of the Arab regimes, and especially the LAS, towards Palestinian refugees has witnessed three phases. In the first phase, there was a contradiction between the ambitions of the 'Arab' nation as a whole (embodied in the LAS mandate) and the interests of individual nation-states. The 1965 Casablanca Protocol on "Treating Palestinians in the Arab States" set the first Arab framework for dealing with the refugees' civil status. The protocol recommended granting Palestinians full rights in the Arab states in terms of residency and employment without compromising their original nationality. Reactions to that protocol reflected the governmental policy orientation in each state, for example, some made a number of reservations that emptied the Protocol of its essence, while others implemented some of its provisions only. The second phase followed the war of 1967. The Arab regimes were then busy dealing with the consequences of the political, military and humanitarian defeat. There was a major crisis as thousands of Palestinians were expelled and displaced as a result of Israeli actions, which turned them into stateless and undocumented persons. At the same period, the PLO started taking initiatives by raising issues pertaining to residency and travel. There were many developments which affected joint Arab action due to differences between the PLO and a number of Arab states, including the Cairo agreement with Lebanon (1969), Black September (1970) and later disagreements with Egypt because of the Camp David peace treaty. As for the third phase, it witnessed a gradual deterioration of the Arab position, while the Palestinians' struggle for a state, in addition to the Gulf Wars of 1990 and 2003 and their impact on Palestinians, translated into more restrictions and a growing number of undocumented persons. At the same time, the League of Arab States was completely absent, and nowadays, when any issue linked to the civil status of the Palestinians is raised in the conference of super-

visors of Palestinian affairs, priority is always given to issues of national sovereignty. In 1991, the LAS accommodated that reality and issued a decision giving priority to national laws in each state, while the Oslo accords and the Arab host countries' fear of an imminent peace have led to more restrictions on Palestinians and to more discrimination against them in the host countries.

Here the question of the concept of regional cooperation was raised. To what extent can regional mechanisms, which may or may not be effective, such as the Arab Commission for Human Rights under the Arab Human Rights Charter, contribute to finding a solution for this category of people? Can these mechanisms be used as a platform to raise the problematic of undocumented Palestinians at the regional level and thereafter promote necessary action? The same applies to ratifying the 1994 convention on the status of refugees in the Arab countries, knowing that this document may lead to a possible solution at the regional level.

Participants wanted to see the LAS addressing this issue through the Conference of Supervisors of Palestinian Affairs, which seems not to have tackled the issue of undocumented Palestinians in the past. Some participants indicated that this may be due to the fact that, as one LAS official said, whenever someone tries to add this issue to the agenda, states object, claiming that this is a sovereign issue.

A number of participants insisted that LAS Conference of Supervisors should come up with a clear definition of Palestinian non-ID. They argued that it is important to clearly distinguish the undocumented persons and determine if they are Palestinian refugees or not.

## **2- Undocumented Palestinian refugees and the International Refugee Regime**

The conference highlighted the responsibility of the international community towards undocumented persons from Palestine. Two UN agencies are mandated to work with refugees, UNRWA and UNHCR.

### **UNRWA**

The representative of UNRWA reminded the conference that the Agency's special protection role is limited to providing basic services to Palestinian refugees; its efforts and activities are designed to protect them economically and socially. The Agency defined its protection role more precisely in 2008 when it established four components of protection: 1) a lasting and just solution; 2) international protection; 3) protection through services; 4) programmatic protection.

The participants stressed that UNRWA's mandate is limited to persons included in its definition and their children, i.e. the 1948 refugees (It should be noted that UNRWA like most Arab countries, practices gender discrimination as it registers only children descended from the patriarchal lineage). However,

the agency assured that it has extended its basic services and assistance to non-registered refugees on humanitarian grounds such as families of female registered Palestinians married to unregistered person; undocumented Palestinian refugees. As for the undocumented Palestinian refugees, UNRWA in coordination with other UN related agencies, is actively advocating for their protection with concerned governments.

Further, the implication of the limitation of UNRWA's mandate in time and space was raised regarding the difficulty of registering all displaced Palestinians. UNRWA representative stated that there is concordance between international and for example, Lebanese law in regard to persons registered with UNRWA under its definition, i.e. those registered after they fled in 1948 from Palestine and who have permanent residency in Lebanon. However, outside this framework, the Lebanese regulations are quite clear about the necessity for registration first with the Lebanese authorities in order to register with UNRWA afterwards. He further stressed that an extensive interpretation of the Palestine refugee definition would in itself raise legal questions. Registration with UNRWA and residency in the host countries are two separate issues. The possibility of new registration of Palestine refugees in most host countries stopped in late 1950s. Therefore, even if there are persons who qualify today to be registered under UNRWA's mandate, this does not automatically qualify the person to be registered with the relevant governmental authorities in the host country and obtain residency. The existing policy and legal framework limit the role and responsibility of UNRWA in terms of solving the issue of residency for both categories of undocumented Palestinians: those not registered with UNRWA at all, and those registered in other field offices as the transfer of their records are only permitted if the governments of the two involved countries approve it. However, in this case, UNRWA could register them for services only. Thus, legal residency remains a state matter.

A number of participants expressed concern regarding UNRWA's limitations/restrictions in terms of registration and protection in relation with the host governments regulations and procedures regarding residency. They argued that in this situation, the purpose and aims of UNRWA are defeated as the Agency's role is supposed to facilitate registration of Palestinians, not only for the persons to obtain residency, but as a way to safeguard the legal status of the refugee in the host country and protect his/her rights according to UN Resolution 194, especially the right to return and restore properties.

Finally, regarding Palestinian refugees from Gaza residing in Jordan who have documentation but no Jordanian national number or nationality, UNRWA stated that these refugees have limited possibilities to enjoy basic rights, and the Agency is working closely with the Jordanian government to improve their situation. As for Palestinians in Gaza, the agency is focusing on those who lack documentation. The problem of these persons is that while, in principle, they fall today under the responsibility of the Palestinian Authority, Israel continues to control the issuance, renewal and/or withdrawal of their docu-

ments and their residency. The Agency is attempting to provide them with some kind of protection by finding practical solutions. Some of the possible solutions for these people include Egyptian travel document, Palestinian ID, or for those born in Jordan attempting to obtain a Jordanian passport.

Thus, the participants reiterated their frustration that UNRWA today abides by its limited definition, which does not apply to many undocumented Palestinian refugees; and the registration with UNRWA does not guarantee legal status in the host country; and that it cannot transfer records between areas of operation without the approval of the concerned countries without infringing the sovereignty of the concerned states. Yet, UNRWA's flexible internal administrative procedures allow for the transfer of services between different fields of operation. The session ended with a strong message to UNRWA to work towards finding adequate framework and mechanisms to guarantee the rights of all Palestinian refugees, and particularly their legal refugee status.

## UNHCR

UNHCR representative stressed that, by virtue of the special arrangements that were established to protect and assist Palestinian refugees, through the creation of UNRWA and UNCCP, the majority of these refugees were excluded from UNHCR's protection mandate. In fact, UNHCR's Statute and the 1951 Refugee Convention (Article 1D) provide for the exclusion of persons receiving protection or assistance from organs or agencies of the UN other than UNHCR (Article 1D, para. 1) unless such protection or assistance ceases (Article 1D, para. 2). As such, and according to UNHCR interpretation, there are two categories of Palestinian refugees that are excluded from its mandate as they fall under UNRWA's mandate:

- Those displaced as a result of the Arab-Israeli conflict in 1948 and who are not able to return.
- Those displaced from the occupied Palestinian territories as a result of the 1967 war and who are not able to return.

Palestinian refugees living outside UNRWA's areas of operation such as the Gulf States, Iraq, Yemen and North African countries, and outside the Middle East are, in principle, included under UNHCR mandate. They fall automatically under UNHCR's mandate, provided that no exclusion condition applies to them. However, UNHCR representative noted that it is important to take into account the political circumstances in the region, in addition to the fact that most concerned Arab countries have not ratified the 1951 Refugee Convention. In spite of that, UNHCR has played a role in protecting and assisting Palestinian refugees on different occasions, be it on individual basis suffering from persecution, or as groups. For instance, it intervened with the Lebanese authorities to renew travel documents after the PLO was forced out of Lebanon in 1982; played a crucial role in dealing with the large number of Palestinians stranded at the Libyan-Egyptian border after their expulsion from Libya in 1995; assisted Palestinians expelled from Kuwait in 1991, including

compensation issues; and recently assisted thousands of Palestine refugees following the 2003 war in Iraq. Therefore, this process is linked to the residency of these persons and to available protection conditions. The same applies to Palestinians from Iraq who are in Syria. UNHCR does not register all Palestinians in the region; however it does a registration feasibility study whenever there is a need for registration for the purpose of ensuring protection. In Europe and North America, Palestinian asylum seekers are not registered as Palestinians but as stateless persons or as nationals of the country where they used to live. The exact number of Palestinian asylum seekers is not known. For this, UNHCR had recently launched a dialogue with these countries in order to analyze the possibility of registering them as Palestinians for statistical purposes.

The participants raised the problem of the undocumented Palestinian refugees living in UNRWA's areas of operation but not registered with it. They stressed that according to UNHCR's former interpretation of article 1D in 2002, these persons were supposed to benefit from protection based on the principle of the continuity of protection. However, according to the amended interpretation of 2009, these persons are no longer included in UNHCR's mandate and they still do not receive any protection and are not registered with UNRWA. As such, UNHCR extended the scope of non-protection and this seems to be for political considerations. This conclusion is supported by the fact that most Western courts do not take by this interpretation. For example, a court in Sydney, Australia recently issued a judgment (case number 1001150 on 19 May 2010) about the interpretation of Paragraph 2, Article 1D considering that all Palestinians are no longer receiving protection since UNCCP suspended its work; they are not receiving UNRWA's protection, and hence should fall under the 1951 Convention.

UNHCR's representative asserted that the automatic response regarding the undocumented Palestinian refugees living in UNRWA's areas of operation and not registered with it should be to include them under UNHCR's mandate as per Article 1A. However, this should be dealt with on a case by cases basis in order to determine if UNHCR's intervention would really lead to the desired protection. Today, UNHCR believes that the best solution for this population should be worked collectively between the different UN related agencies. As for Australian court decision, UNHCR considers its interpretation of Article 1D to be very broad and does not express the intent of the drafters of the 1951 Convention. However, UNHCR is well aware that article 1D pertains to an evolving situation and should adapt to new cases of Palestinian refugees. Based on that, the Agency should re-interpret its position with each new situation, especially when it comes to cases which involve an overlap between the two organizations (UNHCR and UNRWA). As such, UNHCR representative stated that the issue of protection of undocumented Palestinian refugees is an important one and for this the Agency recently created a dedicated post at its Head Quarter level to act as focal point for the this Palestinian refugee group and to intensify coordination with UNRWA in order to find ways to fill the protection gaps.



In conclusion, the participants affirmed that the principle of continuity of protection between UNHCR and UNRWA should cover the undocumented Palestinian refugees, as the international protection regime relating to Palestinian refugees, established between 1948 and 1949, had shortcomings since day one. Considering that UNRWA's mandate is only relief and does not entail legal protection, while UNCCP has a wider mandate including the return to Palestine, the two were supposed to complement the protection scope. However, UNCCP is today a dead letter, hence the existence of the legal protection gaps. This situation is further aggravated by UNHCR's interpretation of article 1D that excludes the targeted refugee population from protection, leaving hundreds of thousands of refugees stateless and undocumented. The different circumstances and reasons that led to the emergence of the phenomenon of undocumented Palestinian refugees should be looked at and be reflected in the adopted definition of Palestinian refugees and in interpreting article 1D, in order to bridge the protection gap.

### **Undocumented Palestinian Refugees and the United Nations High Commissioner for Human Rights (UNHCHR)**

The representative of the United Nations High Commissioner for Human Rights (UNHCHR) stated that the problem of undocumented Palestinians in Lebanon or in other countries in the region is part of a wider problem, which is that of stateless persons who suffer from similar problems in each Arab country. This issue is primarily legal and the legal dimension determines the UN role in this regard. UNHCHR representative stressed the importance of reflecting upon the concept of protection, in the sense that some UN bodies perceive protection as providing aid, especially in cases of armed conflicts. However, this is a broader issue in terms of human rights, considering that protection means a person's ability to ensure his rights and to have protection against any restriction of this right. The representative mentioned as well that in addition to UNRWA and UNHCR, there is the Human Rights Charter, which has a mandatory effect on all states which are party to it and with regard to everyone under the jurisdiction of those states. It is also important to note that the host countries of undocumented Palestinians are all parties to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural rights, although they do not always provide these guaranteed rights even to their own citizens. Furthermore, contractual mechanisms offer other channels of operation, since it is possible to intervene by raising the issue of undocumented persons at the Human Rights Committee. The same could be done with the Committee on Economic and Social Rights, the Committee on the Elimination of Discrimination against Women or the Committee on the Rights of the Child.

In the context of discussing the right to nationality in this intervention and the link between the lack of documentation and statelessness, participants reiterated the importance of distinguishing between citizenship and nationality. In

fact, in many Arab countries, Palestinians hold a Palestinian nationality which is different in concept from the Kuwaiti or Emirati nationalities for example. Palestinian nationality is not synonymous with citizenship; it is more of political rather than a legal concept and has no effect at the legal level. Also, in many Arab countries, when a woman is granted the right to transfer nationality to her husband, women married to Palestinians are excluded. Also, it is important to make a distinction between the lack of documentation, nationality and residency, knowing that the hardest of all is the absence of nationality, of any proof of nationality, or when the nationality is withdrawn by the state, thereby leading to statelessness.

Discussions led some to ask whether marriage would solve or worsen the problem of undocumented persons and if children from that marriage would be undocumented too. Here, there were conflicting opinions. For example, in Jordan, if a mother has Jordanian nationality and her husband is stateless, their children are granted their mother's nationality, but not the husband, since women cannot grant a passport to the husband. The Jordanian state representative clarified that the issue of Jordanian women transferring their nationality to their children has not been settled yet, since it had been raised in the Beijing conference. Today, Jordanian women cannot transfer nationality to their husbands or children. Children are registered according to their fathers' civil status records who are either nationals, holders of a travel document or holders of a temporary passport for Palestinians from Gaza. This is also the situation in Lebanon and in Syria, where marriage exacerbates the problem since mothers cannot transfer nationality to their children, who then find themselves in their fathers' shoes. In Lebanon, the marriage of an undocumented person to a Lebanese woman will lead to undocumented children and thus worsen the situation, while ID cards did not solve the problem, nor solved the registration of marriages and births. However, in Egypt, more than three years ago, Egyptian mothers were granted the right to automatically transfer nationality to their children but not to their husbands. However, there still remains the problem of how to conclude marriages in the first place without any documentation.

## CONCLUSIONS And RECOMMENDATIONS

The discussions during the conference looked at the phenomenon of undocumented Palestinians throughout the region and analyzed the phenomenon from a regional and international dimension, and came out with suggestions and recommendations addressed to all stakeholders.

Participants welcomed the initiative taken by Frontiers to organize this conference and agreed that the exceptional participation in this conference of neighboring country officials concerned with the phenomenon of undocumented persons, in addition to representatives of civil society was highly positive. Their participation also reflected the wider interest in this issue and highlights the central role of all relevant stakeholders. In addition, the majority of the participants expressed the hope that there could be more such meetings, in which the various viewpoints of all parties were incorporated into recommendations in an objective, scientific and constructive manner, highlighting all the opinions expressed.

Some stressed the importance of the legal approach to find a solution to the problem of the undocumented Palestinian refugees and not to limit it to political and security approaches, though it is true that a middle ground between security, politics and law could lead to come out with practical proposals and recommendations.

Some participants also stated, as the context and circumstances of the phenomenon of undocumented Palestinian refugees is today clear, there is a need to focus more on finding solutions to the problem rather than just analyzing it.

The participants also agreed that this conference is not the end of the road, but it gave a clearer vision and constituted a bridge between the concerned officials and UN Agencies and with the civil society, which is very important in itself, and urged all states to develop appropriate solutions for the problem of undocumented Palestinian refugees.

Most participants stressed the need for a plan of action to continue the work in the future. They recommended that Frontiers continues to play a coordinating role in bringing all stakeholders together to further discuss solutions to the problem. The mechanism created by the Lebanese-Palestinian Dialogue Committee was given as a best practice that could be used by all concerned parties.

There were also positive statements made by the representatives of Jordan

and Egypt, noting that there are no limits placed on the number of documents issued by Jordan, and that Egypt considers that as long as the concerned Palestinian has not acquired another document, he/she has, in principle, the right to renewal. Participants hoped these statements would apply to all undocumented Palestinians not only in Lebanon but everywhere, for they share many similarities, to guarantee their basic rights.

Considering all the above, the conference made recommendations, which are of course non-binding on the official parties, since the conference was not organized by an official party. The proposals were submitted to the executive parties and can be implemented or dropped. There were four main recommendations approved by all that state that:

**First recommendation** all stakeholders should work towards reaching a common and accepted definition for undocumented persons.

**Second recommendation:** creating a framework that would derive from the national, regional and international responsibility.

**Third recommendation:** finding appropriate solutions taking into consideration all facets, including political and security aspects.

**Fourth recommendation:** insuring that the Conference of Supervisors of Palestinian Refugees Affairs will rise to its responsibility, and that LPDC takes the initiative in this regard, since the issue is being raised under its patronage.

Participants presented also a number of individual recommendations:

Concerning Lebanon, there were a number of requests addressed to the Lebanese authorities to:

- To lower the costs incurred by applicants for regularization or annual residency permits.
- To facilitate the acquisition of visas or residencies on two-year Jordanian passports specially issued for this category.
- To facilitate the residency and return of undocumented Palestinians in case they leave or have left the country in order to maintain family unity.
- To resolve issues of marriage and other issues unresolved in spite of having an ID card.

Concerning other host countries, the requests revolved around:

- Urging the Egyptian and Jordanian embassies to resolve the issue of renewal of the travel documents of the undocumented Palestinian refugees residing in Lebanon and holding documents issued by their countries respectively.
- Requesting Egypt and Jordan in particular to cooperate in establishing a return mechanism for holders of expired Egyptian or Jordanian passports.

- Calling upon Egypt to renew all documents issued by the Egyptian government including those suspended *de facto* as a result of the severing of diplomatic ties between Egypt and most Arab countries between 1978 and 1990.
- Requesting that Egypt drops the 6 month limit on time spent abroad, which leads to annulment of a Palestinian's residency in Egypt, and goes back to treating Palestinians in Egypt as Egyptians, as was the case under President Absel-Nasser.

Concerning regional cooperation and the League of Arab States, the suggestions made included requests that:

- LPDC to raise the issue with neighboring countries and the LAS (at the bilateral, regional and international levels).
- Representatives of involved civil society institutions participate in the Conference of Supervisors of Palestinian Refugees Affairs in the host Arab countries.
- The secretariat-general of the LAS to adopt the issue of Palestinian refugees as a permanent agenda item of the Conference of Supervisors.
- An appeal to be launched for activating the LAS's 1965 Casablanca Protocol on equality between Palestinians and Arabs in all Arab countries without compromising their Palestinian nationality.
- To look for cooperation among all stakeholders to establish regional criteria and registration mechanisms which may be unified among official parties in the region and would facilitate dealing with the issue by all parties
- The PLO's executive committee to put the issue of undocumented Palestinians on its agenda and in its dialogue with the current hosting countries.
- Regional cooperation should be defined and it should be decided whether Israel is excluded or not.

Concerning UNRWA, the recommendations focused on:

- UNRWA to amend its definition of Palestine refugee to include all Palestinian refugees, including undocumented persons.
- UNRWA to facilitate the transfer of the refugees' records from the first host country to the current host country.

Concerning UNHCR, the recommendations urged:

- UNHCR to register non-ID Palestinian refugees as long as they do not fall under UNRWA's mandate.



