

B R I E F I N G P A P E R



THE ASPEN INSTITUTE

A STAIRCASE IN NAHR EL BARED
THE FUTURE OF PALESTINIAN REFUGEES IN LEBANON

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EXECUTIVE SUMMARY

LEBANON'S RELATIONS WITH Palestinian refugees, one of the most sensitive issues in the country, was put at the forefront of parliamentary and public debates on June 15, 2010, when a series of legislative proposals were presented to re-examine the refugees' legal status and to resolve the issues surrounding their civil rights.¹ It was the culmination of a national discussion that began in 2005, in which a new atmosphere advocating the examination of the refugee issues started to emerge.

The fact that on August 17th the Lebanese parliament managed to pass amendments facilitating the refugees' access to the labor market is a positive indication that the Lebanese society and its political establishment have put the period of the civil war behind them and are able to tackle such a sensitive issue and come to a compromise. This happened after two months of heated debate, which divided the country along as many lines as the complexity of the issue itself.

If this was a giant step for Lebanon, it was a smaller one for the Palestinians. It would have been in the interest of Lebanon for Parliament to come up with a package resolving property ownership and other issues such as the regulations required to form associations. The rights issue can be addressed with one resolution based on international conventions that Lebanon already adheres to—such as the Arab League's Casablanca Protocols of 1965 or the Arab Peace Initiative of 2002.²

The status of the Palestinians in Lebanon has been unresolved since they began arriving in 1948, and it has resulted in disastrous consequences. For years, the Palestinian refugees had been economically marginalized, living in camps run by armed factions not answerable to the Lebanese state. This situation was exacerbated in May 2007 when Fateh al Islam, a Sunni terrorist group, took over the Nahr al Bared Camp (NBC), located in the north of Lebanon. The group fought the Lebanese army in a fierce battle and was crushed three months later. This clash highlighted the urgency of changing the current arrangement.

The intensity of the debate over refugee rights, together with the slow progress of the reconstruction of Nahr el Bared, is part of a complex regional dynamic. Each aspect of the Palestinians' situation in Lebanon is inextricably linked to a wider clash of interests, ideologies, and narratives—involving both local and regional actors. These conflicts are

not primarily between Lebanese and Palestinian positions; rather, one of the main sources of tension is over the on-going peace process between the PLO and Israel. Both Lebanese and Palestinian actors are split over whether to support negotiations with Israel or whether to advocate resistance to Israel. The main variable impacting the status of the Palestinians in Lebanon, over which local actors have very little control, is the outcome of the Middle East Peace Process—in particular, whether it will impose a permanent settlement of the Palestinian refugees in Lebanon (known as “tawteen”), which is prohibited by the Lebanese constitution.

Given the complexity of the situation, the issues that are under the control of local players—such as civil rights—must be isolated in order to be properly addressed. As this paper will show, the challenge in securing the rights of the Palestinian refugees is twofold: to change both Lebanese and Palestinian perceptions that have taken hold over the last 40 years and to separate the debate on rights from the debate over security and arms as well as over the negotiations and their potential outcome - issues that are further complicated by their attendant regional and international linkages.

The international community can play a constructive role by reinforcing faith in international norms, laws, and the outcome of the Middle East Peace Process, which includes the right of the Palestinians to return to their homeland.

Main Recommendations

- The refugee issue, and its regional and international linkages, is one that Lebanon cannot handle alone. It needs the assurance of continuous engagement and support of the international community.
- Lebanon needs to resolve the issue of refugee rights in a comprehensive manner and get it out of the way in order to strengthen its position vis-à-vis graver matters, such as improving living conditions in the camps, establishing the rule of law and asserting its position against permanent settlement of the refugees in the country.
- The international community can play a pivotal role by reinforcing faith in the outcome of the Middle East Peace Process and its implementation, which includes the right of the Palestinians to return, and in international norms and laws.

¹ Civil rights here is related to the right to work, to own property, and to form associations and excludes the right to vote, to stand for public office, and to nationality.

² The Casablanca Protocols of 1965 gave Palestinians the right of employment, movement, and travel. The Arab Peace Initiative offers a comprehensive plan for an Arab-Israeli reconciliation. It offers Israel recognition in return for a withdrawal from the occupied territories and a just settlement of the Palestinian refugee problem based on UN Resolution 194. The full version can be accessed here http://news.bbc.co.uk/2/hi/middle_east/1844214.stm.