## **ANNEXES**

- **Annex 1: Conference Agenda**
- **Annex 2: Presentations**
- **Annex 3: Speakers Biographies**





## Conference Agenda

**Wednesday October 6<sup>th</sup>, 2010**

9:30	Welcome & registration	
10:00- 10:45	Opening session	<ul style="list-style-type: none"> <li>- Frontiers Ruwad Association</li> <li>- Aidoun</li> <li>- Lebanese Palestinian Dialogue Committee (LPDC)</li> </ul>
10:45-11:30	<p>Session 1 Undocumented Palestinian refugees: Definition and Law</p> <p>Moderator: Ms. Samira Trad</p>	<ul style="list-style-type: none"> <li>- Frontiers Ruwad Association</li> <li>- Lebanese Palestinian Dialogue Committee (LPDC)</li> </ul>
11:30- 11:45	Coffee break	
11:45- 13:00	Discussion	
13:00 -14:00	Lunch break	
14:00 - 15:00	<p>Session 2 Undocumented Palestinian Refugees and Regional Cooperation</p> <p>Moderator: Mr. Jaber Sleiman</p>	<ul style="list-style-type: none"> <li>- Me. Maya Majzoub (LPDC)</li> <li>- Mr. Wajih Azayze, Department of Palestinian Affairs (Jordan)</li> <li>- Dr. Karim Sadat, Embassy of Egypt in Lebanon</li> <li>- Mr. Ali Mostapha, General Authority for Palestinian Arab Refugees (Syria)</li> <li>- Mr. Mohammad Abou Bakr (Palestine Liberation Organization)</li> </ul>

15:00 -15:45	Commentaries	<ul style="list-style-type: none"> <li>- Ms. Enass Refaei (Regional Human Security Center)</li> <li>- Mr. Majed Fanous (Aidoun Syria)</li> <li>- Mr. Abdelkader Yaseen (Egypt)</li> <li>- Mr. Mohammad Jaradat (Badil, Bethlehem)</li> </ul>
15:45- 16:30	Open Discussion	
16:30- 17:00	Summary of discussions	Rapporteur

**Thursday October 7, 2010**

9:30-10:30	<p>Session 3 Undocumented Palestinian Refugees and the International Community</p> <p>Moderator: Me. Maya Majzoub</p>	<ul style="list-style-type: none"> <li>- Representative of the Arab League</li> <li>- Mr. Salvatore Lombardo (UNRWA)</li> <li>- Mr. Kahen Ismail (UNHCR)</li> </ul>
10:30 - 11:00	Commentaries	<ul style="list-style-type: none"> <li>- Mr. Abbas Shiblak (Expert in Palestinian Refugees Affairs)</li> <li>- Mr. Terrance Rempel (Badil)</li> </ul>
11:00 - 11:15	Coffee break	
11:15 -13:00	<p>Session 4 Open Discussion</p> <p>Moderator: Dr. Wajih Azayze</p>	
13:00 - 14:00	Lunch break	
14:00 - 16:00	<p>Closing session Conclusions and Recommendations Closing speech</p>	<p>Rapporteur</p> <p>Ms. Irene Cabrera Roda (AE-CID)</p>

## PRESENTATIONS

- Ms. Samira Trad, Frontiers Ruwad Association
- Me. Maya Majzoub, Lebanese Palestinian Dialogue Committee
- Lieutenant Chawkat Jomaa, Directorate General of the General Security, Lebanese Palestinian Dialogue Committee
- Dr. Wajih Azayze, Department of Palestinian Affairs, Jordan
- Dr. Karim Sadat, Embassy of Egypt in Lebanon
- Mr. Ali Mostafa, General Administration for Palestinian Arab Refugees, Syria
- Mr. Mohammad Abou Bakr, Palestine Liberation Organization, Department of Refugee Affairs
- Ms. Enass Refaei, Regional Human Security Center, Jordan
- Mr. Abdelkader Yaseen, Researcher and Historian, Egypt
- Me. Majed Fanous, Aidoun, Syria
- Mr. Mohammad Jaradat, BADIL
- Dr. Bassem Haidar, League of Arab States
- Mr. Abbas Shiblak, Expert in Palestinian Refugees Affairs
- Mr. Salvatore Lombardo, and Mr. Mathijs Le Rutte, the United Nations Relief and Works Agency
- Mr. Kahen Ismail, the United Nations High Commissioner for Refugees
- Mr. Terrance Rempel, BADIL, International law expert



## Presentation by Ms. Samira Trad

### Frontiers Ruwad Association (Lebanon)

The number of Palestinian refugees scattered all over the world differs according to the cited reference. However, the overall number grew from around 700.000 in 1950 to around 8 million currently<sup>(1)</sup>.

In 1967, more Palestinians fled the West Bank and the Gaza strip (around 300.000 Palestinians) to Jordan, Syria, Egypt and other countries. Approximately 180.000 of them were first-time refugees (displaced), whereas the others were second-time refugees (they had fled to the West Bank and Gaza Strip in 1948 and then were dislodged from these areas in 1967)<sup>(2)</sup>.

According to the statistics of the United Nations Relief and Works Agency (UNRWA) for 2010, the number of Palestinians is:

- In Jordan, around 2 million, i.e. around 40% of the total Jordanian population.
- In Lebanon, around 425.000, i.e. around 10% of the total Lebanese population.
- In Syria, around 472.000, i.e. around 3% of the total Syrian population.
- In Egypt, around 50.000, mostly displaced from the West Bank and Gaza strip by the war of 1967.
- In the West Bank, around 780.000.
- In the Gaza strip, around one million and 100.000.

#### **Palestinians and Displacement: the problematic of the definition and specificity.**

The issue of Palestinian refugees is a complex one. It has regional and international dimensions, and its legal, political, security aspects and factors are intertwined.

Palestinians are people expelled from their land and deprived of their country. In addition, there is a category of Palestinians - who for various reasons and under different circumstances were also deprived of any legal status and of the right to legal recognition in the host countries. During the two days, we shall concentrate our discussions on this category.

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(\*) Translated from Arabic.

(1) "General Progress Report and Supplementary Report of the United Nations Conciliation Commission for Palestine, Covering the Period from 11 December 1949 to 23 October 1950". United Nations Conciliation Commission for Palestine. 1950.

<http://unispal.un.org/unispal.nsf/b792301807650d6685256cef0073cb80/93037e3b939746de8525610200567883?OpenDocument>. Retrieved 2007. 11-20.

(2) Palestinian Refugees: An Overview at <http://prrn.mcgill.ca/background/index.htm>

In fact, non-registered Palestinians or those referred to - at least in Lebanon - as Non-ID Palestinians, either do not fall under UNRWA's operational definition and thus cannot be registered with the UN Agency, or registered with UNRWA in other field of operation, but their registration has no legal effect in Lebanon. Further, they are not registered in the records of the host country (Lebanon), and are not recognized as refugees by the United Nations High Commissioner for Refugees (UNHCR). Thus, they seem to have fallen into the local and international legal and political loopholes.

According to the definition of the 1951 Convention relating to the Status of Refugees and its protocol of 1967 as well as UNHCR's statute, a refugee is "someone who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it". This Convention and all subsequent addendums constitute the cornerstone of the international asylum regime. Despite the fact that one may have some reservations, this Convention adopted by states parties, especially western states, sets the standards for refugee rights that should be enjoyed, and guarantees the minimum level of international protection for refugees and asylum seekers.

The Palestinian refugees who were expelled from their country as a result of the creation of the State of Israel may not fit the conditions of the 1951 Refugee Convention. This is true that the Palestinian refugees are particular in the sense that their plight is directly linked to the extortion of their land and their forced migration outside their country, thus their deprivation of their nationality.

In line with the positions adopted by the Arab States at the time of the Nakba, the United Nations (UN) perceived the issue of Palestine refugees in terms of its specificity and recommended granting them a special status under international law, and the creation of a special commission, the United Nations Conciliation Commission for Palestine (UNCCP) with special procedures to find a permanent solution for the Palestinian refugees. In addition, UNRWA was created as a temporary organization to provide services to the refugees in host countries. There was no definition of Refugee from Palestine. UNRWA today relies on what is known as "an operational definition". This definition is limited in time and place. The considerations behind these measures were that the issue is of a political nature that would be resolved in short time and that the Palestine refugees would return to their homeland soon. Consequently, all decisions - whether UN or the neighboring host countries - related to the plight of the Palestinian refugees were *ad-hoc*. Today, more than sixty years after the forced displacement of Palestinians, the laws and procedures remain unchanged despite the fact that new waves of displacement occurred since, as if time had stopped in 1948.

When the 1951 Refugee Convention was drafted, anyone who benefited from the protection or assistance of any UN agency or body other than the UNHCR was to be excluded from the provisions of this Convention. Thus, Palestinians benefiting from the protection or assistance of UNRWA were left out from the "refugee" definition by virtue of this convention.

Article 1, paragraph D of the 1951 Convention stipulates that:

"This Convention shall not apply to persons who are at present receiving from organs

or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance. When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitled to the benefits of this Convention".

Moreover, the 1954 Convention Relating to the Status of Stateless Persons defines the stateless person as "a person who is not considered as a national by any State under the operation of its law"<sup>(1)</sup>. This definition applies to most Palestinians having no other nationality since Palestine is not yet recognized as a state. This Convention has also excluded everyone benefiting from the protection or assistance of any UN agency or body from its provisions relevant to stateless persons. Thus, Palestinians registered with UNRWA do not benefit from this Convention. Accordingly, the specificity of the Palestinian refugees led to their exclusion from any other international protection regime.

But, does the special regime for Palestinian refugees provide them with protection? What about those who do not fall under this regime? In order to answer these two questions, it is important to start with the definition of a refugee from Palestine, and whether it involves the concept of protection.

First, as we mentioned earlier, there is no comprehensive definition for Palestinian refugees. The UN General Assembly had proposed in 1948 an initial definition of Palestine refugees as:

"Persons of Arab origin who, after 29 November 1947, left territory at present under the control of the Israel authorities and who were Palestinian citizens at that date"<sup>(2)</sup>.

However, this definition was never used as eligibility criteria for receiving UNRWA's assistance. Such definition would exclude those who acquired the nationality of a country "in which they have racial ties with majority of the population"<sup>(3)</sup>. This refers to Palestinians who acquired nationalities from neighboring countries. Also, all those who left Palestine before 1947 and were forbidden from returning to Palestine were to be excluded.

When the UNHCR Statute and 1951 Refugee Convention were drafted, the operative UNRWA definition was: "[A Palestine refugee is] a needy person, who, as a result of the war in Palestine, has lost his home and his means of livelihood"<sup>(4)</sup>. This definition was used by the agency in its first census of Palestine refugees.

In 1952, UNRWA established a new definition: "A Palestine refugee is a person whose normal residence was Palestine for a minimum period of two years preceding the outbreak of the conflict in 1948 and who, as a result of this conflict, has lost both his home and his

(1) Article 1 of the Convention relating to status of stateless persons, UN treaty series, volume 360, entered into force on the 6th of June of 1960.

(2) Addendum to Definition of a "Refugee" Under paragraph 11 of the General Assembly Resolution of 11 December 1948, (Prepared by the Legal Advisor), UN document, A/AC.25/W/61/Add.1, 29 May 1951. The term "of Arab origin" was defined in article 3 as "persons belonging to the Palestine Arab community and to those who are considered or consider themselves as belonging to that community".

(3) *Idem*, article 2 added the category of persons of Arab origin "who left the said territory after 6 August 1924 and before 29 November 1947 and who at that later date were Palestinian citizens" (article 1, paragraph 2), as well as those "who left the territory in question before 6 August 1924 and who, having opted for Palestinian citizenship, retained that citizenship up to 29 November 1947" (article 2, paragraph 2).

(4) UNRWA, Assistance to Palestine Refugees: Interim Report of the Director of the United Nations Relief and Works Agency for Palestine Refugees in the Near East, UN doc. A/1451, Rev.1, para. 15.

means of livelihood".<sup>(1)</sup> Later, in 1993, UNRWA changed its basic definition to the one in use today: "[Palestine refugee] shall mean any person whose normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948 and who lost both home and means of livelihood as a result of the 1948 conflict".<sup>(2)</sup>

This definition, which was repeated in 2002 Consolidated Eligibility and Registration Instructions, omitted the reference to "persons of Arab origin" in the 1948 General Assembly proposal and opened the possibility of including stateless persons who had been residents of Palestine. It nevertheless continued the exclusion of people who left Palestine before the Arab Israel-War.

The UNRWA definition also added an economic element (loss of livelihood) that is unique in international refugee law; other international refugee definitions make no reference to economic losses as a criterion for refugee status. In addition, UNRWA's operational definition, excludes anyone who left Palestine before or after the period defined in this definition..

In fact, UNRWA's purpose was not to create a comprehensive definition of a Palestinian refugees; its goal was simply to define eligibility to receive its services. Yet, because there is no other clear definition, UNRWA's working definition has acquired added *de facto* legal importance

Thus, there is no comprehensive definition of the Palestinian refugee and UNRWA's definition is limited to identifying its beneficiaries and not those persons considered as Palestine refugees in general. In fact, UNRWA's mandate was restricted to providing Palestinian refugees "direct relief and works programs"<sup>(3)</sup>, not protecting them or finding a durable solution for their plight.

Furthermore, UN General Assembly established a special regime for Palestinians displaced after 1967 war. By virtue of the Palestinians displacement from the 1967 Israeli-Occupied Palestinian Territories (the West Bank and the Gaza strip), Palestinians were the subject to vague and ambiguous legal arrangements. The General Assembly expanded UNRWA's mandate "as a temporary measure to other persons in the area who are at present displaced and are in serious need of immediate assistance as a result of the recent hostilities"<sup>(4)</sup>. This measure led to the *de facto* inclusion within UNRWA's mandate of Palestinians displaced in 1967, but it did not add them to UNRWA's definition of a Palestine refugee<sup>(5)</sup>. Palestinian refugees from 1967 continue today to be assisted by UNRWA, but are still not part of its formal working definition<sup>(6)</sup>.

In a 1982 resolution, the UN General Assembly requested that UNRWA "issue identification cards to all Palestine refugees and their descendants, irrespective of whether they

(1) UNRWA, Operational Instruction No. 104 (18 February 1952), See also TAKKENBERG, *The Status of Palestinian Refugees in International Law*, (1998), at 72

(2) Consolidated Registration Instructions (1 January 1993) para. 2.13 cited in TAKKENBERG, *The Status of Palestinian Refugees in International Law*, (1998), at 77.

(3) G.A Res. 302 (IV)

(4) G.A. Res. 2252 (ES-V) (4 July 1967).

(5) It should be noted that many who fled from the West Bank to the East Bank (Jordan) were registered with the Jordan as internally displaced (Jordan had annexed the West Bank, so in Jordanian eyes they had not crossed an international border). See TAKKENBERG, *supra*, at 83. UNRWA provides material aid to these Palestinians, but has not registered them. Id.

(6) TAKKENBERG, *supra*, at 82.



are recipients or not of rations and services from the Agency, as well as to all displaced persons and to those who have been prevented from returning to their home as a result of the 1967 hostilities, and their descendants"<sup>(1)</sup>. This has been reiterated in later resolutions, but has never been fully implemented<sup>(2)</sup>. As a result, post-1967 refugees occupy an ambiguous position vis-à-vis the UN. In 2001, the General Assembly endorsed UNRWA efforts to "continue to provide humanitarian assistance, as far as practicable, on an emergency basis and as a temporary measure, to persons in the area who are currently displaced and in serious need of continued assistance as a result of the June 1967 and subsequent hostilities".<sup>(3)</sup> This text should have facilitated registration for most Palestinians displaced since 1967. While 1967 and subsequent refugees are certainly a distinct group from UNRWA's original beneficiaries, it is not legally necessary for UNRWA to leave them in a *de facto* status. UNRWA has both the flexibility and the explicit mandate from the General Assembly to create a separate category of 1967 Palestine refugees, which would resolve this problem. It is important to clarify that this problem should only apply to displaced Palestinians whose pre-1948 homes were in the West Bank or the Gaza Strip. As for those who were originally from inside territory controlled by Israel after the 1949 armistice agreements and were also refugees in the West Bank or Gaza before being displaced again, they should be considered 1948 refugees who fall within the working definition, but who came to Lebanon via a secondary migration.

There is a good reason to distinguish between the 1948 and 1967 refugees/displaced as this affects the finding of durable solution. The right of return for the displaced in 1967 would be to return to their homes in the Occupied Palestinian Territories, while the 1948 refugees are seeking to return to homes inside the Green Line, in land recognized *de facto* by international law as Israeli sovereign territory. However, this difference does not explain why the 1967 refugees should remain in such an ambiguous position, especially in light of the General Assembly's request<sup>(4)</sup> that UNRWA issue them identity cards to provide them assistance.

It is clear that UNRWA's operational definition does not include legal protection and those registered with the Agency are excluded from UNHCR's protection.

The problem is further aggravated when it comes to those who do not receive assistance (or protection) from any UN body or agency. The question is who is responsible to provide them with international protection? In principle Palestinian refugees not registered with UNRWA should fall under UNHCR mandate. Article 1D paragraph 2 provides for their automatic *inclusion* even if they do not have a well-founded fear of persecution, and even if they are not outside their country of habitual residence. This simultaneously prevents overlap between UNHCR and UNRWA's mandates, while providing a continuity of protection. Thus, the UN system includes, at least in theory, a safety net for Palestinian refugees who fall through gaps in UNRWA policy and/or practice. The UNHCR is responsible for promoting refugee protection in general and operates in nearly every country in the Middle East, mainly dealing with non-Palestinians. UNHCR also has a mandate over Palestinians when UNRWA assistance is lost, but this is not implemented in the Middle East.

(1) G.A. Res. A/RES/37/120(I), (16 December 1982) (Special Identification Cards to All Palestine Refugees).

(2) G.A. Res. 43/57(E) (6 December 1988) (Palestine Refugees in the Palestinian Territory Occupied by Israel since 1967)

(3) G.A. Res. 56/54 (10 December 2001). See also G.A. Res. 59/118 (15 December 2004) (emphasis added).

(4) G.A. Res. 56/54 (10 December 2001). See also G.A. Res. 59/118 (15 December 2004).

We note here that there is an ongoing debate about whether UNHCR should take more responsibility for promoting the protection of Palestinian refugees, filling the void left by the UNCCP. However, in October 2009, UNHCR revised its interpretation of Article 1D to exclude from its protection all Palestinians who are inside UNRWA areas of operations regardless of their registration status or eligibility for registration. Subsequently, a Palestinian who is not eligible for registration with UNRWA but resides in a country where UNRWA operates will not be eligible for registration with UNHCR, simply due to his physical presence in the area where UNRWA operates. As such, the 2009 UNHCR revision has further widened the scope and increased the ambiguity surrounding the lack of international protection of those not registered with UNRWA.

### **Refugees and National Sovereignty**

The issue of asylum is at the border line between international responsibility and national sovereignty. International law provides for the right to seek asylum from persecution and all states, in general, should share this international responsibility. Moreover, the United Nations through the partition plan of Palestine, has led to the phenomenon of Palestine refugees, which was imposed on the host countries. In parallel, each state has the right to admit or reject anyone on its territory, provided that it doesn't deport "*refoulee*" any asylum seeker to the country he fled from and where his life or freedom may be endangered.

Given that the problem of Palestinian refugees started as a result of a UN resolution, it has a special dimension pertaining to the sovereignty of states. At the onset of Palestinian displacement, the main tendency was to protect the rights of Palestinians in exile through the League of Arab States resolutions, which worked in the first phase on establishing unified standards to be adopted by all Arab states. However, Palestinian displacement persisted and lasted for decades. Later, there was a new tendency towards bilateral negotiations between the Palestine Liberation Organization (PLO) and each of the Arab states, which ultimately led in the late 80s of last Century to a flexible tendency emphasizing national sovereignties, and practically allowing the adoption of different standards among different Arab states. Therefore, in the absence of political consensus among the Arab states, the legal status of Palestinian refugees became more fragmented. In many cases, refugees were even deprived from protection due to unilateral decisions adopted by states. Such decisions had also repercussions on refugees living in other states.

Thus today, and in the absence of ratification of international refugee instruments - the concerned states have not yet ratified the international refugee instruments - the status of Palestinians differs between countries in spite of the presence of certain similarities such as UNRWA's definition and responsibility, the presence of different categories of refugees and different types of protection, the refusal of naturalization (except for Jordan).

Consequently, efforts should be made to find solutions that take into account the sovereignty of states and, in the same time, guarantees the right of every refugee to international protection. This should be accomplished through regional cooperation.

### **The Undocumented Palestinians**

We will limit our presentation on the case of Lebanon. The policies of other Arab states regarding the undocumented Palestinians phenomenon will be discussed in the next session. Today, there are a few thousands of non-registered Palestinians in Lebanon who, in spite of being refugees in the sense of not being able to return to Palestine, are deprived of the right to recognition as refugees and therefore the right to registration and legal sta-

tus. As a result, they face many challenges. They live in the shadow of the society without an identity; they are born, get married and have children without proper documentation. They are permanently at risk of being arrested and detained for lack of legal documentation. They do not have the right to education or to pass official exams. They do not enjoy the right to health care. In brief, they are invisible and do not have the right to defend their rights.