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The views expressed in this document are exclusively those of the author. They do not represent the opinions of the Aspen Institute or Lebanon Renaissance Foundation.

“This government will bear its responsibilities towards the Palestinians living in Lebanon. ... We will do, as government and as parliament, what needs to be done. But the international community has to also bear the responsibility that those Palestinians will have the right to go back to their homeland and to the state of Palestine, with Jerusalem as its capital. ... This conflict cannot continue to the end of time, because all of us in this region will pay the price and all of you around the world will pay the price.”

—*Prime Minister Saad Hariri, excerpt from a speech delivered in Beirut, June 29, 2010*

INTRODUCTION

The Width of a Staircase

In March 2010, a discussion about the width of a staircase in the reconstruction of the Palestinian refugee camp of Nahr el Bared in northern Lebanon opened a Pandora's box of issues that illustrate the complexity of the Palestinian refugee situation in Lebanon.

In the summer of 2007, the camp was destroyed during a battle between Fateh al Islam, a terrorist group that had infiltrated and taken control of the camp, and the Lebanese army. The reconstruction plan was subsequently being carried out in consultation with the inhabitants of the camp, who had been displaced by the battle. The UN Relief and Works Agency for Palestinian Refugees (UNRWA) was in charge of the reconstruction under the supervision of several agencies of the Lebanese state—including the Lebanese army, which was perceived to play a leading role in the camp's destruction.

The consultation over the staircase generated layer upon layer of complications. It evolved into a debate about who has the right to speak on behalf of the refugees, as well as the state of relations between the refugees and the Lebanese state. When UNRWA tried to institute elections to determine community spokespeople for every sector of the camp, it catalyzed a discussion about camp governance—a thorny issue that evoked the legacy of the Palestine Liberation Organization (PLO) in Lebanon and the heavy burden of the civil war. Should the camps be governed by popular committees, linked to the armed factions that have taken control of them, as they currently are? If not, then who should govern them, and under what rubric? What would entrenched interests on the Palestinian side gain by ceding their power to a new order? If the Palestinians were offered greater rights in Lebanon as part of the new order, shouldn't the Lebanese get disarmament of armed groups in return?

This sort of conversation inevitably spurs the discussion of wider issues, such as Lebanon-Syria relations and the legitimacy of Syrian-sponsored Palestinian organizations that are opposed to the PLO and to the Oslo Accords. The role of the international community and the UN Security Council, which issued a resolution to disarm both Lebanese and non-Lebanese militias, is also questioned. And, at the heart of this debate, there are even more sensitive Lebanese concerns, such as sovereignty, sectarian balance, the role of the army,

the army's relations with other Lebanese institutions, and Hizballah's right to remain armed.

All of which takes us a long way from a simple discussion of the width of a staircase.

An Open Wound

The battle of Nahr el Bared highlighted the urgent need to address the issue of Palestinian refugees in Lebanon in a comprehensive manner.³ Former Prime Minister Fouad Siniora called it a “wake up call.” The three-month battle was the first proper war fought by the Lebanese Armed Forces (LAF), which suffered heavy casualties. In a way, it was Lebanon's Gallipoli. It resulted in the destruction of the camp and the displacement of its entire population, and it fueled Lebanese-Palestinian tensions.⁴ The reconstruction of the camp and the return of the displaced Palestinian population also opened a complex set of unresolved issues related to the Palestinian refugees—political, economic, social, technical, and legal issues that had not been raised since the refugees' expulsion from their homes in Palestine in 1948.

The Palestinian refugee issue in Lebanon is an open and infected wound; if it is bandaged up without adequate treatment, it can only get much worse, spread, and affect the whole body. A comprehensive approach, such as that adopted by the Lebanese government of Prime Minister Fouad Siniora in 2005, would resolve the main issues:

- Palestinian refugee status in Lebanon: lifting the legal restrictions that affect their right to work, own property and form associations and thus improving their living conditions both inside and outside the refugee camps. This was addressed by the legislative proposals presented to parliament on June 15, 2010.
- Resolving issues of camp governance: allowing more civil-society participation as opposed to armed factions and restoring Lebanese sovereignty and rule of law. The reconstruction of Nahr el Bared is intended to be a model for this.⁵
- Disarming the factions with military bases outside the camps, mainly those along the border with Syria that under its control and influence (this connects the problem to various regional and international conflicts, over which local players have no control).