The majority of these refugees came to Lebanon in the 1970s, especially after the events of Black September in Jordan, in order to join the PLO in Lebanon. At that time, their legal status was covered by the 1969 Cairo agreement signed between the government of Lebanon and the PLO and they did not feel the need to register with the relevant Lebanese authorities. The Cairo Agreement is usually remembered for safeguarding the PLO's military operations, but it also contained critical protections for civilian Palestinian life in Lebanon. It guaranteed "the right to work, residence, and movement for Palestinians currently residing in Lebanon". However, the Cairo Agreement linked Palestinian civilian rights in Lebanon to the PLO and to the agreement itself. This agreement was never turned into legislation. However, in 1982 and following the Israeli invasion, the PLO was forced out of Lebanon and on 21 May 1987, the Cairo Agreement was unilaterally abrogated by Lebanon and considered as "null and void as if it had never existed." This effectively rolled back Palestinians' rights in Lebanon to their pre-1969 status, without accounting for the fact that many new Palestinians had arrived in the interim period.

It is noteworthy that there are three categories of Palestinian refugees in Lebanon:

- Refugees registered with UNRWA and with the Lebanese authorities. Their number is estimated at 425.000. These are the refugees who were expelled from Palestine in 1948.
- Palestinians registered with the Lebanese authorities only around the end of the 60s and 70s of last century. They were either displaced in 1948 and were supposed to be registered with UNRWA, or were excluded from UNRWA's operational definition. Their number is estimated at 35.000.
- Palestinians not registered neither with UNRWA in Lebanon nor with the Lebanese authorities. These are the ones we are discussing their situation today. They are known as non-ID Palestinians. Most of them are registered with UNRWA in other field offices, and some are not registered anywhere. Most of them arrived to Lebanon in the beginning of the 1970s and their number is estimated around 5000.

Decree No. 2867 of 1959, was the first government intervention to regulate the status of Palestinian refugees in the country. This decree sets out, among others, the organization and mandate of the Department of Palestinian Refugees<sup>(1)</sup> that range from: approving requests for family reunification<sup>(2)</sup> exemptions from tax duties for those coming on the basis of family reunification<sup>(3)</sup>, coordinating with UNRWA in the provision of social and medical services<sup>(4)</sup>, providing permits for changing residence from one camp to another<sup>(5)</sup>, and considering requests for the correction to any records and identity cards<sup>(6)</sup>. The 1962 law

(1) Decree No. 2867 art. 2, Organization of the Ministry of Interior, Promulgated on 16 December 1959.

(2) Id., art. 26 (1).

(3) Id., art. 26 (2)

(4) Id., art. 26 (4)

(5) Id., art. 26 (5)

(6) Id., art. 26 (8)

considered Palestinians as foreigners, subject to legal provisions applicable to foreigners.

The Lebanese government issues various types of travel documents allowing Palestinians to travel abroad. Refugees registered with the Ministry of Interior are eligible for a permanent residency and a five years renewable travel document. Those registered solely with the Lebanese authorities obtain permanent residency and a one-year renewable travel document. As to non-registered refugees, they were not granted any documents till 2008, when the Lebanese authorities started issuing ID-cards valid for one year that could be renewed. These IDs allows the holders freedom of movement inside the country.

Since the 1960s, Lebanese authorities have *de facto* stopped registering Palestinian refugees in Lebanon in line with their refusal to increase their number in the country. Undocumented Palestinians are therefore facing difficulties to regularize their legal status in Lebanon.

Lebanon, like UNRWA, also engaged in a gender discrimination policy that prevents women in general from passing on their status to their children and husbands. Thus, a registered Palestinian woman married to a non-ID cannot register him and her children in her personal status records. This practice increases the number of unrecognized people with each generation, and misses an important opportunity to reduce the problem.

It should be noted that the concept of undocumented Palestinian refugee in Lebanon was never the same for the Lebanese state, the civil society or human rights activists. In fact, this concept entails a great deal of misunderstanding. In our conference today, we will be referring to Palestinians who are not recognized by the Lebanese government, i.e. they do not have identification cards issued by the Directorate of Refugee Affairs, though they, may have identification documents issued by other countries, but these documents do not allow them to go back to these countries, neither they are valid to obtain residency or any legal status in Lebanon (as any of these countries' citizens). In addition, they do not have any legal status with any of the UN Agencies in Lebanon. They may be registered in other field offices of UNRWA but are unable to transfer their registration to Lebanon (in terms of legal registration and not in terms of services). This lack of any legal status means that their presence in Lebanon is illegal.

The majority of these Palestinian refugees fall under the following four categories:

- 1) Palestinians holding valid or expired identification documents issued by the relevant official authorities of the Hashemite Kingdom of Jordan and incapable of returning to the Kingdom.
- 2) Palestinians holding identification documents issued by the relevant official authorities of the Arab Republic of Egypt - Administration of the Gaza strip and not having permission to reside in Egypt and are incapable of returning to Gaza strip.
- 3) Palestinians holding Identification documents issued by the relevant official authorities in Iraq and due to the violence and oppression targeting them, they are deprived from Iraqi protection.
- 4) Expelled Palestinians whose return to the Occupied Palestinian Territories is restricted by Israel.

This situation is due to a number of reasons previously mentioned which can be summarized as follows:

- Limits of UNRWA "working definition" of a Palestine refugee.

- Secondary migration due to the turmoil in the region.
- Gender discrimination

As for the "definition" adopted by the Lebanese government, in the context of issuing identification cards for the undocumented Palestinians, it has excluded everyone holding a valid ID.

Thus, the Lebanese government does not consider the undocumented Palestinians as refugees, but as undocumented persons living on the Lebanese territory.

### **Advocacy for the right to recognition - Frontiers' work**

Frontiers has been working on the issue of the undocumented Palestinians since 2005, when it first launched a focused independent legal and policy study examining the reasons why some refugees lack United Nations and Lebanese government recognition. It then conducted a small field study, and interviewed a sample of undocumented Palestinians in order to better understand the individual displacement journey, reasons for coming to Lebanon and the various circumstances that make a Palestinian refugee likely to be deprived of official recognition and registration. The study was published in 2006. It was a groundbreaking legal study which analyzed the legal status of undocumented Palestinians in Lebanon and put together the pieces that led to this problem. The study also determined the responsibility of the different parties in this phenomenon, especially countries from which those Palestinians came, particularly Jordan, Syria, Egypt, Iraq and the Palestinian territories.

The study was followed by an experts' workshop in 2006. Lebanese officials and representatives from relevant UN agencies and bodies participated in this workshop that aimed at putting this issue on these parties' agendas and reaching consensual solution oriented recommendations.

Afterwards, a series of meetings and workshops were organized with the Palestinian civil society and with refugees themselves in the camps, in order to prepare a campaign that was launched in 2007 and included a number of Palestinian and non-Palestinian organizations. The campaign urged Lebanese authorities to assume their responsibility for thousands of non-registered Palestinians in Lebanon. The campaign concentrated, in particular, on mobilizing the Lebanese-Palestinian Dialogue Committee (LPDC) which pledged to add this issue to its agenda.

Additionally, Frontiers raised this issue with UNRWA and UNHCR in order to assume their protection role in the absence of state protection. This was reflected at the UN level when UNHCR and UNRWA have created a joint committee to coordinate on common issues and cases. Also a Palestinian Refugees Affairs focal point was assigned in the UNHCR MENA desk at the headquarters in Geneva.

Frontiers also submitted individual cases to all of the concerned parties: the Ministry of Interior - General Directorate of Political and Refugees Affairs (GDPRA), UNRWA and UNHCR.

Frontiers submitted to the attention of UNRWA:

Cases of persons registered with UNRWA in other areas of operation. The request was to transfer the registration to Lebanon. The cases involved Palestinians from Gaza and unable to access the Occupied Palestinian Territories, and Palestinians from Jordan whose Jordanian nationalities were withdrawn and were thus unable to return to Jordan.

UNRWA's response was that it can transfer the files between its areas of operation in terms of services. It however cannot interfere in the issue of transferring the legal residence which needs the approval of the Lebanese authorities.

Cases submitted to the GDPRA involved:

- Palestinians from Gaza holding valid Egyptian documents
- Palestinians holding expired Jordanian documents
- Palestinians holding documents issued by the Palestinian authority
- Palestinians registered with UNRWA in other areas of operations
- Palestinians who are children of registered female refugees

On case by case basis, Frontiers claimed the following: transferring UNRWA's registration from other areas of operation to Lebanon, allowing female refugees to register their husbands and children on their records, registering Palestinians who spent most of their lives in Lebanon and have no choice of leaving to any other country.

The GDPRA refused to register these refugees because UNRWA would not approve the transfer of records or the registration of any refugee who came to Lebanon after 1948. In addition, the GDPRA replied that it cannot add new registrations to its records (regarding the cases of husbands and children of registered female refugees).

Frontiers submitted also cases of undocumented Palestinians to the UNHCR:

based on the fact that these refugees do not benefit from the protection of the Lebanese state or any UN agency or body, and therefore UNHCR should provide continuity of protection. These cases involved:

- Palestinian holding Palestinian Authority Document and expelled from the Occupied Palestinian Territories by Israel
- Palestinians from Iraq prior to 2003
- Palestinians from Iraq after 2003

All these cases are still pending, and we did not receive any official answer, approximately 3 years after their submission.

However, it is important to note that the civil society's efforts were fruitful. In fact, in 2007, the LPDC started to look into the issue of Undocumented Palestinians. And in August 2008, the Lebanese authorities decided in to issue a "Special Identification Card for Undocumented Palestinians" (SIC) residing in Lebanon.

The decision was not published but an announcement was posted on the website of the immigration authority, the General Directorate of the General Security (GS). As a result, the exact requested conditions and requirements to obtain this identification card remained unknown.

Further, card holders do not benefit from clear legal status and rights, particularly in terms of the right to exit and re-enter the country, the right to work, and the right to register the marriages and births.

The process of issuing these cards involved negotiations between the Lebanese authorities and the PLO and the LPDC. Applicants were required to provide a form filled and stamped by the PLO office and to provide supporting documents, mainly the PLO nationality certificate and a Mayor attestation of habitual residence.

The number of people who obtained the Identification cards is not available. The pro-

cess that started in August 2008 was suspended two months later, to resume only early 2010. Those who have been issued IDs in 2008 - valid for one year only - had to submit their application anew.

The same concerns are still valid: the special identity card for the undocumented Palestinian refugees does not give them security in terms of not recognizing the holders of these identity cards as "refugees" but as "undocumented persons" residing on Lebanese soil, thereby providing them an insecure legal status. It does not provide them the basic and fundamental rights such as the right to work, to education, and access to basic health care. Further, the decision is administrative and can be overturned at any time in the absence of legislative guarantees. It does however give them recognition of their personality and allow them to enjoy freedom of movement inside Lebanon

That is why Frontiers decided to organize this conference, in an attempt to look for a comprehensive and durable solution. Knowing that the issue of undocumented Palestinians is a complicated one, and that the Lebanese state had expressed many legitimate concerns in this regard; concerns that we hope to resolve in those two days.

### **Undocumented Palestinians and Durable Solutions**

As we have already explained, undocumented Palestinians are victims of the static definition of Palestine refugee, a definition that did not evolve while the forced exile of Palestinians never stopped.

However, the protection of this category no longer figures on the regional agenda, and all efforts concentrate on the right of return and the need to resolve the Arab-Israeli conflict.

But the fact is that thousands of Palestinians find themselves today without any protection, until the global peace is found and return is achieved. We are in no way minimizing the importance of peace and return as the best solution to all Palestinians. Nonetheless it is not acceptable, meanwhile, to see some Palestinian categories living as invisible and illegal aliens in host countries and without any legal papers regularizing their presence in these countries.

According to the international refugee law, there are three durable solutions for refugees: voluntary return, local integration and resettlement.

Since the beginning of the Palestinian displacement tragedy, Arab states chose to pressure the international community in order to opt for the first choice, especially that, as explained, Palestinian displacement is forced by nature. Also, when an entire population is deprived of its country, identity and protection, the only just solution is the return of the people to their homeland.

While we wait for this solution, the status of undocumented Palestinians, in Lebanon for instance, remains in limbo. These refugees are unable to integrate into the society on grounds of fear that this would lead to their naturalization and thus violates the right of return. Yet, these refugees cannot return to their original host countries today and obviously not to Palestine on the short run. Therefore, there is a need for a regional mobilization and cooperation to find the proper solution until the right of return to Palestine is fulfilled.

Solutions may be found at local, regional, and international levels.

For instance at the local level:

- Every state should adopt a human rights based approach to the issue of undocumented Palestinians - as did LPDC - rather than an exclusively security-based approach.
- The "exporting" states of undocumented persons to review their decisions which led to this phenomenon, in order to allow to return and lead a dignified life.

At the regional level:

- There is a need for a regional cooperation to find appropriate and practical solution based on common grounds and responsibilities to the phenomenon of undocumented Palestinian refugee that takes into account every state's legitimate considerations such as demography, political, security aspects.
- Arab states could work together to find mechanisms to limit any potential new cases of undocumented Palestinians in the future. In this context, we look forward to seeing the League of Arab States, through the Conference of Supervisors on Palestinian Refugees Affairs, becoming the forum where all efforts converge in order to provide protection for Arab Palestinians in the Arab states. It is also possible to reactivate the Casablanca protocol (1965).
- There is a need to establish a new definition for Palestinian refugees, at least at the regional level.

At the international level:

- Finally, the international community has to assume its responsibility in providing international protection for Palestinian refugees. This should be done either through the amendment of UNRWA's operational "refugee" definition to make it compatible with the ongoing Palestinian displacement, or through the revival of the UNCCP which is supposed to ensure the protection of Palestinian refugees.
- UNRWA and UNHCR should cooperate together in order to achieve the complementarity between their two mandates to ensure protection to all Palestinian refugees, in coordination with host countries. This may be achieved through UNHCR's recognition of Palestinians who, as refugees, do not automatically benefit from assistance or protection.



## Presentation by Me. Maya Majzoub

### The Lebanese Palestinian Dialogue Committee (Lebanon)

#### Palestinian refugees in Lebanon

- Undocumented Palestinians - Who are they?
- The legal and practical implications of the lack of legal documents.
- The legal framework regulating the undocumented persons.
- Role of the Lebanese Palestinian Dialogue Committee and identification cards issued by the Directorate-General of the General Security.

Palestinian refugees in Lebanon fall under several categories including:

- Palestinian refugees registered with UNRWA and with the Ministry of Interior and Municipalities the General Directorate of Political and Refugees Affairs (GDPRA).
- Palestinian refugees registered with the GDPRA and not registered with UNRWA.
- Undocumented Palestinians not registered with UNRWA or with the Lebanese government.

#### Undocumented Palestinians-who are they?

A- It is a category of Palestinians without any legal identification.

B- The existence of this category is due to a number of factors:

- A number of Palestinians arrived to Lebanon, mostly from the West Bank and the Gaza Strip when under Egyptian tutelage. They had expired legal documents and were unable to renew them. Therefore, they are illegal aliens in Lebanon.
- Another group of that category has identification papers that were not validated by the Lebanese government (such as documents issued by the PLO).
- Others had absolutely no legal identification and they are not registered neither with UNRWA nor with the Lebanese government.

C- The total number of undocumented Palestinians is not definite.

D- UNRWA's operational definition does not apply to this category.

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(\*) Translated from Arabic.

## The lack of legal documentation: Legal and Practical implications

### A- Legal Consequences:

The direct legal consequence of the lack of legal documents is the absence of the legal personality. This leads to the following implications:

- Denial of the right to recognition
- Denial of the right to free movement
- Denial of any legal protection
- Denial of legal residency

### B- Practical Implications:

- The inability to move freely inside Lebanon or to travel abroad.
- The inability to benefit from certain basic services.
- The inability to access the labor market.
- A limited capacity for educational attainment.
- The inability to register marriages and the birth of their children in the official records.
- The inability to resort to all of the public institutions.
- The problem became greater after the Taif Accords and after this category grew in numbers as a result of marriages and procreation.

## The Legal Framework of the undocumented Persons

### A- The International Instruments:

- Article 6 of the Universal Declaration of Human Rights "Everyone has the right to recognition everywhere as a person before the law", and article 2 of that same declaration, "...without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion..."
- Article 16 of the International Covenant on Civil and Political Rights "Everyone shall have the right to recognition everywhere as a person before the law."

### B- Lebanese Laws

- Lebanon is bound to respect and apply the international human rights charters adopted in the preamble of the Lebanese constitution. These instruments provide for the recognition of the legal personality of everyone considering it is a fundamental from which all other rights derives from.
- The status of undocumented Palestinian refugees in Lebanon requires a solution because it contradicts the principles enshrined in these texts.
- There is no explicit text in the Lebanese laws prohibiting the registration of Palestinian refugees with the directorate of refugee affairs after the first census of the early 1950s of last century.
- In fact, new Palestinian refugees were registered with the GDPRA in the 60s, 70s and 80s of last century.
- Relevant laws regulating this issue are not clear.
- The marriage of an undocumented Palestinian male to a Lebanese woman does not contribute to solving the problem as long as the Lebanese law prevents Lebanese women from adding their husbands and children to their own personal status records.

C- To conclude:

- Recognizing the legal personality of Palestinian refugees grants them the right to reside legally in Lebanon. This would have positive repercussions for them and for their families in terms of quality of life, the right to free movement, acquiring travel documents and benefiting from health and education services.
- Registering this category of Palestinians does not contradict the principle non-*Tawteen* (implantation) enshrined in the Lebanese constitution.

**Role of the Lebanese-Palestinian Dialogue Committee (LPDC):**

1) LPDC gave its attention to the undocumented Palestinians issue, through:

- Working with the representatives of the Embassy of Palestine; and civil society organizations; and with the United Nations Relief and Works Agency (UN-RWA) in an attempt to deal with this issue. This joint work involved reviewing the names and preparing the files of undocumented Palestinians to be submitted to the Lebanese government.
- Coordinating with the Directorate-General of the General Security (DGGS) regarding the issuance of identification cards for the undocumented Palestinians.

2) Undocumented Palestinians are still of concern for the LPDC through:

- Ensuring permanent coordination with the DGGS representative in the committee regarding the applications for identification cards that are still under study and maintaining regular communication regarding reasons of those rejected.
- Working closely with the Directorate-General of Civil Status and all relevant authorities to ensure that the undocumented Palestinians have the right to register their marriages and children in official records.
- Reinforcing regional communication and cooperation regarding this issue.

## Presentation by Lieut. Chawkat Jomaa

### Directorate General of the General Security/ LPDC (Lebanon)

In the early 70s [of last century] a number of Palestinian families and single male came to Lebanon following complex political and security circumstances (the 1969 events in Jordan). Some of them joined the Palestinian factions and organizations in the camps. These newcomers could be divided into the following categories:

- A- Holders of Jordanian travel documents that later were expired and they were unable to renew them due to the fact that they were wanted by the Jordanian authorities.
- B- Holders of Egyptian travel documents coming from Gaza, who the were unable to return [to where they came from] or even renew these travel documents at the place of issuance.
- C- Students coming from the West Bank who were unable to return or even to renew their documents and then settled in the camps in Lebanon.
- D- Holders of identification papers or birth certificates issued by some Arab countries, who were counted for by PLO's representation in Lebanon and were considered as individual cases.
- E- Holders of documents issued by relevant official authorities in Lebanon (such as birth certificate, proof of residence,...) as a result of marriage between the above categories and having children born of these marriages.

These categories became to be known as non-ID Palestinians because most of them had lost their identification documents when the validity of their passports had expired and they did not renew them and or the issuing authorities refused to recognize them (particularly Egypt and Jordan).

Following the directions given by the [Lebanese] Council of Ministers, and the meetings of the Lebanese Palestinian Dialogue Committee, as well as the decisions of both the Minister of Interior and Municipalities and the Director-General of the General Security, identification cards called "Identification Cards for Undocumented Palestinians" were issued for those who do not hold currently any valid official legal documents. The purpose of these cards is to identify these persons and to facilitate their movements and other matters related to their daily life. But these cards do not guarantee them the right to travel abroad.

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(\*) Translated from Arabic.

However, it was later revealed that some Palestinian refugees are concealing their Egyptian, Jordanian, Iraqi, or Syrian identification documents and resorting to obtain a nationality certificates issued by the PLO's representation (Embassy of Palestine in Beirut) based on birth certificates or documents, or on identification certificates issued by the [Lebanese] local mayors solely to obtain free of charge the "identification card" and to evade going through the procedures of regularization of legal status (i.e. getting legitimate residency) and avoid paying the fees of this regularization.

It also turned out that undocumented Palestinians are acquiring the [Palestinian] Authority's passport and can apply for yearly residency to regularize their situation (in this case, they are treated as foreigners and lose their "identification card").

If an undocumented Palestinian has to travel abroad, then he/she should apply to the Directorate-General of the General Security. The application is studied and if, the request is judged to be valid, the concerned person is granted a laissez passer valid for exit only.