³ See “Nurturing Instability: Lebanon's Palestinian Refugee Camps,” International Crisis Group: Middle East Report N°84, (February 19, 2009)

⁴ See Adam Ramadan, “Destroying Nahr el-Bared: Sovereignty and Urbicide in the Space of Exception,” *Political Geography* 28 (2009) 153–163. Ramadan raises grim prospects for the “new order.”

⁵ See Rex Brynen, “Building a Better Relationship: Palestinian Refugees, Lebanon, and the Role of the International Community,” (Ottawa: International Development Research Centre, 2009). Also, Ghassan Abdallah, “Nahr el Bared: The model we do not want.” Palestinian Human Rights Organization, (September 2009)

The chief problem is how to resolve these issues, which are dependent on the outcome of the Middle East Peace Process, when neither the Lebanese nor the Palestinians in Lebanon have any say in the Middle East Peace Process.

High Anxiety: A Tangled Web of Issues

There are a lot of difficult political choices involved in dealing with Palestinian refugees in Lebanon. This is as complex a situation for the Lebanese as it is for the Palestinians; it is rooted in some extremely dark events in their history and touches on issues that define their identity, political development, successes, and failures. It evokes existential dilemmas for both that cannot be raised without awakening emotional reactions related to their future.

When so many issues are entwined, they form a tangled web that no single player has control over or can undo. The issue becomes so complex that it acquires its own dynamic, divorced from the original intentions of any of the actors.⁶

The debates over Palestinian rights and the reconstruction of the NBC involve addressing the links to tawteen, to the question of camp governance, and to the struggle with Israel—a struggle that includes political questions (resistance versus negotiations) as well as on-the-ground strife (Hizbullah's arms linked to Palestinian arms). Additionally, the debates are related to the legacy of Syrian control over Lebanon and by association to disagreements over Lebanon's regional and international alliances, even to controversies related to Lebanon's own identity, political system, cultural heritage, and solidarity with Arab causes.

Every statement or position in the debate creates further links and complications that make even the simplest problems impossible to resolve. Some examples of these positions include:

- International pressure on Lebanon to improve the conditions of the Palestinians is in fact pushing the country toward tawteen. If the refugees get too comfortable, they will forget their right of return and the issue will be shelved when it is not a crisis anymore.
- Any resolution of the internal issues of the Palestinian refugees in Lebanon affects the position of Lebanon as a host country for the Middle East peace process.
- Palestinians should be given their rights. But it is also the duty of the Palestinians living in Lebanon to give up their arms and obey the law.

- Disarming the Palestinians is part of UN Security Council Resolution 1559, which also calls for the disarming of Hizbullah.
- Lebanon is a tiny country. Allowing Palestinians and rich Gulf Arabs to buy property will mean that the Lebanese will not be able to own property in their own country and will thus emigrate.
- Lebanon has the highest population density in the Arab World; adding half-a-million more people will upset the sectarian balance of the population.
- Lebanese youth are emigrating because there are not enough jobs for them in Lebanon. The addition of half-a-million people to the local labor force will strain the economy and exacerbate the emigration problem.
- Lebanon has paid more than its share of dues. Lebanon has suffered considerably for the Palestinian cause—especially during the Israel invasion of 1982 and the occupation of the south of Lebanon until 2000.
- The arms outside the camps belong to organizations under the control of Syria and can become an instrument of instability in Lebanon.
- Camps are zones of lawlessness where all sorts of terrorists hide, as happened in Nahr el Bared.
- Nahr el Bared is built over a Phoenician city that, once excavated, will revive the area's tourist appeal and add to the country's heritage.
- The Americans want to resolve the whole Israeli-Palestinian problem at Lebanon's expense.

As when the reconstruction of a simple staircase spiraled into a broader discussion of Palestinian rights, small issues can form a link leading to so many complications that it seems difficult to resolve anything. Some of these links are related to perceptions and narratives rooted in history; others are related to more concrete problems.⁷

Delineating the linkages between the practical realities of Palestinians living in Lebanon and the greater cultural

⁶ For the economist FA von Hayek, this is what he calls "The result of Human Action but not of Human design."

⁷ Bruno Latour defines intangible links in a complex network and calls them 'semiotic' as opposed to 'material' linkages.

and political implications of their residency is the first step toward resolution. It is impossible to map out the entire web of interconnections; it can be useful, however, to throw light on some of it and highlight the kind of blockages that exist. The objective of this paper is not to seek an exact or comprehensive survey of the Palestinian issue in Lebanon, but rather to suggest a model for understanding it.