It is important to note that to this day, about 1913 "identification cards" were granted to undocumented Palestinians.

## Presentation by Dr. Wajih Azayze

Department of Palestinian Affairs (Jordan)

### Historical Background

Around 750,000 Palestinians were forced to leave their land and country before 1948 and after the first Arab-Israeli war as a result of the forced displacement operations carried out by the Israeli forces against the Palestinian people. Jordan hosted the largest Palestinian refugee population whether on the eastern or western banks of the Jordan River before the disengagement between the two banks. Official United Nations Relief and Works Agency (UNRWA) statistics reveal that, until 2009, there were 1.9 million Palestinian refugees in Jordan, that is 42% of the total Palestinian refugee population registered with UNRWA in its five areas of operation (Jordan, Syria, Lebanon, the West Bank and Gaza).

In 1967, as a result of the Israeli occupation of the West Bank and the Gaza Strip, there was another wave of displacement to Jordan. The number of displaced at that time was estimated at around 250,000, almost half of whom were already refugees living in the camps in west Bank and Gaza.

In the years following the occupation of the West Bank and the Gaza Strip, displacement continued to Jordan due to Israeli occupation policies and practices whether military or economic such as military expulsion orders, the demolition of Palestinian homes and villages.

As such, Jordan today has four categories of Palestinian refugees and migrants. These are:

The first category: Refugees who migrated in the wake of the 1948 war. They are Jordanian citizens in addition to being refugees.

The second category: the displaced who migrated from the West Bank in the wake of the 1967 war. They, too, are Jordanian citizens in addition to being refugees.

The third category: Displaced refugees who sought refuge in the West Bank after 1948 and migrated from the West Bank to Jordan after 1967.

The fourth category: Inhabitants of Gaza. They are divided into two groups:

First: Refugees from Gaza who first sought refuge in the Gaza Strip and then migrated to Jordan after the 1967 war.

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(\*) Translated from Arabic.

Second: Natives of Gaza who are not considered refugees and are not registered with UNRWA. They do not enjoy Jordanian citizenship rights. The State, however, grants such persons privileges and facilities above and beyond those accorded to other aliens but these do not amount to the level enjoyed by Jordanian nationals, particularly in terms of political rights and public sector employment.

### Legal Framework

In addition to the national, historical, and religious ties between Jordan and Palestine, various other factors contributed to the integration of Palestinian refugees in the Jordanian society. Most notably, is the decision to unify the two Banks of the Jordan River. This decision came as a result of popular demand voiced through conferences convened in Amman, Jericho, and Nablus in 1948. These conferences called for the unification of the remaining Palestinian land with Jordan, and swore allegiance to King Abdullah I as the king of Palestine and stressed the importance of the prompt return and compensation of refugees.

This popular request was approved by H.H. King Abdullah I. Indeed, the Jordanian Council of Parliament was dissolved in 1950 and legislative elections were scheduled according to a new electoral law representing both Banks of the Jordan River. The council convened on 24 April 1950 and approved the decision to unify the two Banks while affirming the preservation of full Arab rights in Palestine, the defense of the said rights by all legitimate and righteous means, and refraining from prejudicing the final settlement of the just cause of Palestine within the scope of popular aspirations, Arab cooperation and international justice.

During the 1948 war and the ensuing consequences, mainly the displacement and dispersion of Palestinians from their country, Jordan provided key facilities to Palestinian refugees by granting them Jordanian passports following the promulgation of the 1948 Passports Regulation no. (1). Moreover, the Jordanian Nationality Law issued in 1954 promoted the integration of Palestinian refugees in the Jordanian society where Article 3, paragraph (2) of the said law stipulated the following:

"shall be considered Jordanian nationals... all non-Jews holding the Palestinian nationality prior to 15/5/1948 and habitually residing in the Hashemite Kingdom of Jordan from 20/12/1949 up to 16/2/1954".

Hence, Palestinian refugees in Jordan are Jordanian citizens enjoying the full rights and obligations enshrined in the 1952 Jordanian Constitution. Moreover, wherever the term "a Jordanian" is mentioned in the Constitution or in Jordanian laws it shall be taken to mean all Jordanian citizens regardless of whether they are refugees, displaced or other. Consequently, all Jordanian citizens of various origins and roots are equal before the law and enjoy all political, economic and social rights and are fully subject to all obligations stipulated in the Constitution.

The comparison between the status of Palestinian refugees in Jordan and that of their fellows in other host Arab countries clearly shows the scope of opportunities provided to the former. Other host countries, unlike Jordan, have internal considerations that deny Palestinian refugees the full advantages and rights of citizenship. Although refugees do enjoy good status, wide tolerance and relative integration into the fabric of host communities, the margin of opportunities available to them falls short of those accorded to Palestinian refugees in Jordan. Palestinian refugees in Jordan enjoy all the advantages and rights of citizenship and have been fostered by the Jordanian Constitution as Jordanian citizens.

Article 1 of Chapter II of the Constitution states that:

((Jordanians are equals before the law; there is no discrimination among them as to

rights and obligations, even if they are of different races, languages or religions))

Article 2 defines the opportunities available for Jordanians:

((The State shall foster employment and education within its means. The State shall foster wellbeing and equal opportunities for all Jordanians))

Article 16 touches on political rights:

((Jordanians have the right of forming associations and political parties provided that their purpose is lawful, their means peaceful and their regulations compliant with the Constitution))

Article 17 stipulates that:

((Jordanians are entitled to communicate matters of personal or public concern to public authorities according to the means and conditions established by the law))

Article 22 provides that:

((All Jordanians have the right to hold public functions according to the conditions established by the law or by regulations))

Therefore, it is evident that the opportunities available for Palestinian refugees in Jordan as Jordanian citizens do not distinguish between them and other categories of Jordanian citizens. Indeed, they are guaranteed, as per Jordan's Constitution, political rights through their participation in elections and the right to form parties and associations. They also enjoy equal opportunities as Jordanian citizens, whether educational, economic, social or healthcare, not to mention the rights to work, to employment and to holding public functions.

Excluded from the above are Gaza natives who migrated to Jordan after 1967; they do not enjoy the citizenship and advantages stipulated by the Constitution. However, the Jordanian Government accords to such persons the needed and necessary facilities, including temporary passports and basic educational and health services. The Government also grants such persons employment and ownership rights.

### **Identification and Travel Documents**

As mentioned above, Palestinian refugees enjoy all the privileges and obligations of Jordanian citizenship. In addition to being refugees they are Jordanian citizens holding a national number. They are entitled to obtain their rightful official documents, including a Jordanian passport and personal identifications (identity card). This was affirmed by the 1988 decision for legal and administrative disengagement with the West Bank which established that such persons shall enjoy the full rights and are subject to the full obligations of citizenship, just as all other citizens.

It should be noted that Gaza natives who migrated to Jordan after 1967 and do not enjoy the rights of citizenship as mentioned above, obtain identity cards and temporary travel documents. In 1986 and based on the directions of H.R.H the King, Gaza natives were given temporary Jordanian passports valid for a period of two years to be able to travel from and to Jordan, and temporary residence cards.

As for transferring refugee registration files from other UNRWA areas of operation to Jordan, refugees who move their residence to Jordan and who hold a Jordanian nationality may, via the Department of Palestinian Affairs, submit a request for transferring their cards from their prior place of residence to Jordan.



## Establishment and Evolution of Camps

The waves of refugees and displaced had placed heavy burdens on host countries, particularly at the humanitarian level in terms of the provision of shelter, food and clothing. It was widely expected at the time that these refugees would be returning home shortly. As such, camps were built at first from makeshift material - tents - where the Jordanian Government in collaboration with UNRWA contributed to the creation of such camps along the East and West Bank. With the prolongation of the situation of Palestinian refugees and their inability to return home, it became necessary to address the humanitarian conditions of refugees, particularly as to providing them with decent shelter. Permanent accommodations were first constructed from tin plates and bricks and shifted, as is currently the case, to concrete and brick.

### Refugee and Displaced Camps in Jordan

There are 13 refugee and displaced camps in Jordan. These are:

- Five refugee camps:

1	Zarqa camp	Established in 1949
2	Irbid camp	Established in 1951
3	Hussein camp	Established in 1952
4	Wehdat camp	Established in 1955
5	Ma'daba camp	Established in 1956

- Displaced camps (8) established after 1967:

1	Talbieh camp	5	Azmi Mufti camp
2	Baq'a camp	6	Hay Amir Hassan camp
3	Souf camp	7	Hateen camp
4	Jarash camp	8	Sikhneh camp

### Numbers of Refugees in Jordan

According to UNRWA statistics there was a total of (1.983.733) refugees in Jordan until 2009, of whom (341.494) live in camps, i.e. 18% of all refugee population in Jordan. There are three camps not recognized by UNRWA. The number of refugees in these camps is as follows: Amir Hassan (9000), Sikhneh (5000) and Ma'daba (5500) The following table illustrates the number of refugees in each camp:

Number	Camp	Number of Refugees
1.	Wehdat	51.751
2.	Talbiyyah	7.286
3.	Hussein	29.447
4.	Baq'a	95.066
5.	Hteen	46.458
6.	Zarqa	18.549
7.	Irbid	25.395
8.	Azmi (Husn)	22.435
9.	Souf	20.394
10.	Jarash	24.713
<b>Total</b>		<b>341.494</b>

## Presentation by Dr. Karim Sadat

### Embassy of Arab Republic of Egypt in Lebanon (Egypt)

Dear Sir

Allow me to thank you and Ruwad Association for bringing us together in this conference. Allow me as well to make a quick remark. At first, I received an invitation saying that this conference deals with undocumented persons in Lebanon. I thought it would be limited to Lebanon and that I would be asked to present the Egyptian viewpoint in this regard, but I can see now that this conference is a regional conference by "excellence". As for the recommendations, I noticed that there were few recommendations made during the interventions in the first session while there were some criticisms of Egypt, Jordan or other countries. However the issue of undocumented Palestinian cannot be restricted to legal aspects and be studied from a legal approach only.

Today, foreign or local relations are looked at - as a matter of fact - from a unilateral approach, to be either legal or political. For instance, even if we wanted to organize football fans in Lebanon, we cannot but consider the political dimension surrounding the activity. This complex issue that is before us now is not different. I believe the problem of refugees should be treated from all angles - legal, political, historical, economic, and security. Moreover, there are a number of factors and specific elements linked to this issue..

As far as Egypt is concerned, there were number of waves of migration of Palestinians to Egypt since the dawn of time. This is referred to in religious books - the time of Prophet Joseph. Since the 18th Century, large number of Palestinians entered Egypt particularly from Jaffa and other Palestinian regions. Some were integrated and settled in Egypt such as the Al-Janjoul or Attal families. It is true, that they can return to Egypt to enter the Palestinian Territories. However, I, as an Egyptian, cannot assume that all wants to settled in Egypt. All Palestinians want to return to Palestine. This desire cannot be curbed. Some people, I know, would like to return to Egypt for a couple of days, months or even years but they would not want to settle in Egypt as immigrants. This was one of the issues raised in the morning session. In the 20th Century, the waves of migration flow of Palestinians were characterized by political reasons and motivations. The root cause was political: waves following the Barrak; the Arab-Jews clashes between 1930 and 1936; and waves marked by the Palestinian Nakba in 1948, and waves pursuing the 1967 occupation. Between 1948 and 1967, other waves took place between the 1956 occupation and the tripartite aggression.

During these waves of migration, Egyptians always arranged the situation of newco-

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(\*) This Presentation is transcribed from the recordings of the conference, and translated from Arabic.

mers from all Palestinian areas, be it from Jaffa or later from the West Bank and Gaza strip. Starting from 1948, these arrangements included the issuance of renewable Egyptian travel documents. In the past, these documents were valid for five years, in some cases for two or one. There were a number of factors affecting the type of passport issued and its validity. These factors included the date/year the Palestinians entered Egypt; the economic and security situation, and their activities inside Egypt. In all events, Egypt actions and decisions derived from international conventions and bilateral agreements or arrangements such as with the Palestinian Authority.

As to the number of travel documents, the Egyptian authorities issued more than a quarter of a million documents for Palestinians. This number is not exhaustive and changes depending on developments such as the acquisition by the document holder of another nationality or document from another country, or of a passport issued by the Palestinian Authority in the occupied territories.

The document issued by Egyptian authorities can be renewed periodically, whether at general consulates or at the consular department of each embassy. The rules and procedures require that for some cases the consulates refer the document to the Egyptian authorities to take a decision. At times, this occurs when someone is asking for copies of lost documents. It was said that a Palestinian who lost his ID card is not able to renew it or get another copy of it, and this is not true. I personally renewed the papers of some Palestinians and registered with Egyptian authorities a few names even when the person did not remember his ID card's number. Also, any person may be banned from entering Egypt any individual regardless of his/her nationality if there are security reasons. This is not limited to Palestinians only. I would not want to elaborate for long on this here, but I would like to say that this is an automatic administrative procedure. Nonetheless, I am not denying that Egyptian security authorities have a number of considerations in renewing documents, or granting visas. These considerations are related to the Egyptian security reality on one hand, and to various and interconnected factors on the other. In all cases, these considerations are the same for everyone who wants to pass through Egypt, so as we said the same applies to all nationalities including for Egyptians. For example, the Egyptian Sija was deprived of his nationality because he had links with Israel and Israeli activities. Therefore, there is no discrimination or distinction when it comes to applying these measures between Egyptians or Palestinians. Such decisions are rather based on the principle of state sovereignty and jurisdiction over its territories

In conclusion, the representative of the Directorate-General of the General has requested that both Egypt and Jordan cooperate in this field. I am still not sure what are the areas and issues that need further cooperation? Is it for re-issuing documents for some individual cases? This means that the problem is linked to the identification papers? If so, we can discuss this issue today. If it is to allow the return of these Palestinians to Egypt, here, I would like to request from our honorable colleagues in the Directorate-General of the General Security, who are always helping and assisting us in issues pertaining to Egyptians in Lebanon, to provide us with statistics and documents and to clearly make their request as to what is exactly required from the Egyptian authorities. For example, if we are talking about Palestinians originally from Gaza and hold Egyptian travel documents, the matter is simple. But, if we are talking about allowing their return to Egypt, I do not know if this is possible in the framework of our discussions and prerogatives. This issue is far greater than any issue that we can simply address in this session.

## Presentation by Mr. Ali Mostafa

### General Authority for Palestine Arab Refugees (Syria)

#### **The Palestinian refugees in the Syrian Arab Republic:**

As a result of the Zionist terrorist aggression in terms of killings, devastation, massacres and destruction of villages, hundreds of thousands of Palestinians were driven out of their homes to several Arab states. By the end of 1948, around 94.856 Palestinians refugees had fled to Syria, where they were welcomed by the Syrian Arab people. Together, they shared livelihoods; they studied and worked together, homes, mosques and churches were all turned into welcoming shelters, and Syria provided them with all needed support and assistance. In order to organize the situation of our Palestinian brothers and guests till they return home, the government of the Syrian Arab Republic passed decision number 450 on 25/1/1949 to establish the Palestine Arab Refugees Institution. This institution was commissioned to organize the situation of Palestinian refugees, assist them, fulfill their needs, keep records of their personal data, provide them with adequate employment, and propose measures relevant to their situation in the present and the future.

- There are 13 refugee camps in Syria distributed as follows:

#### The Governorates of Damascus and Rural Damascus

- 1- The Al-Yarmouk Camp
- 2- The Jermana Camp
- 3- The Sebina Camp
- 4- The Saydeh Zeynab Camp
- 5- The Khan Dunoun Camp
- 6- The Khan Eshieh Camp
- 7- The Ramdan Camp

#### The Governorate of Dara'a

- 1- The Dara'a Camp
- 2- The compounds of Hellene and Mozeirib in Dara'a

#### The Governorate of Homs

- 1- The Aedine Camp

#### The Governorate of Hama

- 1- The Aedine Camp

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(\*) Translated from Arabic.

The Governorate of Aleppo

- 1- The Neirab Camp
- 2- The Ein Al-Tal/Handarat Camp

The Governorate of Latakia

- 1- The Aedine Camp

**- Decisions, decrees and laws issued in the Syrian Arab Republic in order to enhance the situation of Palestinian refugees in Syria** and treat them as equals of Syrian citizens while safeguarding their Palestinian nationality<sup>(1)</sup>:

Since the arrival of Palestinian refugees to the Syrian Arab Republic after being expelled by the terrorist Zionist forces from their homeland along with other refugees who fled to several Arab states, they have been welcomed by their Syrian brothers. Together they shared life in all its aspects, at school and work, at university and administration levels. Moreover, many laws, decrees and decisions have been adopted in order to organize their living conditions and alleviate their suffering including most importantly:

- On 28/8/1947, the agreement between the government of the Syrian Arab Republic and UN mediator Count Folke Bernadotte was signed regarding the assistance to Palestinian refugees and facilitation of their living conditions.

- On 22/11/1948, decision 769 was issued by the Council of Ministers, by virtue of which Palestinian refugees were allowed to apply for public driving licenses, and Palestinian seamen who owned trade boats were granted temporary fishing licenses in the Syrian waters.

- On 25/1/1949, Law 450 was issued allowing the establishment of the previously mentioned Palestine Arab Refugees Institution. This law was published in the 4<sup>th</sup> issue of the official gazette, p. 275, on 27/1/1949.

- On 17/9/1949, legislative decree number 33 was adopted, excluding Palestinians from the nationality requirement expressed in paragraph 1, article /11/ of the employee's law when applying for a job in state administrations and public institutions. The decree stipulated that they are to be treated as Syrian citizens, but they were to preserve their original nationality. This decree was published in the official gazette, issue 51, p. 2815, on 9/10/1949.

- On 17/10/1949, the Council of Ministers issued decision number 165 granting Palestinian vehicles free licenses to circulate in Syria.

- On 14/6/1950, decree number 978 was issued by virtue of which Palestinian students were exempted from the legal guarantees described in paragraph E of article 17 of the rules of procedure pertaining to religious colleges. This decree was published in the official gazette, issue 33, p. 2375, on 22/6/1950.

- On 9/7/1951, law number 119 was passed excluding Palestinians from the nationality requirement relevant to the profession of civil servants responsible for finalizing public procedures and formalities. This law was published in the official gazette, issue 31, pages 2397, 2398, on 19/7/1951.

- On 10/3/1952, decree number /162/ was adopted excluding Palestinians from the nationality requirement relevant to the sworn-translator profession. This decree was published

(1) Data from the General Authority for Palestine Arab Refugees.

in the official gazette, issue 17, p. 1403, on 20/3/1952.

- On 13/8/1952, decree number 51 was adopted that excluded Palestinians from the nationality requirement relevant to the attorney-at-law profession. This decree was published in the official gazette, issue 51, pages 3659-3666, on 24/8/1952.

- On 11/3/1952, the Prime Minister issued circulars to the ministries and public administrations to refrain from any contact with international and national institutions, public administrations, charities, and individuals working on providing emergency assistance and aid to Palestinians but through the Palestine Arab Refugee Institution.

- On 15/9/1952, decree number 497 was issued that stipulated for the treatment of Palestinians as Syrian citizens when applying for employment in customs, hence overlooking the nationality requirement. This decree was published in the official gazette, issue 58, p. 4072, on 2/10/1952.

- On 15/10/1952, the Council of Ministers issued decision 313 allowing contracting and the appointment of Palestinians in the educational sector.

- On 1/3/1953, the Council of Ministers issued decision 164 relevant to the implementation of decision 313 adopted on 15/10/1952 regarding all Palestinian contracted with by the ministries and administrations, or those requesting reappointment.

- On 23/2/1953, instruction number 20/b/17/1 by H.E the Minister of Finance considered that the date of birth registered the first time in the records of the Palestinian Institution following its creation to be the date of registration at the civil status department as mentioned in paragraph 1, article 6 of legislative decree 34 dated 27/4/1949, regardless if they were to be amendments at a later stage.

- On 28/4/1953, decision number /77/ was issued by the Council of Ministers by which it approves to have an agreement between the Government of the Syrian Arab Republic and the United Nations Relief and Works Agency in Syria.

- On 30/4/1953, instruction no. d/504/u/v by H.E Minister of Interior indicated that all state departments correspondences pertaining to the relief agency, UNRWA, should be submitted to the department of the Palestine Arab Refugee Institution, being directly responsible for the situation of Palestinian refugees.

- On 31/5/1953, circular number 2579/15 by H.E. the Prime Minister regarding the employment of Palestinians based on decision 313, dated 15/10/1952, and decision 164, dated 1/3/1953.

- On 3/8/1953, decree number 12 was passed and Syria became officially a state party to the Convention on the Privileges and Immunities of the United Nations.