Palestinian-Lebanese Relations

Palestinian refugees arrived in Lebanon in 1948, barely five years after its independence. For both the Palestinians and the Lebanese, this interaction has been a major and formative part of their history. For a long time, Beirut was the center of activity for the PLO, especially after the Palestinian leadership was expelled from Jordan in 1970. Lebanon was a place where the Palestinian movement had the most freedom of action. In fact, the PLO in Lebanon was considered by many to be a Palestinian state in exile—a strong and powerful body in Lebanon.⁸ The PLO, and especially the Fateh movement of Yasser Arafat and its student movement, functioned almost like any other Lebanese political party, with many Lebanese adherents during the 1960s and 1970s. The PLO was also an important economic actor from which both the Lebanese and Palestinians benefited.

The Palestinian presence exacerbated Lebanon's internal divisions over whether to participate in pan-Arab causes and wars. Lebanon was seen as having benefited from the conflicts in the region while largely keeping out of the Arab-Israeli wars of 1956, 1967, and 1973. The liberal atmosphere in the country attracted the elites from Egypt, Syria, Palestine, and Iraq, who took refuge in Lebanon after every revolution, coup d'état, land reform, and nationalization. This turned Beirut into a diverse regional hub in the pre-civil-war era. Beirut, it was argued, flourished and was attractive because of the weakness of the state and the laissez-faire economy (hence the much-disputed slogan: "Lebanon's greatest strength is its weakness").⁹

Gradually, Lebanon became the center not only for international finance and business, but also for revolutionary movements.¹⁰ The Lebanese state could not reconcile these two opposing tendencies, which became even more polarized after 1967. The Arab states' defeat in the war with Israel was

translated into grassroots revolutionary fervor, of which Beirut became the nerve center. The PLO's strength and unaccountability reached crisis proportions in 1969 when the Lebanese state was forced, through the Cairo Agreement, to relinquish sovereignty by giving the PLO autonomy in the camps and the right to conduct military operations across its borders.¹¹

The system collapsed under the weight of these contradictions and the civil war erupted in 1975. Then Israel invaded Lebanon in 1978 and 1982, resulting in the expulsion of the PLO. This paralleled a conflict between Syria and the PLO, which was played out in the "war of the camps" in Beirut and in the north, with Syria and its allies eventually taking control of most of the refugee camps. Eventually, the Taif Agreement in 1989 formally ended the civil war. One of Taif's main elements was the prohibition of tawteen, the permanent settlement of the refugees.

The Tawteen Issue

The Lebanese need to be assured that tackling problems like the issue of civil rights does not pave the way for the permanent settlement of the refugees in Lebanon. Conversely, the Palestinian refugees must be assured that bolstered civil rights will not come at the expense their right of return.

The tawteen issue runs through Lebanon's civil war history and is at the heart of the consensus ending it. It also goes to the core of intra-Palestinian politics. One of the reasons tawteen is such a sensitive issue is that it is related to the outcome of the peace process—a variable over which local actors have no control, and thus fear the most.

Rejection of tawteen is also one of the few issues on which there is independent Lebanese and Palestinian consensus. Because all the key players agree that tawteen is a concrete threat and ought to be opposed, the refugee camps lack any kind of permanence. This has an impact on the physical environment of the camps; fear of tawteen is partly what determines the Palestinians' social and economic conditions in Lebanon, with the camps functioning as a symbol of the transient nature of the refugees' presence.

In order to understand the Lebanese position on tawteen, it is necessary to go back to the Taif Agreement, the main elements

⁸ Yezid Sayigh, *Armed Struggle and the Search for a State: The Palestinian National Movement, 1949–1993*. (Oxford: Clarendon Press, 1997)

⁹ See Nadim Shehadi, "Riviera vs. Citadel: the Battle for Lebanon." *Opendemocracy*, (August, 2006).

¹⁰ Rex Brynen, *Sanctuary and Survival: The PLO in Lebanon*. (Boulder: Westview Press, 1990).

¹¹ See Brock Dahl, "The Lebanese-Palestinian Conflict in 1973: The Social (De)Construction of Lebanese Sovereignty." MPhil Thesis St. Antony's College Oxford (2006).

of which were later incorporated into the amendments of the country's constitution. The preamble of the Taif Agreement attempted to resolve four main issues that, in popular perception, contributed to the start of the war.