- On 8/6/1954, instruction number 3074/10 by the Ministry of Interior reiterated the necessity of seeking the opinion of the Palestine Arab Refugee Institution before appointing any refugee in a public position, being responsible for the situation of Arab Palestinian refugees in all its aspects.

- On 6/2/1955, decree number 448 was issued regarding granting Palestinian refugees in Syria travel documents. It was published in the official gazette, issue 10, pages 1149 and 1150, on 17/2/1955.

- On 9/6/1955, a letter with reference 3129/10 by H.E the Minister of Interior, stated that the Council of Ministers, in its session on 14/5/1955 has approved in principle the implementation of the League of Arab States decision number 424 dated 14/9/1952 and pertaining to the reunification of Palestinian families.

- On 10/7/1956, law number 260 was passed and stipulated on considering Palestinians

residing in the Syrian Arab Republic by the date of issuance of this law as Syrians in terms of applicable laws and regulations relevant to employment, trade and military service without compromising their original nationality. This law was published in the official gazette, issue 32, page 476, in 1956.

- On 15/9/1958, decision number 1130 was issued by H.E the President of the Republic, regarding the amendment of a number of articles in law /450/ dated 25/1/1949 relevant to the creation of the Palestine Arab Refugee Institution.

After the revolution of the 8<sup>th</sup> of March 1963 led by our great party, the Arab Socialist Ba'ath Party, our Palestinian brothers were treated more decently and honorably in all economic, social and political fields and at all levels of comradeship. This great relationship was reinforced after the remarkable reform movement launched by Grand leader President Hafez al-Assad and Great leader President Bashar al-Assad who always guides us towards providing services to our brothers in the Palestinian camps and realizing infrastructure projects through the General Authority or in cooperation with UNRWA, while preserving the rights of Palestinian refugees, starting by the sacred right of return.

- On 3/10/1963, decision number 1311 was issued by H.E the Minister of Interior, granting Palestinian refugees residing in Syria travel documents, and allowing Palestinians to return to Syria without a return visa, whereas decree 448 dated 6/2/1955 about granting Palestinian refugees travel documents highlighted in article 8 that Palestinian refugees needed a return visa to return to Syria.

- Many laws, decrees and decisions relevant to expropriating real-estate ownership in Damascus and the different governorates to the benefit of the General Authority. The General Authority would put these lands at the disposal of Palestinian refugees in order to build houses, provided that the ownership of these lands remains in the hands of the General Authority, and noting that Palestinian refugees are residing in the Syrian Arab Republic on a temporary basis till they return to their homeland.

- On 22/3/1988, law number /6/ was passed by H.E the President of the Republic considering that the date of asylum mentioned on the General Authority's civil status records of the Palestinian refugees has an absolute probative power unless forgery is proven by a conclusive, irrevocable decision.

This law provided Palestinian refugees records at the General Authority with a legal force, and turned them into a main reference when dealing with all international parties interested in the question of Palestinian refugees, including UNRWA, whereas these records were to be seen as a reflection of the situation of Palestinian refugees in the Syrian Arab Republic, characterized by accuracy and organization and enjoying legal protection.

### **Palestinian refugees in Syria unregistered at the General Authority:**

Several thousands of Palestinians arrived to Syria from the Jordanian Hashemite Kingdom, Lebanon, the Gaza Strip and the West Bank at different periods. They are originally registered in the areas they came from.

They live in different cities and camps in Syria. Those who have expired documents can obtain their civil status documents from the office of the Palestine Liberation Organization in Damascus.

In order to facilitate their everyday life, the relevant authorities made it possible for them to work in the private sector and at UNRWA, and also to benefit from free medical care in the public hospitals and dispensaries and at UNRWA's centers. Moreover, their children can benefit from free primary education at public and UNRWA schools. They

can also benefit from free secondary education at public schools. As for university education, those who were born in Damascus and completed their primary and secondary education in Syria are allowed to complete their university studies in Syrian universities free of charge, as is the case for all Syrian and registered Palestinian students. As for students who do not meet these requirements, they are accepted at universities based on the Arab-student-priority system.

As for regularizing their legal status, we believe that this issue requires an Arab decision. We wish you all the success in your meetings in order to serve the interest of our Palestinian people and his just cause, starting with the right of return to the lands they were expelled from in 1948 and afterwards.

### **Relationship with UNRWA:**

The relationship between the Syrian Arab Republic and UNRWA is founded on cooperation and coordination in order to serve the interests of Palestinian refugees. This relationship is based on resolution 302 of 1949 which proclaimed the creation of the relief agency in order to offer services and basic programs to Palestinian refugees till they return to their homeland from which they were expelled in 1948 and afterwards. This right has been guaranteed by UN resolutions, especially resolution 194 of 1948. This relation is also based on League of Arab States decision number 325 dated 17/6/1950 which paved the way of cooperation between the agency and the Arab states.

In addition, the Syrian Arab Republic supports UNRWA and cooperates with it in all international forums according to resolution 302 of 1949 defining its mandate, in order to sustain services granted to Palestinian refugees until they return to their homeland. We hereby reiterate our refusal of any attempts of amending the mentioned resolution under any pretense.

Both the General Authority for Palestine Arab Refugees in Syria and UNRWA work on enhancing the living conditions in camps and their infrastructure, without prejudicing any right of the Palestinian refugees, starting with the right of return. Furthermore, relevant stakeholders in Syria implement the League of Arab States decisions pertaining to Palestinian refugees as well as to UNRWA.

As for refugee camps in Syria, they are managed by the General Authority departments in the camps. The General Authority also established development and services committees contributing to the determination of camps' needs and required projects according to yearly plans implemented by the General Authority. In this context, these committees contribute to the supervision of these projects and to identifying families in need in order to offer assistance whether in terms of monthly assistance, poverty alleviation assistance or one-time assistance. These committees also participate in distributing aids offered by the General Authority for Palestinian Arab Refugees (GAPAR).

In Syria, Palestinian refugees of all ages benefit from services and protection offered to Syrian citizens in all fields without compromising their Palestinian nationality and their right to return home.

The excellent relationship between the Syrian Arab Republic led by H.E President Bashar al-Assad and UNRWA has contributed to a great extent, to helping Palestinian refugees and enhancing the living conditions in the Palestinian camps. Official stakeholders in Syria, including the GAPAR, and UN relief and works agency, work in conjunction in order to provide services to Palestinian refugees and improve their camps. This is the case till



they regain their right of return to our holy land to which we all remain attached, as we have always been and will be, regardless of the prevailing circumstances or situation.

The Syrian Arab Republic and all of the host Arab States work together under the patronage of the League of Arab States -Sector of Palestine and the occupied Arab territories - in permanent cooperation and collaboration, be it in the sessions of the conference on supervisors of Palestinian Refugees affairs, in the coordination meetings or in other encounters on supporting UNRWA and preserving its services and mandate described in resolution 302 of 1949. In all of the meetings, the Syrian Arab Republic emphasizes its support to UNRWA and reiterates the importance of safeguarding the rights of Palestinian Refugees, starting with the right of return and the right of compensation for all their sufferings in terms of harm and plight caused by the Israeli enemy.

The Syrian Arab Republic always reiterates the necessity of improving the situation of Palestinian Refugees.

## Presentation by Mr. Mohammad Abou Bakr

### Department of Refugee Affairs (PLO)

To touch on the regulations and procedures relevant to legal and personal status and to identification documents in any region of the world and for any human community is to tackle a comprehensive practice of sovereignty which defines the ties and reciprocal relationship between individuals and communities and the entity which governs such practices.

The case of the Palestinian people presents unique and complex one in its details, particularly in its legal and humanitarian dimensions, given the nature of the Palestinian cause and the extent of the repercussions and impact it has had on the Palestinian people since 1948 when Palestinians were displaced and dispersed across various exiles and the vast majority of them became refugees.

If we were to attempt defining the legal status or the relationship between the Palestinian Authority and the categories of the Palestinian people, and the identification documents and the scope of its validity, we would find degrees of variation and differences in this regard between the different categories. We will clarify this as follows:

- Palestinians in the West Bank, including refugees, acquired the Jordanian nationality after the unification of the two Banks [East and West Bank] and became Jordanian nationals enjoying full rights while maintaining the status of refugees.

- Palestinians from the Gaza Strip and refugees who fled to the Gaza Strip were issued by the Egyptian authorities special documents dedicated to Palestinians.

- The same applies to Palestinian refugees in Syria, Lebanon and Iraq - where Syria presents a positive discrimination in terms of rights and treatment.

- After the establishment of the Palestinian Authority in the wake of the Oslo Accords, the situation of Palestinians living in the West Bank and Gaza underwent changes. The Palestinian Authority started issuing for them identification documents (Palestinian passports, identity cards, birth certificates,...etc.). These documents were issued under a special regulation applicable to all persons registered in the West Bank and Gaza as per the population census conducted by the Occupation authorities after 1967 and who hold the so-called "national number", or those who returned to the West Bank and Gaza in the context of (limited) reunification procedures, as well as those who returned by virtue of the Oslo Accords.

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(\*) Translated from Arabic.

- The Palestinian Authority issues two types of passports: the first type is the one that has the national number and is valid for traveling from and to the territories under the Palestinian Authority and to all countries recognizing this document. The second type does not carry a national number. It is issued for those outside the territories under the Palestinian Authority and does not allow its holder to enter Palestinian Territories. Indeed, this passport is issued in a strict manner and only to limited group of persons for the purpose of addressing certain humanitarian issues.

- Given the ongoing occupation and its control over the Palestinian Territories, and given the inability of the Palestinian Authority to exercise its sovereignty over the Palestinian people and its territories, the freedom of movement and travel from and to the Palestinian Territories is tied to the decisions and procedures of the Occupation. This movement is denied to Palestinians who are not residents of the Territories. As such, issuing documents for Palestinians outside the Palestinian Territories are subject to these circumstances and consequences.

## Working Paper by Ms. Enass Refaei

Regional Human Security Center, (Jordan)

Jordan has an accommodating and open national policy towards Palestinian refugees living in the country. In the past sixty years, there has been an influx of approximately 1.9 million Palestinian refugees into Jordan, a much greater number than in Syria and Lebanon. In addition, Jordan is the only country to have provided full citizenship to nearly every Palestinian refugee as a result of the unification between the West Bank and East Jordan in 1950<sup>(1)</sup>. Almost all Palestinians are provided with full Jordanian citizenship and with equal opportunities under the law to education, jobs, health, and nationality: equal rights and duties. However, reports have been made regarding the withdrawal of nationalities of numerous Jordanian citizens of Palestinian origin. In 2007 there were 244 cases, compared to 204 in 2008 and 190 within four months in 2009<sup>(2)</sup>.

Palestinians living in the West and East Banks were, in the 1980s, given bridge crossing cards that were either yellow or green. The yellow cards were provided for Jordanians of West Bank Palestinian origin residing in the East Bank, while the green cards were reserved for residents of the West Bank. Initially, the purpose of these cards was to allow crossing from one bank to another to visit family members and friends. In 1988 King Hussein dissolved Jordan's ties to the West Bank due to the Palestinian Liberation Organization's declaration that they were the sole authority over the West Bank and request that Jordan sever its authority. Thus, King Hussein issued instructions for disengagement that labeled every person who lived in the West Bank prior to July 31, 1988 as a Palestinian rather than a Jordanian. However, the policy was slightly ambiguous and did not necessarily apply to Jordanians living outside Jordan or the West Bank at the time of disengagement. This becomes a problem today when officials are unsure how to apply the rules to citizens who were living in the Gulf, for example, and who fled to Jordan during the Gulf war from Kuwait, creating even more of a strain on the Jordanian government<sup>(3)</sup>.

After the 1988 disengagement, green card holders found themselves unofficially without Jordanian nationality because their card indicated that they were residents of the West Bank. The issue of withdrawal of nationalities became a controversial issue in the last few

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(1) The crossing point between East Jordan and West Jordan.

(2) Chatty, Dawn. "Palestinian Refugee Youth: Agency and Aspiration." *Refugee Survey Quarterly* 28, no. 2 & 3 (2010).

(3) Human Rights Watch. *Stateless Again: Palestinian-Origin Jordanians Deprived of their Nationality*, 2010. New York, NY: n.d.

years as some Palestinians in Jordan with yellow cards were then switched to green cards. The Jordanian government explained the switch on the basis that the individuals had failed to renew their Israeli-issued permits or IDs, and therefore they could not obtain citizenship in Jordan until they had done so. Israeli policy, however, is very ambiguous and difficult to maneuver and many Palestinians in Jordan are unable to update their IDs. While due process has proven successful in a number of cases, resulting in the return of the Palestinian's nationality, often times the cases are not strong enough to reverse the decisions of government officials<sup>(1)</sup>.

Withdrawals of nationality and the general issue of Palestinian refugees and their identification papers pose a number of problems from a human security point of view. Families are split up because some members have citizenship and others do not, or because siblings and children living in other Arab countries are unable to return to live in Jordan with their families because of revoked nationality. In addition, health insurance cards are not issued to Palestinians without Jordanian citizenship, and therefore their medical costs are higher. Children without a nationality cannot attend state schools and families have to opt for the more expensive private schools, while university education costs twice as much. Public sector jobs are unavailable to non-citizens, so job opportunities are limited to the private sector<sup>(2)</sup>.

These issues also pose a problem for Jordan as a nation. When there are large numbers of refugees or people without citizenship living in a country, the economy is threatened and the well being of the nation is confused. For example, with lower education rates in the refugee camps and high levels of poverty, it becomes difficult for these people to obtain competitive jobs and to help advance Jordan's economy. Furthermore, the sheer numbers of refugees flowing in from foreign countries places a larger strain in the already-slow economy of the region. Water supply in Jordan is among the lowest in the world, as are natural resources and exports. Jordan already receives a large amount of foreign aid to keep the economy from failing, and it is in no position to support the refugees already present.

The issue of Palestinian refugees could also pose threats to the security of the nation. Always present on the mind of national leaders today is the question of extremism, and although Jordan is a stable and safe country, the presence of "undocumented" people who are in depraved economic situations, with anger and resentment as a result of the Arab-Israeli conflict is a potential threat. In addition, the majority of people in Jordan are very young, which creates the potential for a more aggressive and radicalized political mood. Threats of restlessness can be a factor in the refugee camps, and a possibility that Jordan may face as long as there are almost 2 million refugees present in the country. The government of Jordan is therefore on guard and in order to better its regional and national security, must take these issues into account when dealing with "undocumented" Palestinian refugees.

Regional coordination and cooperation in dealing with this specifically regional issue is necessary for any solution to occur. Jordan has been more accommodating to the Pales-

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(1) Al-Abed, Oroub. "Palestinian Refugees in Jordan." (n.d.): <<http://www.forcedmigration.org/guides/fmo025/fmo025.pdf>> (accessed n.d.).

(2) Al Husseini, Jalal and Riccardo Bocco. "The Status of the Palestinian Refugees in the Near East: The Right of Return and UNRWA in Perspective." *Refugee Survey Quarterly* 28, no. 2 & 3 (2010): (accessed n.d.).

tinian refugees in the country, but there are still numerous aforementioned problems with the state of the refugees today. Within the refugee camps, education, healthcare, and living conditions are below the international poverty line<sup>(1)</sup>. In neighboring countries the problem is worse, as Lebanon and Syria have not provided their refugees with the same number of rights as has Jordan. In Lebanon, the government feels threatened from the Palestinian refugees as religious conflicts and national security come into question, and therefore has not provided them with citizenship or even basic rights as refugees. Over 400,000 refugees are counted in Syria, where more than 50% live in camps. Syria provides their refugees with more rights than in Lebanon but not the right to citizenship or to vote. The number of refugees in Syria is around 450,000. Jordan has more than twice the number of Palestinians, with only 17% living in refugee camps. Syria, Lebanon, and Jordan are all faced with imposing numbers of refugees and issues that the countries themselves may not have the resources to solve. But, Jordan has the largest load to bear with the greatest strides already made in helping better the situation. The UNRWA monitors and runs the refugee camps, but more help is necessary to make a larger impact. Jordan does not have the resources or the money to address the situation as well as other members of the international community, however.

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(1) nadia hijab al-shabaka policy brief.

## Presentation by Mr. Abdelkader Yaseen

Writer and Historian (Egypt)

The Egyptian regime was unique in its treatment of Palestinians, falling short of the response of all other Arab States. In fact, the Government of Mahmoud Fahmi al-Nukrashi Pasha gave a different reception to Palestinians who sought refuge in Egypt in 1948. While the neighboring surrounding Arab States and Iraq opened their doors to Palestinian refugees, those Palestinians who sought refuge in Egypt were put in quarantine centers. When the "detainees" objected and rebelled against such treatment, Nukrashi was kind enough to allow anyone with 10000 Palestinian pounds (at the time equivalent to Sterling pound) and those who managed to find a wealthy sponsor to enter and reside in Egypt.

This decision was aborted by virtue of another decision of the Nukrashi Government which stated that no Palestinian shall work in Egypt even without any remuneration! That same Government prohibited the "Quakers" from serving Palestinians in Egypt, just as successive Egyptian Governments were to prevent the United Nations Relief and Works Agency (UNRWA) from providing services in this regard. Egypt was, and still is, the only Arab state to take such a position.

At this period, Palestinians had passports granted to them by the British mandate authorities. However, only few of them had such passports. After, they became holders of passports issued by the "All-Palestine Government". These passports remained valid in Egypt until late 1959 when a serious conflict started between the Mufti of Jerusalem, Hajj Amine el-Husseini, and Nasser's regime. The Mufti left Egypt and headed to Beirut. As such, the Egyptian Government replaced the passports issued by the All-Palestine Government and issued Egyptian travel documents for the Palestinians.

The Gaza Strip that was under the Egyptian trusteeship was placed under military rule and martial law for twenty years. Gaza natives were prohibited from visiting Egypt except by virtue of a medical commissioner decision declaring that there is no treatment available for the concerned person in the Gaza Strip!

But the situation shifted in 1954 during the Arab nationalist Egyptian President Jamal Abdel Nasser. Indeed, Nasser issued a presidential decision stipulating that Palestinians and Egyptians shall be treated as equals in Egypt, except for running for and casting votes in elections. Consequently, Palestinians in Egypt had the right to residence, travel, education and work.

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(\*) Translated from Arabic.

However, this situation changed when President Anwar Sadat came to power. Under pretense of the murder of renowned Egyptian novelist Youssef el-Sebai in Larnaca (18/2/1978) at the hand of a Palestinian faction (Fatah - The Revolutionary Council), Sadat imposed mass punishment on Palestinians in Egypt. He not only reproduced the position of the Nukrashi Government but also denied Palestinians enrollment in "top tier" university faculties, including medicine, dentistry, engineering, economics and political sciences, and journalism. Sadat's regime imposed exorbitant fees on Palestinian university students and denied children access to public schools. This caused illiteracy to soar among Palestinians in Egypt contrary to Nasser's time when more than 20 thousands were in Egyptian universities.

In brief, the official Egyptian position towards the Palestinian refugee is closely determined by the position of the Egyptian regime towards Arabism, and to a lesser degree towards democracy.

[As a result of this change of policy] Palestinians were trapped in between airports. Egyptian airports refused to grant them access into the country in spite of carrying legal Egyptian travel documents. This was clearly made clear in the last page of that travel document that states that this document is of key importance and utmost precautions should be taken to ensure it does not fall into the hands of a person who has no right to carry it. It further confirms that the document is valid for travel only to the countries mentioned herein and does not authorize its holder to enter into or pass through the Arab Republic of Egypt unless he/she obtains an entry, transit or return visa. A new document shall be issued only in the cases defined above [from the Passports Department or Egyptian consulates] after full deliberation and examination. It should be noted that the Egyptian Government used to add any Arab State it disagreed with politically to the list of countries that Palestinians from Egypt are prohibited to enter.

In addition, the severance of diplomatic ties between Egypt and most Arab countries following the signing of the Camp David Accords (18/9/1978) made it impossible for Palestinians residing outside Egypt to renew their travel documents. They were denied entry into Egypt as prejudiced legislation prevented any Palestinian holding a travel documents issued by the Egyptian Government from entering into Egypt if he/she has been away from the country for six months or if the said travel document has expired. This perhaps explains the attempts of many Palestinian families, having Egyptian mothers, to obtain the Egyptian nationality in compliance with Egyptian law since Palestinian families are still marginalized, for political reason, out of fear of accusing the Egyptian regime of naturalizing Palestinians.

### **Undocumented (Non-ID) Persons**

When diplomatic ties were restored between Egypt and the Arab States in the early 1990's of last century, Egyptian consulates refused to renew Egyptian travel documents for Palestinians. This exacerbated the situation as how would the holder of this document, who alone is authorized to apply to renew it, is in the first place, prohibited from entering Egypt?!