These four intangible issues related to the history and identity of Lebanon as well as to its fears and anxieties.

- One view of the problem is that half the population is perceived by the other half as not believing in the Arab identity of the country and did not associate with Arab causes, such as the Palestinian cause. They see Lebanon as a Western, French-speaking country and never wanted to participate in any of the Arab-Israeli wars of 1956, 1967, and 1973.
- Another view of the problem is that half of the country does not believe that Lebanon itself is a permanent entity. They think Lebanon is a colonial creation by the French in the 1916 Sykes-Picot agreement and that it will be dissolved once the goal of pan-Arab unity is reached.
- There was also a popular conspiracy, often associated with former US Secretary of State Henry Kissinger, which claimed that the civil war aimed to create a series of sectarian cantons in Lebanon—one for each of the Maronite, Druze, Shiite, and Sunni communities. This was supposed to spread to the rest of the region and Syria, Iraq, and Saudi Arabia would also be split into sectarian cantons. Then Israel would fit in naturally as a Jewish canton.
- Another popular myth sprang up when US State Department Special Envoy Dean Brown visited President Suleiman Frangieh in 1974. Brown is alleged to have offered the president a deal whereby the Christians in Lebanon would be granted a green card or emigration papers to the United States and Canada, and the Palestinian refugees would be settled permanently in Lebanon. The whole Arab-Israeli conflict would effectively be resolved at the expense of Lebanon.

The preamble of the Taif Agreement attempted to address these four perspectives on the identity, permanence, territorial integrity, and demographic make-up of the country.¹² It states:

“Lebanon is a sovereign, free, and independent country and a final homeland for all its citizens. ... Lebanon is Arab in

identity. ... The land of Lebanon is united and belongs to all the Lebanese, ... and there shall be no fragmentation, no partition, and no repatriation (meaning tawteen) [of Palestinians in Lebanon].¹³

In addition, the last sentence of the preamble states: “No authority violating the common co-existence charter shall be legitimate.”

Thus, in the Taif Agreement, the civil war ended on the basis of a compromise that resolves, at least theoretically, most of the issues that are connected with or perceived to be behind the causes of the war. The rejection of tawteen is therefore inextricably interlinked with such concepts as unity, identity, permanence, and the territorial integrity of Lebanon.

In legal terms, this also renders any laws or measures that lead to permanent settlement unconstitutional. The issue is further complicated by the fact that there is no legal definition of tawteen. Logically, it should mean the acquisition of Lebanese nationality; but, in the current discourse on tawteen in Lebanon, anything that improves the conditions of the refugees can be portrayed as a breach of the constitution.

The question of tawteen is even more sensitive in intra-Palestinian debates over the peace process. Refugee opposition to tawteen is a logical extension of their demand for justice and the right of return to their original homes in Palestine. There is a perception among Palestinians that the Oslo process and the agreements that followed have been lax on the right of return and creative in defining it down to such an extent as to render it void of any meaning. This fear is compounded by the feeling among the refugees that the PLO abandoned them to their fate in Lebanon and that the refugees all over the region sometimes end up paying for the PLO's mistakes.

The tawteen issue is thus linked to the fault line between those who reject the Oslo peace agreement and those who accept it. This also echoes the division between the Fateh/PLO factions and the Hamas/Pro-Syrian factions and is reflected in Lebanon through the Hizballah/March 14 divide.

Because of such sensitivities, refugees themselves are sometimes suspicious and resistant to certain types of

¹² For an analysis of this, see Joseph Maïla, *The Document of National Understanding: A Commentary*. (Beirut: Center for Lebanese Studies, 1991).

¹³ The most accessible text is from Wikisource and these excerpts are from clauses 1A, 1B, and 1H or the preamble of the agreement (my emphasis).

improvement in their conditions; they too fear that it might be a first step in the process of permanent settlement. This phenomenon has occurred not only in Lebanon, but even in places like the West Bank (during the reconstruction of the refugee camp in Jenin) and in Aleppo, Syria (when improvements were made to the conditions of the refugee camp at Nairab).

As long as the solution to the Palestinian refugee issue is considered to be independent of the will of the host countries and independent of the will of the refugees outside the Palestinian National Authority, then there will always be suspicions of such a solution. It is only rational for the parties concerned to assume the worst-case scenario and create measures to counter it.

The specter of tawteen is thus the ultimate taboo; any issue that is directly linked to the permanent settlement of the Palestinian refugees in Lebanon is blocked, and all arguments and conversations about tawteen become non-starters. This makes tawteen an ideal subject to be exploited in political manipulation.

Political exploitation has also made tawteen a partisan issue. There were often claims, before 2005, that Syria's presence in Lebanon was to protect the country from the conspiracy of tawteen supporters. Opponents of Prime Minister Rafic Hariri accused him of fostering a conspiracy to promote tawteen in the electoral campaigns of 1996 and 2000 because of his perceived support for the peace process. An investment-promotion law, which proposed an amendment that would facilitate foreign acquisition of property in the country, was opposed in 2001 and blocked by those who opposed it using the argument that it would also promote tawteen and was therefore unconstitutional. Indeed, the investment-promotion law was only passed after it was amended to exclude the Palestinian refugees from owning property in the country.

Then-President Emile Lahoud justified the extension of his mandate in 2004 by referring to the fact that he needed to be there to oppose the conspiracy of tawteen. This manipulation of the tawteen issue backfired, evoking demands for a more rational approach to the refugee issue.

The move to deal with the Palestinian refugee issue in a rational manner began with the signing of the Beirut Declaration in 2004, which called for turning the page on the civil war and dealing with its legacy, including the relations with the Palestinians.¹⁴ This later became the basis for the Bristol Hotel declaration, which launched the opposition to Syrian presence in the country.¹⁵ This coincided with rising demands to stop exploiting the Palestinian refugee issue in the internal political arena.

The 2005 assassination of former Prime Minister Rafik Hariri shook the country and reopened all the wounds of the past 30 years. The Cedar Revolution—as it is often called—is often associated with Lebanon's rejection of Syrian power within its borders, but this is only one side of the story. Rather, the Cedar Revolution was a process that sent more than half the country's population to the streets with opposing demands and slogans. There were demonstrations and counter-demonstrations—each with competing agendas that became known as the March 8 and March 14 coalitions. What was common between them was that they were both driven by the same event—the assassination of former Prime Minister Rafik Hariri. It was like the Lebanese people were suddenly shaken out of a coma, wandering out into the streets and wondering where to go from there.

Nothing encapsulates the problems of the past and the challenges of the future more than Lebanon's relations with its Palestinian refugee population and the outstanding issues related to them. Triggered by the assassination of Hariri in 2005, the Palestinian refugee issue was raised amidst the general drive for re-evaluating history, values, and institutions in Lebanon. It was one of the many taboos that were broken that year: Until then, the status of the refugees had not been raised in public policy debates for more than 40 years.

The Question of Refugee Rights

The humanitarian dimension of the Palestinian refugee issue, as well as their status and rights in the country, was never addressed in a comprehensive manner in Lebanon before 2005.

The issue of the refugee rights in Lebanon was included in the

¹⁴ Beirut Letter of Samir Frangieh and Saoud el Maoula, 2004.

¹⁵ For the text see: http://www.lebanonwire.com/0412/04121801bristol_declaration.asp

Cairo Agreement of 1969 but did not figure prominently on the agenda of Palestinian-Lebanese relations at the height of PLO power in Lebanon. At that point, the PLO could provide more jobs and services to the refugees than the disintegrated Lebanese state could for its own citizens. Throughout the civil war, the issue of refugee relations continued to be conducted through the PLO. The PLO left Lebanon in 1982, and the Cairo Agreement was abrogated unilaterally by the Lebanese parliament in 1987, leaving a vacuum in Lebanese-Palestinian relations that has not since been filled.

The issue of the rights and status of the refugees was brought up soon after the end of the civil war in 1991, when a ministerial committee was appointed to start a dialogue with a Palestinian counterpart. This dialogue ceased with the advent of the Madrid conference and the launch of the Middle East peace process in 1993. Dialogue with Palestinians over refugee rights was seen to be incompatible with Lebanon's participation at Madrid. It was argued that nothing related to the status of the refugees could be resolved internally and therefore the issue should be placed on the international negotiating table. The issue of refugee civil rights fell hostage to the Middle East peace process and hence to the issue of tawteen. This contributed to the absence of a discussion of refugee rights throughout the 1990s.

Refugee rights were thus off the Lebanese agenda for 30 years—between 1975 and 1990 because of the civil war and between 1990 and 2005 because of the Peace Process and Syrian control of the file. In 2005, resolving the rights issue finally became a part of successive governments' policy statements and was also the subject of intensive campaigns by civil society and political groups.