As a result of this policy, the scope of the phenomenon of undocumented Palestinians widened. Along this, a group of Palestinian activists in Egypt discovered that around twenty Palestinians were being held in Egyptian prisons; some of them had already completed their prison terms and their travel documents and residency permit had meanwhile expired. These activists convinced the Egyptian security authorities to grants travel docu-



ments valid for six months with only one exist visa with no right to return to those who had completed their sentences. And since, this has become the practice to date.

The United Nations High Commissioner for Refugees (UNHCR) plays also a role in increasing the phenomenon of undocumented Palestinian refugees in Egypt for it refuses to look into this category of Palestinian refugees based on the excuse that UNRWA is the relevant UN agency for Palestinians while UNRWA is not present in Egypt!

It is worth noting that the leadership of the Palestine Liberation Organization (PLO) did not yet address the problem of the undocumented Palestinians in any significant way. The former Palestinian leadership refrained from interfering in the living situation of Palestinians, claiming that "we are in a state of revolution"! As for the current PLO leadership, it has complete disregard for the matter of Palestinians living outside the Palestinian Territories. Meanwhile, the Palestinian opposition limits itself to ad-hoc reaction - mainly verbal and bland - towards the very ill-advised action on the part of the PLO leadership. Indeed, the opposition ignores and turns its back to the fate of Palestinians living outside their homeland.

In Conclusion, we face here a matter of rights that has gained political characteristics and has lost its defenders. What is dangerous here is the fact that the more restrictions Palestinians face looks as if the Arab countries are reproducing the Jewish case. This calls for an urgent mobilization to spread the "Syrian model" in handling Palestinian refugee affairs across Arab States and to include the services UNRWA to Palestinians in Egypt.

## Presentation by Me. Majed Fanous

### Aidoun (Syria)

#### **First - 1948 Palestinian refugees registered with the General Authority for Refugees.**

Palestinian refugees who sought refuge in Syria after the Palestinian "Nakba" in 1948 fall mainly under Law No. 260 dated 10/7/1956 that stipulates:

"Palestinians residing in the Arab Syrian Republic at the time of publication of this law shall be treated as Syrians in terms of the rights of employment, work, trade and military service according to all legal provisions and regulations in force, while maintaining their original nationality."

A closer examination of the aforementioned law we notice the following:

1. The law applies to Palestinian refugees residing in Syria at the time of publication of the law issued on 10/7/1956. This means it does not include: Palestinian refugees who found refuge in Syria in 1948 and who resided there then left before 10/7/1956; and Palestinian refugees who entered Syria after 10/7/1956
2. Palestinian refugees who fall under Law No. 260 are treated as Syrians in terms of employment in all government departments, of practicing professions without exception and business activities, founding companies and undertaking mandatory military service.
3. Employment in government departments is restricted to those holding the Syrian nationality. However, the condition of obtaining the Syrian nationality was waived for Palestinian refugees. The expression "while maintaining their original nationality" reflects the position of the Syrian Government in supporting the rights of Palestinian refugees to return to their homeland and to maintain their original nationality.
4. There are other legislations which facilitate the daily affairs of Palestinian refugees, such as travel from and return to Syria. Indeed, Decree No. 448 dated 6/2/1955 prescribed granting travel documents to Palestinian refugees, while Decision No. 1311 dated 3/10/1963 issued by the Minister of Interior allowed travel from and return to Syria without a return visa. In addition, the holder of a travel document may renew or issue his/her document at any embassy abroad as is the case of Syrian nationals. The implementation of these laws and regulations were not only possible due to the continued official support of refugee rights but also due to the wide popular sympathy

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(\*) Translated from Arabic.

and support with refugees. All considered the cause of Palestine as the cause of the Syrian people.

5. Each Palestinian family have the right to own one residential apartment and may lease commercial stores and join all professional syndicates.
6. Although refugees clearly enjoy a wide range of civil rights, they are not entitled to run or vote for Parliament and Presidency elections in an attempt to assert their Palestinian identity and since their residency in Syria is considered temporary no matter how long it lasts. This is in keeping with their attachment to their right to return to their homeland from which they were displaced in 1948.
7. Palestinian refugees have access, just as Syrians, to free education in public schools, institutions and universities at all educational levels, from elementary schools until the final stages of university education.
8. The Arab Palestinian Refugees Institution is the official body handling the affairs of Palestinian refugees. It keeps records in their names and personal status and is affiliated with the Ministry of Social Affairs and Labor. The records of the General Authority have legal value and are a key reference for all international bodies.

### **Second - Palestinian refugees in Syria not registered with the General Authority for Refugees.**

These are no different from all other Palestinian refugees. They are of Palestinian nationality and belong to all Palestinian factions, just as other Palestinian refugees. The only difference between them and others is a problem with their identification documents. This problem stems from known circumstances: in the wake of the 1970 Jordan events, after the 1967 war, following the Israeli invasion of Lebanon in 1982 and also after the US invasion of Iraq in 2001 [2003]. Most of these refugees entered Syria from Jordan, Lebanon, the West Bank, Gaza and Iraq. They live in camps and in Syrian cities. These are the persons referred to as "Undocumented Palestinians" in the title of this conference.

The representation of the Palestine Liberation Organization (PLO) provides these refugees with various documents based on the original document which they hold and which proves they are indeed Palestinian refugees. Such documentation aims to facilitate their daily affairs.

Despite the fact that their residency is considered unlawful from a legal point of view, the various government departments positively consider the documents issued by the PLO representation.

The purpose and type of such documents issued by the PLO representation are based on the needs of the document holder. They are often:

1. An individual or a family civil status document despite it being entitled with the expression "To whom it may concern". These documents are the most widely used forms because they are needed by their holder in religious courts, schools, universities and most government departments.
2. An attestation that the concerned person is single signed by two witnesses. This document is needed for contracting marriages in religious courts.
3. An attestation that the concerned person arrived in Syria in 1970, and does not hold a passport or travel document. The attestation is signed by two witnesses. This document is needed by those requesting a passport from the Palestinian Authority.
4. A special proxy from the concerned person granted to any person of his/her choice to

conduct on his/her behalf any transactions outside Syria. This type of proxy is needed by refugees who cannot travel in order to settle their affairs outside the country.

5. Letters addressed to government entities from the PLO representation assisting the concerned person in various needs.
6. Letters addressed to the Egyptian Embassy to assist the concerned person in obtaining an entry visa to Egypt then to the Gaza Strip. These are unique to persons originating from Gaza..

It should be noted that the PLO representation takes all necessary measures to issue the various types of documents for such refugees. This is largely aided by the responsiveness of government departments in accepting such documents.

As a result to these facilities, these refugees benefit from free medical treatment at public hospitals and clinics and UNRWA facilities. They also have access to education at all levels, whether in schools and universities, and to private sector employment.

There are no statistics on the number of these refugees. But based on the of documents issued by the PLO representation in Damascus that ranged between 70 and 120 documents during August 2010 for example, we could conclude that they are in the thousands and this number is constantly increasing with the increase of family members and the birth of a new generation of refugees who hold no original documents from the country of their fathers. This only serves to increase the complexity of the issue.

It is evident that, in spite of the facilities and all measures taken to accommodate the need of this category of, their status needs to be addressed in other to be like other Palestinian refugees. This may be achieved by issuing them documents from the country of first refuge that they came from and where are registered. These refugees should enjoy all the rights accorded to their fellows.

If this fails to materialize, the League of Arab States can resolve their problem from a regional and national perspective, based on its previous resolutions and with the support of international organizations.

## Presentation by Mr. Mohammad Jaradat

### BADIL (Palestine)

Palestinians in mandatory Palestine (not historical- for the mandatory is more important: it means Palestine within its borders as set by the British mandate) are divided as follows:

- Palestinians who stayed in the territories occupied in 1948 and were forced to hold the Israeli nationality, who are around a million and 450 thousand,
- Palestinians in East Jerusalem excluded from the Oslo accords in terms of civil status. These are considered as permanent residents in Jerusalem. They are around 237.000 living within the boundaries of the Jerusalem occupation municipality. These do not include Palestinians under Palestinian authority in Jerusalem, because they have another legal status.
- Palestinians in the West Bank.
- Palestinians in the Gaza strip.
- Exiled Palestinians

In reality, each of these categories has its special status in terms of documentation.

In fact, before the 1995 Cairo agreement on civil status, Palestinians inside the territories were treated in one of two ways:

- The 1948 Palestinians who have the Israeli Citizenship. They were treated worldwide as Israelis.
- The West Bank Palestinians who used to hold a Jordanian passport, and an Israeli laissez-passer that would allow them to cross the Israeli-Jordanian borders, and a Jordanian passport to travel from Jordan to another country. Till 1995, and even after the Jordanian decision to sever administrative and legal ties to West Bank in 1988, their birth and marriage certificates were issued by Israeli authorities and endorsed by Jordan.

The entire Palestinian status in terms of residency and citizenship is governed by one law in Israel, the Occupation and emergency law, the "the Citizenship and Entry into Israel law". By virtue of this law, all Palestinians are seen as the ones who have entered Israel not the other way around! Thus, since 1948 Israelis established - in an important turn of events - the first Palestinian citizens' census, for Palestinians who resided or stayed then in the 1948 territories. These were granted the Israeli citizenship, while it excluded all the Pa-

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(\*) This presentation is transcribed from the recordings of the conference and translated from Arabic.

lestinian refugees who became stateless people. After 1967 war Israel held a census in the Occupied Territories and excluded all those out of the territories, thus they were unregistered and became refugees. Those registered have been given IDF numbers called ID Cards but which are not in fact like any other ID number. This number is more of a code designed as the "Israeli Defense Forces" number. This code is granted at birth, "If you obtain it than you are a human being, if you don't than you are not a human being". There are many cases of Palestinians who do not have this code and thus are invisible - even to us Palestinians, these were not included in the Oslo accords I and addendum of 1995. This code is automatically recorded in the Israeli demographic registrar. Israelis, as the occupying authorities, are still controlling all aspects of the Palestinians' life inside the Occupied Palestine. No official document may be issued without approval by the occupation civil/military authorities.

It is said that the Palestinian Authorities is issuing passports to Palestinians. This is incorrect. There is no Palestinian passport, it is no more than a travel document - for Palestinians in the Occupied Territories are considered as residents not as citizens. Thus, the phenomenon of undocumented Palestinians started...

It is noteworthy that Israelis were very smart during negotiations. In fact they proposed, in the draft paper on persons who lost their residency in the OPT that was submitted to the technical team accompanying the Palestinian delegation before the Cairo agreement, that "all people who lost their ID" should be issued a new one. Palestinians tried to change that to "all persons who lost residency". Here lies an important difference: Palestinians who lost Residency rights were those expelled by Israel or had exceeded the time period set by the Occupation to renew their Exit permits issued by the occupation (six months or three years according to the situation), or simply students who were late for renewing their exit permits because of exams abroad, etc... The number of expelled and undocumented Palestinians is estimated between 250.000 and 300.000. The Israelis refused to change the term. As the technical teams stated in a note then, and based on our knowledge of the Israeli backdrop, we feared that Israelis would say that Palestinians whose identification cards (ID) were lost or simply washed for instance, can ask for replacement of lost documents, and not those expelled or who lost their Residency Rights who cannot return and acquire an IDF identity or number. Here lies the true problematic. Many of these affected Palestinians are in Jordan - knowing that most departures were towards Jordan - and others are in Egypt where one can find large families of Palestinian decent.

It should be noted that, when one talks about Palestinian residency rights resulting from the Zionist occupation of Palestine and the measures imposed by the occupying authorities - these do not pertain to the right or the desire to return home, but relate to people who were deprived of their right to reside in Palestine as a result of the ethnical cleansing/purification policy adopted by the occupation. We are not talking here about ordinary immigration.

After that period, in 1990 and 1991, Palestinian Civil Society Organizations (CSOs), with the help of Israeli human rights organization, reached an agreement with the Israeli Supreme Court of justice in order to regularize the status of Palestinians (husbands and wives, etc...) who entered Palestine before August of 1990. In fact, many husbands, wives and children are not granted any papers by Israeli authorities and are thus deprived of any rights. There were three or four agreements of the sort which resolved part of the problem. Following these agreements, 2000 persons were able to join their families and reunite with them each year. In 1993, we managed to update the agreement (amendment of the agreement with the Israeli court) to include persons who entered before August of 1992. However, to this day, some persons included in the agreement still did not receive an ID card, nevertheless,

they were given renewable residencies for six months without having to leave the country. This means that a group of "unwelcomed" persons were banned by the occupation from joining their families because they serve the interest of Palestine. However, the Occupation was not able to prevent them from living in Palestine even if they have to renew their visit permits or Visa each 6 months. This achievement was halted later as pursuing the 1995 agreement, all details agreed upon with the CSOs were presented to the Palestinian negotiators by the Israelis as a good will or gesture, therefore the PA saw it as a victory. However, only persons who entered the OPT before 1994 only were affected. These agreements remained effective till 2000 when Israel suspended the reception of family reunification applications.

In this context, it is also important to note that by virtue of the Cairo agreement, any civil status document issued by the Palestinian authority should get first the Israeli approval - so let's not put more pressures on the Palestinian authority in this issue than what they can bear. Therefore, any holder of a Palestinian passport is not effectively holding a passport, but rather a travel document. True, it has the word passport in Arabic inscribed on it but in English the term written is passport /travel document which is in itself odd. As for the international code adopted worldwide, one should acknowledge that there is no Palestinian code. There is an Israeli code, thus when such a "passport" is scanned at any international borders it reveals the Israeli code. This is the reality. One more thing, if we compare this "passport" to other national passports, we notice that the holder ID number is integral part of it, if any passport is missing that number, the passport is worthless. Hence, since this passport is granted some times without this official entry, it leads to problems at international borders/airports and we always have to carry and present our ID cards. In all cases, I do not advise anyone who has no residency rights in the OPT to carry this passport. Today around 3.5 million persons hold this document and it causes them problems when they use it.

Despite the shortcomings of the PA passport, the 1995 Cairo agreement excluded the Palestinians from East Jerusalem. Thus they cannot acquire the PA passport. These Palestinians continue to have links with Jordan in terms of documentations and as such hold Jordanian passports.

There is another highly important issue in Jerusalem: there are about 40,000 to 50,000 Palestinians prone to total loss of resident status in Jerusalem because they are considered as permanent residents and not citizens in Israel. Hence, if a permanent resident fails to prove his/her living in the city by paying taxes and abiding by other obligations; he/she would no longer be able to reside in this city or the country in general, as a matter of fact.

Therefore, we as Arabs were able to achieve that much under the occupation that we struggle against, imagine then what our Arab brothers could do for the Palestinian refugees in their countries. Let us then think as Arabs, how we can reach a similar compromise and ensure the right to residency to these Palestinians, in Arab countries and grant them their civil rights.

Complexities in the Palestinian territories exceed those in Arab states. Arab states are capable of facilitating Palestinian affairs, instead of saying that these are complicated. It is enough to take a look at internal complexities that Palestinians have to deal with. Isn't it odd that an Arab state grants a Palestinian refugee who has been in the country for years a one way laissez-passer! Those Palestinians have been living in these countries over 60 years and have families; they want to educate their children. For instance, registered Palestinians in Egypt with expired residency cards living currently in Kuwait have nowhere to go...

The issue of the undocumented Palestinian refugee is not a difficult and complicated issue after all. The solution is in the hands of our Arab brothers to grant Palestinians their basic human rights that would allow them to live in dignity and able to preserve their ability to resist the occupier until they return to their homes.

## Presentation by Dr. Bassem Haidar

### League of Arab States

Ladies and Gentlemen,

First, one cannot talk of how the situation of the Arab Palestinian people has developed without referring to Israel: 41 years before the creation of the Zionist entity; 32 years before the so-called Jewish holocaust; 10 years before the Balfour Declaration...

In 1907, while the Ottoman Empire was falling throughout the Middle East, the British Prime Minister Henry Campbell-Bannerman formed a committee of the top European scholars and experts and asked them to explore the best ways to maintain the European colonialism which was then at its peak, and to prevent its collapse as is usually the fate of all empires when they reach their highest tyranny. As far as the Arab region, the recommendations of the Committee to the European colonial powers stated:

"There, there is a population which spreads across a vast land, rich in buried natural resources. This population controls the areas at the crossroad of international routes. Their land was the cradle of human civilizations and religions. They have one faith, one language, one history and similar aspirations. There are no natural barriers which might isolate one group from another. If, the fate of this nation is to unite and form a one State, the destiny of the world would be in their hands and Europe would be separate from the rest of the world. These facts should be considered seriously and for this, we recommend that a foreign body be implanted in the heart of this nation to hinder its cohesion and to deplete it strength in never-ending warfares. This shall also constitute a tool for the West to reap whatever it chooses of its fruits...."

I believe that these few lines are the most important and most dangerous ones in the case of Palestine. They should enlighten our thoughts and our insights and should prevents us from getting lost in side matters.

Some, however, believe that going back to 1907 contradicts modern common sense. So, let us listen to one of these contemporary views:

His father and forefathers were rabbis, his mother Jewish. After graduating from university he volunteered to work in an Israeli kibbutz then enlisted in the army. He participated in the 1967 war. Later, he became a senior analyst at the Zionist-leaning The New Republic newspaper and won the 2008 European Book Prize. He also was the director of

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(\*) Translated from Arabic.



an institute at New York University. This is Tony Judt who in 2003 rejected Zionism in these words:

"... The problem with Israel, in short, is not-as is sometimes suggested-that it is a European "enclave" in the Arab world; but rather that it arrived too late. It has imported a characteristically late-nineteenth-century separatist project into a world that has moved on, a world of individual rights, open frontiers, and international law. The very idea of a "Jewish state"-a state in which Jews and the Jewish religion have exclusive privileges from which non-Jewish citizens are forever excluded-is rooted in another time and place. Israel, in short, is an anachronism..." Tony Judt passed away last August.

Ladies and Gentlemen,

The struggle against the Zionist enemy calls for empowering the Palestinian people inside the Palestinian Territories and across the diaspora. There were numerous complicated circumstances that have befallen Palestinians and divided them into groups subject to various legal and social rules in the different countries they arrived to. These rules even vary within the same country. They have different status, including that of being undocumented persons (non-ID). The prolongation of such a situation weakens the structure of the Palestinian people and their steadfastness and resistance. We believe that the key to resolving all these issues lies in a comprehensive Arab political decision which overcomes the technicalities of national legal provisions in order to establish a solution which complements the directives of the Casablanca Protocol. This would eventually provides the basic grounds for a decent life for the Palestinian refugees and would liberate thousand refugees from the camps' veto which suffocates them; and there would no longer be a need to fight to obtain the title of refugee.

The Secretariat of the League of Arab States affirms its support for the undocumented Palestinians to acquire the needed legal documentation. It also affirms its willingness to contribute to any effort, dialogue or endeavor in this regard. Further, it appreciates the current directions of the Lebanese authorities in this context and gratefully calls upon them to continue their efforts. We also commend the work of the Lebanese-Palestinian Dialogue Committee. Finally, we await the recommendations of this esteemed conference in order to take them into consideration in our policies.

## Presentation by Mr. Abbas Shiblak

### Expert in Palestinian Refugee Affairs (London)

This intervention aims to shed light on the role of the Arab regime and particularly the League of Arab States (LAS) in dealing with Palestinian Refugees. It is also an attempt to find out if this framework is still capable of responding to a needed regional mobilization in order to resolve the problem of the growing number of undocumented Palestinians.

First, it is important to note that:

- The distribution of Palestinian refugees among host Arab countries and elsewhere requires necessarily a regional cooperation.
- The LAS is a regional group of states representing the political will of these states combined.
- The capacity of LAS to play this role is prone to political developments especially in the Arab Levant.

#### Particular Periods:

**First period:** the development of the Arab official regime while the newly emerging countries were busy strengthening their hegemony on the internal political scene as planned by colonial powers:

- Early interest in dealing with the case of refugees at the political and media levels. Inauguration of media offices transformed later into missions.
- Dealing with the case of refugees at the political and media levels.
- In light of the 1948 events, a new situation prevailed with the appearance of refugee waves. There was a growing interest in facilitating the missions of international relief agencies and in reuniting displaced families. Both items were always present at LAS's agenda in the 1950's and 1960's.

Factors for actions and reactions:

- LAS gained a political and media role. It also relatively succeeded in forming a national framework to deal with the refugees' civil status in host countries despite the existence of contradiction between regional ambitions and special interests of individual states.
- A spread of nationalism in the early 50's and 60's led by Syria and Egypt at first which led to activating LAS's role with relative success as well.

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(\*) Translated from Arabic.

- The strengthening of political entities of emerging states. Unfortunately, the Palestinians had lost their nation and nationality at a time when national entities, frontiers and crossings gained a particular significance in the Arab region.
- The 1954 convention that dealt with the issue of nationality reflected the concept of national entity, whereas the 1965 protocol on the treatment of Palestinian refugees was the first Arab project or framework to deal with the civil issues of refugees. The protocol recommends granting full civil rights in terms of residency, employment, freedom of travel and movement without naturalization.
- The position vis-a-vis this protocol reflected the inclinations of the governing political class in these countries.
- Nationalist states or the so-called liberationist states (Egypt and Syria) and some pro-western states considered that they defended their own national interest (Libya, Saudi Arabia, Lebanon and Morocco).
- Jordan was a special case --- granting nationality based on political grounds after the annexation of the West Bank.
- The need for coordination led to organizing the Conference of Supervisors of Palestinian Affairs in Arab Host Countries periodically on a yearly and extraordinary basis, in 1964.
- Tasks varied with the political atmosphere. But dealing with issues of residency, travel and employment remained the main theme in defining the conference's mandate according to the establishing decision of the council and during its first years of activity.

**Second Period:** problematic between the resistance movement and the official Arab regime.

Developments after the 1967 defeat

Once again there were factors that led to action and reaction:

- The preoccupation of the Arab regime with the political, military and humanitarian consequences after the defeat. Ousted Palestinians from their country were joined by waves of Arab displaced as a result of the occupation of the Golan and Sinai.
- Israeli measures and additional operations of silent ousting and expulsion.
- The displaced of 1967, the loss of identification and right to residency of those who were abroad. Citizens became residents. Application of the laws of residency for foreigners, including losing the identification of those who returned with expired visas. This measure is still affecting people from Jerusalem after residents in areas under the control of the Palestinian authority were exempted by the Oslo accords. These measures had an impact on thousands of Palestinians who were turned into undocumented persons without a nationality.

### **The Rise of the PLO**

There were diplomatic successes at the Arab and international levels alike. This drew attention away from issues related to dealing with refugees. Moreover, the permanent delegate took the initiative by raising issues linked to Palestinian residency and travel... in addition to the the question of the Palestinian passport.

- Many developments had negative impact on the joint Arab action which compli-

cated the relationship between the PLO and a number of Arab states. There was a clash between the logic of revolution and resistance, and the logic of statehood and national sovereignty.

1. Lebanon and the Cairo agreement under the auspices and guarantees of LAS including the guarantee of civil rights.
2. Jordan and the departure of thousands as a result of the armed clashes. Many lost then their legal documents.
3. The disagreement with Egypt after signing the Peace agreement...Egypt lost its weight as a regional power and status in the joint Arab action. The issue of renewal of papers for the Palestinians from Gaza, and residency conditions in Egypt were amended.
4. The Israeli invasion of Lebanon and the journey into the unknown...new displacement.

These complications weakened official Arab support and limited the dealing with Palestinians to a security perspective according to states' relations with the PLO.

It is also noteworthy that decisions pertaining to dealing with refugees at that stage reflected in general, Arab states tendency towards leaving the PLO to communicate with each Arab state alone about the Palestinian situation. Thus, the PLO lost its Arab umbrella.

**The third phase:** regression of the Arab position and Palestinians' search for a state.

The invasion of Kuwait and the third Gulf war and its implications:

- Political divisions in the Arab region.
- Humanitarian impact on Palestinians - collective expulsion from the Gulf.
- The war in Iraq

Restrictions, displacement and more Undocumented persons in addition to groups of persons left on their own to handle their situation and a complete absence of the LAS.

Nowadays, the conference of supervisors is raising the issue of state sovereignty while refusing to discuss issues pertaining to the civil status of Palestinians.

Decision taken by LAS's council in September 1991 at the initiative of the Gulf states requesting to "bury" the protocol and give the priority to local laws in each state.

Importance of the emergence of the state and its limitations in terms of citizenship for Palestinians.

Oslo and far away peace... host countries fear of an imminent peace - that is in fact an utopia- coming to maturity and leading the way towards more restrictions and discrimination against Palestinians in host countries.

The status of residency and freedom of movement does not follow laws but arbitrary administrative decisions which have no clear rules or transparency. Rules which cannot be challenged in the judiciary and which contradict the fundamental principles of human rights. These rules do not serve the Palestinian question or the Palestinian convergence, but rather oust them in exile which serves Israel's everlasting objective.

The degradation of Palestinians' civil status requires an Arab and international cooperation as seen when UNHCR and UNRWA intervened to protect Palestinians as a result of the invasion of Kuwait.

The regional dimension of the refugees issue requires a regional consultation at all official and civil levels which calls for reviving the conference of supervisors. Attachment to state sovereignty is not concordant with the regional aspect or with the obligations imposed on states under international law.

Finally, local civil society organizations and international human rights organizations should have a major role to play. It is a mission linked to their efforts in drawing attention to the true plight of undocumented persons and the importance of settling this issue.

## **Presentation by Mr. Salvatore Lombardo and Mr. Mathijs Le Rutte**

United Nations Relief and Works Agency (UNRWA)

### **i) UNRWA's role in protecting Palestinian refugees**

- UNRWA's unique mandate of providing basic services to Palestinian refugees has been demonstrated its long standing efforts and activities related to the protection of refugees
- In the provision of education, health, relief/social services, micro-finance and infrastructure/camp improvement UNRWA assumes semi-Governmental responsibilities
- For UNRWA protection is what the Agency does to safeguard and advance the rights of Palestine refugees

In 2008, UNRWA more specifically defined its protection role, identifying four components of protection:

- A just and durable solution.
- international protection.
- protection in and through service delivery.
- protection programming

Within the agenda of international protection, among the priorities for advocacy with the Lebanese authorities UNRWA identified the right to work, documentation and freedom of movement. These issues are pursued in conjunction with UN sister agencies and civil society.

### **ii) UNRWA's role with respect to registration, Palestinians who do not fall under the working definition of UNRWA and undocumented Palestinians**

UNRWA's mandate is restricted to those falling under the UNRWA definition; these are persons whose normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948, and who lost both home and means of livelihood as a result of the 1948 conflict. Palestine Refugees, and descendants of Palestine refugee males, are eligible to register for UNRWA services.

UNRWA has no discretion to register persons who do not fall under the above definition. Only for the purpose of providing assistance, where possible and on humanitarian grounds, categories have been identified where deemed warranted, some benefiting fully from all UNRWA services e.g. non-registered spouses of registered refugees (MNR, non-

refugee wives) and some benefiting from most UNRWA services, albeit on emergency basis (non-registered).

UNRWA's Medium Term Strategy 2010-2015 includes four human development goals on health, education, relief and human rights protection. The latter includes four objectives, one of which relates to registration: "ensure Palestine refugee registration and eligibility of UNRWA services are carried out in accordance with relevant international standards".

Registration is not only the critical means to determine eligibility to UNRWA services, it is also a very powerful tool to enhance relevant data on refugees and thus increase our capacity to provide protection. Fairness, accuracy, transparency, accessibility need to be optimized.

UNRWA has established links with the DPRA and periodically meets with the Ministry of Interior as well as the Prime Minister to raise issues related to the registration services provided by the DPRA. One recent development was the introduction of applications and renewals of ID cards and other administrative documents by mail (LibanPost) preventing many refugees from making long journeys for simple administrative procedures. We are still evaluating the effectiveness of this new initiative.

#### UNRWA involvement on Non-IDs

UNRWA has closely followed the file of non-IDs and has been active in advocacy with Government counterparts, including rallying Embassies, donor countries and UN sister agencies to do the same. Apart from Ruwad/Frontiers, UNRWA has worked closely with other agencies active on the non-ID issue, including the Danish Refugee Council, the Palestinian Human Rights Organization and the Palestinian Union for Women.

Recent progress in the issuance of Special ID cards is very welcome, but some issues still remain.

- Clarification of the procedure, including of renewals.
- Appeal possibilities for those rejected.
- Children of non-ID fathers or non-ID mothers remain non-ID (even if married to a Registered Refugee husband or wife).
- Enhance rights to include civil and administrative registration (marriage, education etc).
- Assistance with expired foreign passports.
- Expand the validity date to several years.

As to eligibility of UNRWA services, Non-IDs who have been issued with Special ID Cards by the Surete Generale and are registered with UNRWA in other Fields will have access to UNRWA services as refugees registered in Lebanon. Vocational Training opportunities are accessible on equal footing as registered refugees. Only for hospitalization prior approval is required from the original Field of registration. Non-IDs who have been issued with Special ID Cards by the Surete Generale but are not registered with UNRWA will have access to UNRWA services as non-registered refugees.

#### iii) Non-ID issues in other Fields

UNRWA Jordan has identified protection issues for a large group of ex-Gaza Palestinian refugees. There are about 132,700, who fled to Gaza in 1948 and then to Jordan in 1967. While they are in possession of documentation, they have no national ID number

and no Jordanian citizenship. They have no access to most national services and rights. Restricted access to work, and consequently lower income and higher unemployment in this group. UNRWA obtained some results obtaining access for this group to Jordanian health service at reduced cost. Government unwilling to discuss granting status, so UNRWA focuses on advocacy as non-citizens in need of basic services. UNRWA is also developing a youth employment project in Jerash camp (98% of which is ex-Gaza).

UNRWA Gaza also focuses on the issue of lack of documentation. While the Oslo accords transferred the responsibility of the Palestinian Population Registry to the PA, control over the input of data remains with the Israeli Government. In practice this means often long delays in updating data, during which time travel documents expire, or travel documents are not valid for exit through Egypt. People are then stuck. This affects Palestinians who moved to Gaza and have no other citizenship, or unable to renew their expired passports; Palestinians whose residency or citizenship was taken away by the Israeli Government; Palestinians who moved to West Bank from Gaza after Israel froze address updates; and Palestinians who arrived in Gaza with a passport of third country and stayed for family reasons. Some of the possible solutions for these people (subject to different conditions and delays) are either an ICRC travel document, and Egyptian travel document, Palestinian ID, or for those born in Jordan attempting to obtain a Jordanian passport.

#### **iv) The issue of new registration**

Registration of refugees in the official records of UNRWA in Lebanon is subject to compliance with the official UNRWA working definition of Palestine Refugees. Between 2007 and now, no new individuals have been registered. This is either because they did not meet the criteria or have no valid case.

#### **v) The transfer of records between Fields**

The transfer of registration records between one UNRWA Field and another is a separate process from the transfer of legal residence from one country to another. While the former is an UNRWA process, the latter a Government procedure.



## Presentation by Mr. Kahen Ismail

The United Nations High Commissioner for Refugees (UNHCR)  
(Geneva)

### The Protection of Palestinian Refugees under International Law

It is a well know fact that UNHCR mandate does not extend to the majority of Palestinian refugees. The drafters of the Refugee Convention sought to exclude UNHCR's mandate under the Convention from Palestine refugees for whom special arrangements have been made for their protection and assistance by the creation of UNRWA and UNCCP. The drafting history of the Convention however indicates that this exclusion is meant to be temporary in nature (deferred inclusion). This special arrangement meant that Palestine refugees would be temporarily excluded from the mandate of UNHCR and benefit of the Convention so long as they are receiving protection or assistance from another UN agency, namely UNRWA. The result was the inclusion of Article 1D in the 1951 Convention.

### The Applicability of Article 1D in the MENA region (UNRWA areas)

#### Article 1D reads:

- 1) The 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.
- 2) When such protection or assistance has ceased for any reason, without the position of such persons being definitely 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 benefit of this Convention.

UNHCR's overall position on the applicability of Article 1D of the 1951 Convention to Palestinian refugees is set out in the revised Note on the applicability of Article 1D issued on October 2009.

The two groups of Palestinian refugees who fall with the scope of Article 1D are:

- a) Palestine refugees, and their decedents, displaced as a result of the 1948 Arab-Israel conflict and who are unable to return;
- b) Palestinians who are "displaced persons" as a resulted of the 1967 war from the Palestinian territories occupied by Israel and have been unable to return.

Included within the above groups are not only persons displaced at the time of the 1948 and 1967 hostilities, but also the descendants of such persons.

As we know UNRWA only operates in certain areas of the Middle East, namely Lebanon, Syria, Jordan, West Bank and Gaza and it is only in these areas that its assistance or protection can be provided. Thus, it is UNHCR's interpretation that not all Palestinians are excluded from its mandate.

UNHCR considers that the above persons falling within the scope of Article 1D who are inside the area of operations of UNRWA are "at present receiving from organs or agencies of the United Nations other than [UNHCR] protection or assistance" within the sense of paragraph 1 of Article 1D.

However, persons falling within paragraph 2 of Article 1D are *ipso facto* or automatically entitled to the benefits of the 1951 Convention, provided that Articles 1C, 1E and 1F (brief explanation if necessary) of that Convention do not apply; no separate determination of well-founded fear under Article 1A(2) of the 1951 Convention is required.

### **UNHCR Role vis-à-vis Palestinian refugees**

A significant population of Palestinian refugees live outside the five UNRWA areas but within the region (Gulf countries, Iraq, Yemen and North Africa Countries). There are also sizeable Palestinian refugees who moved to countries outside the Middle East over the years.

UNHCR's protection role vis-à-vis Palestinians in the region must be viewed within the context of prevailing political conditions, the fact that most countries in the region are not party to the 1951 Convention as well the relatively recent presence of UNHCR in many Arab States (UNHCR's established offices in many Arab countries only in early 1990s).

Over the years, UNHCR provided protection and assistance to Palestinian refugees in various situations:

- Intervention with the Lebanese authorities to renew travel documents after the PLO was forced out of Lebanon in 1982.
- The crucial role played by UNHCR in dealing with the large number of Palestinians stranded at the Libyan-Egyptian border after their expulsion from Libya in 1995.
- The intervention of UNHCR to assist Palestinians expelled from Kuwait in 1991, including compensation issues.

However, it should be noted that UNHCR office in the Middle East and North Africa have been dealing with individual cases of Palestinian refugees, providing protection and assistance including detention, family reunion cases, assistance in renewing residency and travel documents, limited financial assistance, advocacy with the authorities and limited resettlement to third countries for cases facing acute protection problems or prolonged detentions.

UNHCR latest intervention occurred in Iraq, when thousands of Palestine refugees lost the protection they had previously enjoyed following the 2003 war. Activities include camp management for those who fled to the border regions, monitoring, protection intervention and assistance to those who remained in Baghdad, resettlement to third countries as the most viable solution for some.

Subsequently UNHCR has embarked to operationalize its position. Given the political and legal complexity of the subject and the need to adequately monitor and follow-up on

UNHCR's policies and strategies, UNHCR recently create a dedicated post at HQ level to act as focal point for the Palestinian refugee group.

Some of the activities envisaged and/or under way include:

- Developing enhanced knowledge of the standard of treatment and needs of the Palestinian populations of concern to UNHCR through comprehensive profiling, aimed at better informing and directing the Office's initiatives and interventions on their behalf.
- Explaining and promoting UNHCR's increased involvement with Palestinian populations of concern to governments in the region, and seeking their cooperation to facilitate the implementation of UNHCR's mandate, while emphasizing that a more active involvement is not to be seen as an obstacle to a future political settlement and 'the right to return'.
- Advocating proper interpretation of Article 1D to allow maximum standard of treatment for Palestinian asylum-seekers.

UNHCR is also enhancing its ongoing collaborative work with UNRWA to ensure coordinated and complementary of respective activities. The two agencies recently held high level meeting and agreed a number of action points to enhance the protection of Palestinian refugees in respective areas of operation, including identifying and addressing protection gaps for certain refugee groups.

## Presentation by Mr. Terrance Rempel

BADIL, International law expert

### 1. Historical context - the gaps in the special regime for Palestinian refugees

The special regime established between 1948 and 1949 to assist, protect, and seek durable solutions for Palestinians displaced from their homes, lands, villages, and towns of origin during the 1948 conflict over Palestine placed the refugees in a disadvantageous position from the start. Neither the UN Conciliation Commission for Palestine (UNCCP) nor the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) were established with the sole purpose of assisting, protection, and searching for durable solutions for the refugees based on UN General Assembly Resolution 194, 11 December 1948.

The UNCCP, which was given a mandate to facilitate the implementation of Resolution 194 and to protect the rights, properties and interests of the refugees through its Refugee Office, was also given a broader mandate to facilitate a comprehensive solution which resolved all outstanding issues among the parties. Given the assumption at the time of its creation that the refugee crisis would quickly be resolved through the spontaneous return of the refugees, the UNCCP was given neither the tools nor the resources to address the complexities of an increasingly protracted refugee situation. The Commission itself displayed two very different approaches to the refugee crisis, which, arguably undermined the already difficult task of facilitating the return of the refugees in the face of Israeli opposition to their return. On the one hand, the Commission's Secretariat, headed by Pablo de Azcarate, the Spanish diplomat who had previously worked with the League of Nations Minorities Section, appeared to approach a solution to the refugee crisis through the lens of international law. This approach is evident in the background of the consultants hired by the Secretariat to draft position papers on various aspects of the refugee question and in the substance of the papers themselves. On the other hand, the Commission members, comprised of the US, France, and Turkey, appeared to adopt more of a realist approach to resolving the issue, especially after the US failure in the spring of 1949 to follow through with sanctions against Israel until it allowed a significant number of refugees (deemed to be around 400,000) to return to their homes, lands, villages and towns of origin. While the UNCCP was a UN body, and therefore obligated to promote international law, the Commission members took their directives from their respective capitals, with the US taking the lead in setting Commission policy.

UNRWA, which was given a mandate under General Assembly Resolution 302 to carry out, in collaboration with local governments, a programme of emergency relief and public works, also had a broader mandate to facilitate what effectively constituted a *de facto* solution to the refugee crisis to be achieved through the economic reintegration of the refu-

gees in the Middle East. The intention of the drafters of Resolution 302, despite the intervention of Arab states to ensure that the international community retained overall responsibility for the refugee question, that economic development would not prejudice the implementation of Resolution 194, and that UNRWA's work would not comprise the sovereignty of host states, was to shift, in part, UNCCP's solutions mandate to UNRWA. The two agencies later agreed upon a division of responsibility for solutions such that the UNCCP would continue to exercise a political mandate to search for and facilitate solutions for the refugees, while UNRWA would exercise a technical mandate to implement any such solutions facilitated by the UNCCP or agreed upon directly by the states parties themselves. In the context of solutions, moreover, UNRWA was seen, at least by Agency officials, to also have a protection mandate exercised primarily through monitoring the legal status of refugees whether or not they were allowed to return to their homes, lands, villages, and towns or origin or whether they were resettled throughout the Arab world. That UNRWA viewed itself as having, in part, a protection mandate at this early stage, is evident in its 1952 report which included an annex delineating the various laws in each host state determining the status of the refugees. As with the UNCCP, the overall policy of UNRWA in its early years was heavily influenced by US foreign policy interests.

The year 1952 is arguably important in understanding the disadvantageous position of Palestinian refugees in relation to the global refugee regime comprised of the 1951 Convention relating to the Status of Refugees and the Office of the UN High Commissioner for Refugees. In January 1952, the UN General Assembly adopted a pair of resolutions, which effectively attempted to devolve international responsibility for the refugee question to the parties themselves. Resolution 512 acknowledged that the UNCCP had been unable to facilitate a solution to the refugee crisis on the basis of Resolution 194 and transferred responsibility for resolving the refugee crisis to the parties themselves. The UNCCP would nevertheless remain in existence to identify and value property losses and to assist the parties in resolving the refugee question and the larger conflict itself at the request of the parties themselves. Alternative proposals to either shut down the UNCCP completely or expand its membership to make it more representative regionally and to grant it broader powers to enforce implementation of Resolution 194 were rejected. Resolution 513, meanwhile, effectively comprised a parallel effort to refocus international efforts to find a *de facto* solution to the refugee crisis through the economic reintegration of the refugees via small, medium and large public works to the more limited approach of improving their living conditions in countries of asylum, with the eventuality of transferring full responsibility for the refugees from the United Nations to the host states themselves. UNRWA's July 1952 agreement with the government of Israel transferring responsibility for 1948 refugees inside the *de facto* borders of the new state (internally displaced persons or "present absentees") comprised the first step in this process. Within a matter of 5 years, the initial grand efforts of the UN to resolve the question of Palestine through the creation of an international regime under the auspices of the UN (the Partition Plan), despite the inherent compromise over the right of country's indigenous majority to determine their own future, had dissolved to one based almost solely on political realism and balance of power. The nature of the regime establish to assist, protect and seek solutions for Palestinian refugees, and the compromises made during these five years, arguably have left an indelible impact on the status of Palestinian refugees and have contributed to the gaps in protection they face today, including those facing undocumented Palestinian refugees.

## 2. Protection questions - who are the refugees and what is protection

One of the problems stemming the creation of the special regime for Palestinian refu-

gees and the subsequent devolution of protection responsibility to the parties themselves is the absence of a comprehensive and universal definition covering all Palestinians displaced from their homes, lands, villages, and towns of origin in Palestine. The UNCCP drafted a protection-oriented definition in 1951, in consultation with UNHCR officials, however, the Commission's authority for protecting the rights, properties and interests of the refugees was devolved to the parties themselves while the definition was still under discussion and, hence, it was never applied. UNRWA's definition of a Palestine refugee, despite the partial transfer to or at least agreement with the UNCCP that that Agency had some protection and durable solutions responsibilities, relates solely to determination of eligibility for relief and assistance, i.e., the definition does not determine refugee status as such. Palestinian refugees displaced in 1967 were subsequently accorded assistance through UNRWA, but were neither registered nor was a definition drafted to address their circumstances. While UNHCR later recognized that Palestinians displaced for the first time from the 1967 Occupied Palestinian Territories, after the 1967 war, and unable to return there for reasons set out in the 1951 Refugee Convention, fall within the Convention's article 1A(2) refugee definition. However, both the special regime for Palestinian refugees, and the global refugee regime, have been equally silent on the status and rights accorded to Palestinians who have been displaced outside the specific circumstances attached to the above definitions. This would include primarily descendants of Palestinians displaced during the British mandate and who became stateless persons, Palestinians displaced from within the *de facto* borders of Israel, especially between May 1948 and April 1952, and up to 1980 when significant numbers of Palestinians who remained within the borders of Israel remained stateless persons under Israel's citizenship law, and Palestinians displaced from the West Bank between the signing of the 1949 armistice agreement between Jordan and Israel and the granting of Jordanian citizenship following the annexation of the West Bank to Jordan. Added to this, of course, are those Palestinians who, for administrative reasons, have been denied registration as a result of their movement between UNRWA fields of operation. In sum, the problem of undocumented refugees essentially arises from two main problems. First, the ad hoc response to Palestinian displacement and the adoption of definitions linked to specific historical circumstances, when, in reality, Palestinian displacement is both systematic and ongoing, and, second, the administrative problems associated with the movement of Palestinians between UNRWA fields of operation. Continued ad hoc approaches to Palestinian displacement may provide a temporary answer to the problem, but fails to address the root cause of the problem. Ongoing Palestinian displacement, the absence of a political solution to the conflict that would provide a solution that respects the rights and interests of the refugees, and the eventual of a solution underlines the need for a comprehensive definition that provides equality of protection to all Palestinians regardless of the circumstances or period of their displacement.

A second, and related question that needs to be addressed alongside the question of a comprehensive refugee definition, is the nature of protection to be accorded to Palestinian refugees. At present, Palestinians who have been displaced from their homes, lands, villages, and towns of origin in Palestine over the past 60 years often appear to be accorded different treatment simply due to the period or circumstances of their displacement even though they may have similar assistance and protection needs. Palestinians displaced outside UNRWA areas of operation or who have shifted residence between agency fields, for example, are more likely to receive less protection in terms of the provision of essential services provided through UNRWA. However, UNHCR may provide greater protection in individual cases through interventions with states than that accorded to the majority of registered refugees residing in one of UNRWA's five fields of operation. At the same time, while UN-

HCR's durable solutions mandate appears to be largely limited to facilitating solutions for a relatively small number of refugees in extreme situations - e.g., Palestinian refugees from Iraq stranded along the Jordanian-Iraqi border - UNRWA's evolving protection mandate includes the promotion of durable solutions that allow for refugee representation and respects refugee rights and interests, although it is not exactly clear what is included or excluded in terms of promotion. For example, does promotion of durable solutions include incorporation of refugee rights in the Agency's human rights and tolerance curriculum or through the facilitation of refugee participation in negotiations through parallel consultative mechanisms, track II talks or through encouraging the parties to allow direct participation of refugees in peace talks. Thus, in conjunction with the adoption of a comprehensive refugee definition, efforts are needed to define what protection is, who is responsible, and the mechanisms available for refugees to claim their rights.

### 3. Collaborative and coordinated approaches - a few suggestions

States - states are primarily responsible to protect refugees within their jurisdiction, including undocumented refugees. One of the basic problems in the Arab countries where undocumented refugees reside, and, indeed, across the region, is the absence of transparent standards and effective immigration and asylum regimes consistent with international standards and best practice. The discussion on the second day of the conference about the status of Palestinians, including undocumented refugees, in Arab host countries, illustrates the ongoing confusion that results from the lack of transparency and clearly elaborated standards. This makes it especially difficult for refugees to know their rights, the obligations of host authorities, and the mechanisms available to claim their rights. While information is available in scattered form, it may be useful to compile information, and make it publicly available. In situations where states have not made such information available, a combination of civil society and international/UN advocacy, in partnership with experts and officials interested in resolving the problem may be necessary. States may also wish to explore whether the model provided by the LPDC in Lebanon is applicable and transferable to other states in the region as a coordinating mechanism to address first the status of undocumented Palestinian refugees, but also the broader and ongoing issues related to the larger refugee population. Such a model, however, should undermine or replace the development and implementation of region-wide standards, as discussed below.

Arab League - The Arab League has drafted and/or documented a range of resolutions and instruments that provide a foundation for a regional approach towards building a comprehensive approach to both protection and durable solutions for Palestinian refugees. The draft 1994 Arab Convention Regulating the Status of Refugees, for examples, includes three important provisions, that, if applied, could significantly advance both protection and solutions for Palestinian refugees in conjunction with effective advocacy and campaigning. These include an expanded refugee definition drawing upon language in the 1969 African Convention on Refugees, which would effectively bring within its scope all Palestinians displaced from Palestine regardless of the period or circumstances of their displacement, including undocumented Palestinian refugees, a general affirming the principle of equality in the treatment of refugees, and, finally, affirmation of the right of return, which is excluded or rather not explicitly addressed in the 1951 Refugee Convention (the right of return is implicit in the principle of *non-foulement*). The 2004 Arab Human Rights Charter, which came into effect in 2008, elaborates a broader set of rights than that set out in the draft Arab Convention on Refugees, and also established a committee of experts to review implementation of the Charter in states' signatories. While there are a range of

political obstacles in realizing the promise of these two inter-related regional regimes, the issue of undocumented Palestinian refugees, given the limited scope of the issue, and the limited resources required of host states to resolve the issue, may provide a platform to help advance the development of both regimes. States hosting undocumented Palestinian refugees, for example, may wish to ratify the draft Arab Convention on Refugees and apply the standards set out therein, creating potential momentum towards ratification of the instrument by a wider group of Arab states. Similarly, civil society groups may wish to refer the issue of undocumented Palestinian refugees to the Committee overseeing the implementation of the Arab Charter as a means to begin to develop committee practice and in the future advance the adoption of an individual complaints mechanism similarly to those available under relevant international human rights conventions.

UNRWA, UNHCR, OHCHR - Relevant UN agencies should adopt a collaborative approach to ensure continuity of protection for all Palestinian refugees both in terms of respect for basic rights on a day-to-day basis and in terms of durable solutions. UNRWA should revisit its refugee definition in the context of its developing approach to protection and within the framework of its 2010-2015 Medium Term Plan to ensure that all Palestinian refugees, regardless of their period of displacement, are registered and are thus able to access protection until they are able to realize a permanent or durable solution. The Agency should also engage host states to resolve the administrative problems resulting from the movement of refugees between the Agency's fields of operation. It should also ensure that refugees are aware of protection standards, related obligations, and mechanisms available to claim their rights. UNHCR should, in collaboration with UNRWA, revisit its revised Note on Article 1D to ensure that Palestinians are not excluded from the protection regime, especially as a result of the geographic division of responsibilities and the limitations imposed by the various definitions of a Palestinian refugee. Together with civil society actors and experts, UN agencies should undertake as an initial step a mapping exercise, addressing definitions, types of protection offered, and categories of Palestinian refugees in order to promote and realize a comprehensive registration system and harmonization of protect in line with relevant international standards. In the meantime, education and awareness campaigns, similar to those discussed above at the state and regional levels, should be developed and applied so that refugees are fully aware of their rights, the concomitant obligations of states, and the mechanisms available to claim their rights, so they can effectively participate in both protection and the search for durable solutions.

Civil society - civil society groups in Lebanon, if they have not already done so, should assess and compile lessons-learned in terms of the role civil society has played in advancing awareness and improving the status of undocumented Palestinian refugees in Lebanon. Such lessons learned could provide the basis for consultation/s among civil society groups in states hosting other groups of undocumented Palestinian refugees, taking into account the differences, limitations, and advantages unique to each host state. Civil society should also play an ongoing role in generating wider awareness of the problem of undocumented Palestinian refugees, starting with education and awareness-raising of rights, obligations and mechanisms among undocumented Palestinian refugees, with host states, regional and international actors. Civil society may wish to partner with relevant actors - the United Nations has played a key role in facilitating similar participatory approaches in



other refugee cases - in bringing together undocumented refugees to discuss their situation, needs, demands, and, in that context, related rights, obligations, and mechanisms to claim their rights.

General principles:

- continuity
- consistency of standards and across fields
- transparency
- accountability

## SUMMARY OF SPEAKERS BIOGRAPHY

### COUNTRY REPRESENTATIVES

#### *Abou Bakr Mohammad*

**Deputy Director  
Refugee Affairs, Palestine Liberation Organization**

Deputy head of PLO Refugee department, started working with the department since 1997.

Tel: 00962796857951

Email: refugees@go.com.jo

#### *Azayze Wajih, Dr.*

**Director General  
Department of Palestinian Affairs**

Director General of Department of Palestinian Affairs. Holds a Bachelor of Civil Engineering, Aleppo University, Syria. Dr Azayze served many functions, including: 1- Commissioner of Jordan in Joint Jordanian and Palestinian committee; 2- Member of studies center council of Refugees, Displaced and Enforced Immigration/ Yarmouk University; 3- Head of Jordanian Delegation participating in the conference of supervisors of Palestinian Refugees affairs/ Arab league.

Tel: 0096265684455

Email: dpa@nic.net.jo

#### *Jomaa Chawkat, Lieut.*

**Representative of the Directorate General of the General Security  
The Lebanese Palestinian Dialogue Committee**

Mr. Jomaa (Lieutenant) joined the Directorate General of the General Security in 2003. He was first appointed at the border control unit at Masnaa, and since 2006 the head of the department of Palestinians and *kaid dars* (under study nationality). He participated in many training sessions on illegal migration, human trafficking and refugees. He represents the General Security in the Lebanese Palestinian Dialogue Committee, since 2007.

Tel: 009611422852

#### *Mazjoub Maya, Me.*

**President  
The Lebanese Palestinian Dialogue Committee**

Appointed in March 2010 to head the Lebanese Palestinian Dialogue Committee, Me Majzoub is attorney at Law and enjoys a wide experience in legal practice, human rights and Palestinian affairs. Member of the Beirut Bar Association and of the committee for Public Freedoms Advocacy within the Bar, she is a former legal advisor to the Ministry of Education and was part of the legal team tasked with the mission of drafting laws for the Ministry, monitoring the follow up and providing the legal support for implementing educational projects. Me Majzoub also served as legal consultant for the Hariri Founda-

tion for Sustainable Human Development. She held the functions of General Coordinator of the Lebanese Palestinian Committee for Dialogue & Development in Saida, South Lebanon.

Tel: 009611983074

Email: mmajzoub@lpdc.gov.lb

## INTERNATIONAL AND REGIONAL INTERGOVERNMENTAL ORGANIZATIONS REPRESENTATIVES

### *Azzam Fateh*

#### **Country Representative**

#### **Office of the High Commissioner for Human Rights**

Fateh Azzam is currently Regional Representative for OHCHR in the Middle East and Board Chair of the newly-established Arab Human Rights Fund (AHRF) in Beirut. Previously, he was Director of the Forced Migration and Refugee Studies Programme at the American University in Cairo, worked as Programme Officer for Human Rights at the Cairo office of the Ford Foundation and was Director of the Palestinian human rights organization Al-Haq in Ramallah. Fateh received LLM in International Human Rights Law from Essex University, Colchester, United Kingdom in 1992.

Tel: 009611078744

Email: azzam1@un.org

### *Haidar Bassem, Dr.*

#### **Mandated Minister**

#### **League of Arab States**

Dr. Haidar started working for the League of Arab States since 1980, when he was a fourth secretary. Since, he worked in different departments and positions, until he reached his current. His experience included working at the human resources department, the conferences and internal supervision department, boycott Israel office, and many others. Today he is a mandated minister, based in Beirut, at the Arab Center for Legal and Judicial Research.

Tel: 009611200281

Email: arableague\_beirut@hotmail.com

### *Ismail Kahen*

#### **Legal protection officer**

#### **UNHCR**

Legal protection officer with UNHCR, with Middle East and North Africa Bureau at UNHCR HQ in Geneva. I am the focal person for Palestinian refugees, a position recently created and dedicated to Palestinian issues. I worked for UNHCR in the past in Sri Lanka, Afghanistan, Sudan and Iraq. I have a legal background.

Tel: 0041227398393

Email: ISMAILK@unhcr.org

### *Le Rutte Mathijs*

#### **Protection Focal Point**

#### **UNRWA**

Mathijs le Rutte is UNRWA's Field Protection Officer in Lebanon, a post created in September 2009. He has studied International Law at Leiden University in the Netherlands, after which he started working for the United Nations High Commissioner for Refugees. His field experience includes protection work for the Vietnamese boatpeople in Hong Kong, three years in Bosnia during the war and its aftermath, Somali refugees in Kenya,

Iraqi refugees in Syria, refugees and IDPs in Serbia, Darfur refugees in Chad. Before being seconded to UNRWA, he worked for five years at the Protection Policy section at UNHCR HQs in Geneva, working among others on issues of Humanitarian Law, Data Protection and Registration.

Tel: 009611840490

Email: m.lerutte@unrwa.org

### ***Lombardo Salvatore***

**Director of UNRWA Affairs, Lebanon  
UNRWA**

Salvatore Lombardo is an Italian national who holds Bachelors and Masters Degrees in international law from the Catholic University of Milan (Italy) and Cambridge University (UK), respectively. Mr. Lombardo joined UNHCR (United Nations High Commissioner for Refugees) in 1986. His last assignment was in Afghanistan as UNHCR Representative. He also served in Djibouti, Cambodia, Lebanon, Bosnia, France and the UN HQ in Geneva and New York. Before joining the United Nations he served as Assistant Professor in International Law. He joined UNRWA as Director of UNRWA Affairs, Lebanon as of 1 September 2008.

Tel: 009611840490

Email: s.lombardo@unrwa.org

## **FOREIGN EMBASSIES REPRESENTATIVES**

### ***Cabrera Roda Irene***

**Country Representative  
Spanish Agency for International Development Cooperation (AECID)**

Holds a Bachelors Degree in Law by the Universidad de Valencia. She has been working for the Spanish Agency for International Development Cooperation in Colombia, Albania and Lebanon.

Tel: 0096171904437

Email: irene.cabrera@aecid.es

### ***Hammoury Assaad***

**Assistant Consul  
Embassy of Palestine in Lebanon**

Specialized in the issue of undocumented Palestinians, a dossier he is in charge of following since 2007, in his position as the assistant consul of the Embassy of Palestine in Lebanon. He is a political scientist with a degree from the Lebanese University, in addition to being a PLO activist.

Tel: 009611844993

Email: plor.lebanon@gmail.com

### ***Sadat Karim, Dr.***

**Political and Cultural Counselor  
Embassy of the Arab Republic of Egypt in Lebanon**

He joined the Egyptian diplomatic corps in 1995. He is currently the Political and Cultural counselor at the Egyptian Embassy in Lebanon. Dr. Sadat holds a bachelor degree in political sciences and a PhD in development.

Tel: 009611825566

Email: sadatkarim@hotmail.com

## NON GOVERNMENTAL ORGANIZATIONS AND EXPERTS

### *Fanous Majed, Me.*

**Lawyer**

**Aidoun**

Me. Fanous is Palestinian refugee living in Syria since 1948. He holds a law degree, Damascus University. Active in defending and advocating for the right of return, he is a founding member of Aidoun group. He practices as an attorney at law since 1978.

Email: [aidoun@scs-net.org](mailto:aidoun@scs-net.org)

### *Jaradat Mohammad*

**Founding member**

**Badil Resource Center for Palestinian Residency & Refugee Rights**

Mr. Jaradat is a founding member of BADIL Resource Center, the global Palestine Right-of-Return Coalition and the BDS Movement. He is a former political prisoner in the Israeli jails. Was born and raised in Hebron, Palestine. He is a veteran Palestinian community activist and a graduate (M.A.) of American studies from al-Quds University, and has substantial knowledge and practical experience in human rights law and journalism.

Tel: 00970599255571

Email: [camp@badil.org](mailto:camp@badil.org)

### *Refaei Enass*

**Program Manager**

**Regional Human Security Center**

Ms. Refaei is the program manager at the Regional Human Security Centre, a position she has held since January 2008. In this capacity, she has overseen, amongst others, the Canadian International Development Agency (CIDA) project which funded the majority of RHSC activities for the past three years. Ms. Al-Refaei has also during her years as program manager implemented projects with UNHCR and the Scholars' Rescue Fund to benefit Iraqi scholars displaced in Amman

Tel: 00962779354848

Email: [enass.alrefaei@rhsc.org.jo](mailto:enass.alrefaei@rhsc.org.jo)

### *Rempel Terrance*

**Independent Consultant**

Mr. Rempel is an independent consultant and PhD candidate in politics at the University of Exeter. His current area of research examines recent experiences of refugee participation in peace processes from both normative and empirical perspectives. Mr. Rempel is also a founding member of BADIL Resource Center for Palestinian Residency & Refugee Rights where he held the posts of research coordinator and senior researcher until 2006. His most current publication - *Rights in Principle, Rights in Practice: Revisiting the Role of International Law in Crafting Durable Solutions for Palestinian Refugees* - is an edited collection of papers exploring different elements of a rights-based solution for Palestinian refugees.

Tel: 0097022777086

Email: [consultant@badil.org](mailto:consultant@badil.org)

***Shiblak Abbas*****Expert in Palestinian Refugees Affairs**

Research Associate at the Refugees Studies Center, University of Oxford since 1992. He is a specialist on refugee-host country relationships and international humanitarian law. Mr. Shiblak has been working on the issue of statelessness in the Arab region, where he has kept abreast of the relevant latest legislation and developments. He is a founder and the first Director of the Palestinian Refugee and Diaspora Centre (SHAML) in Ramallah, and was a member of the Palestinian delegation to the peace talks on the 'Working Group on Refugees'. He is the author of a number of publications.

Email: [ashiblak@tiscali.co.uk](mailto:ashiblak@tiscali.co.uk)

***Sleiman Jaber*****Coordinator****The Center for Refugee Rights/ Aidoun**

Jaber Suleiman is a Palestinian independent researcher/consultant. During 1997-1998 he was a Visiting Study Fellow at the Refugee Studies Program, University of Oxford. He worked as a consultant for the Palestinian Program of UNICEF in Lebanon (June 2007-May 2010). He is an activist in the right of return movement and Palestinian civil society, as well as the Coordinator of the Centre for Refugee Rights/AIDOUN. He has written several studies dealing with Palestinian refugees and the right of return and has contributed to many research projects on Palestinian refugees sponsored by UNRWA, UNDP, and UNICEF.

Tel: 009611306769

Email: [jsleiman@inco.com.lb](mailto:jsleiman@inco.com.lb)

***Trad Samira*****Executive Director****Ruwad Frontiers Association**

Founder and Director of ACSRA, Frontiers Center, and Frontiers Ruwad Association, Lebanese non-governmental organizations working on behalf of stateless and refugees and asylum seekers. She has long working experience in the human rights field at the national and international levels. She has directed and written and published a number of legal studies and policy papers related to stateless and refugee protection. Ms. Trad holds an MA in International Relations (University of Southern California), a Bcs in Sociology (Buckinghamshire College) and a law degree (Robert Schuman University, Strasbourg).

Tel: 009611389556

Email: [frontierscenter@fastmail.fm](mailto:frontierscenter@fastmail.fm)

***Yaseen Abdelkader*****Writer, Historian**

Mr. Yaseen is a Palestinian political writer and historian. He was born in Palestine, and moved with his family to Egypt. He wrote more than 20 books on Palestine, Palestinian struggle, Palestinians in Egypt, Palestinian revolution, and Palestinian political movements.

Tel: 0020226337493

Email: [yaseen1936@yahoo.com](mailto:yaseen1936@yahoo.com)