Refugee Rights in Lebanon: Myths and Realities

There is a lot of confusion about the issue of Palestinian refugee rights in Lebanon. The text of Lebanese law treats the rights issues as a matter of status rather than as an exclusion of Palestinians from certain rights per se. This makes addressing the rights issue paradoxically both simple on the technical level but also complicated politically. Technically, a change of status could resolve most of the outstanding issues without the need to amend the laws. However, politically, a change of status is automatically linked with the issue of permanent settlement.

Palestinians in Lebanon are considered non-citizens by law; this means that they are excluded, along with other foreign nationals, from certain jobs and require a work permit for

others. Palestinians are also not citizens of a recognized state and hence do not benefit from reciprocity clauses and this bars them from certain categories of jobs and from social security benefits. Since 2001, Palestinians have not been allowed to acquire property because they do not belong to a recognized state; although, unlike other foreign nationals, they do not require a residency permit. The amendment to the laws, passed by parliament on August 17, 2010, resolves most of the issues related to Palestinian access to the labor market but does not touch on the property ownership issue or on the right to form associations.

If the debate reaches a point where Palestinian refugee rights can be discussed without any linkages to other problems, like tawteen and arms, then the purely technical issues related to passing legislation in the Lebanese parliament are dependent on two factors:

- The perceived impact of such laws on the economy and society. The issue here is the difference between the perception of the situation on the ground and the reality of it—an important challenge complicated by more than 62 years of history.
- The manner in which the legislation is formulated. The options are either to handle each legal issue on its own in separate pieces of legislation creating exceptions for the refugees or to formulate one single legal amendment that gives the refugees a special status and which would then resolve all the legal issues. There are valid arguments for both options.

There is a difference between the text of the laws that need to be changed and the perceptions that need to be changed (perceptions both of the situation on the ground and of the proposed laws' impact). These perceptions are reflected in Lebanon's mainstream literature on refugees, which often presents the situation in a rights based approach. The humanitarian aspects of the refugee problem are often exaggerated, and Palestinian refugees are presented solely as victims of discriminatory laws which adversely affect their living conditions. Meanwhile, the impact of factors like security conditions and arms in the camps is treated separately—even though the effect of degrading security may have an even greater negative impact on the welfare of the refugees than legal concerns. The way the problem is projected in Lebanon is not helpful when it comes to changing legislation. What is needed is an accurate reflection of the situation on the ground to help legislators assess the impact of their decisions on the Lebanese economy, culture, and security.

The most obvious example of a need for legislative reflection is

on employment. When it comes to unemployment in Lebanon, the Palestinian refugees are seen through two distinct lenses. The first lens shows the Palestinians in Lebanon as prohibited from working in 72 professions and therefore largely unemployed, living off ever-decreasing UNRWA handouts and services. According to this point of view, the refugees are the victims of discrimination—only allowed access to menial jobs under harsh conditions.

The second lens shows the Palestinian refugees as working in most trades and professions, albeit illegally. Their unemployment and emigration patterns are similar to those of the host country, and their health indicators are in some cases slightly better than the host's indicators. The refugees are highly educated, highly skilled, and entrepreneurial. Their contribution to the Lebanese economy is significant, and they would flourish even further if their rights were respected under conditions of peace, security, and rule of law.

The real question is which of these two images accurately represents reality? The discrepancy between the two images is significant, and it affects lawmakers' perceptions of the impact new legal measures would have. Most of the reports on the situation of Palestinian refugees in Lebanon tend to adopt a rights-based approach that exaggerates the conditions on the ground and largely reflects the first image, in which Palestinian refugees are barred from fully participating in the Lebanese economy and are living off of diminishing aid packages. Unfortunately, this view inflates the impact a new law would have on the economy and society, and it does not help to sway legislators. If the first image is true, then the lawmaker is faced with developing legislation that will create a whole new reality on the ground and inject an additional 10 percent unemployment into the Lebanese labor market.¹⁶ On the other hand, if the second image is true and Palestinians are already a dynamic part of the Lebanese economic system, then changing the text of the law to fit the reality on the ground will have much less negative impact on the economy as a whole; in fact, it would only improve a situation that already exists.¹⁷

Another misperception of the Palestinian refugee issue involves the freedom of association. Again, this can be seen through two lenses. The first lens portrays the Palestinians in Lebanon as being denied their very basic human rights, including their freedom of association. According to this

view, they are prohibited from forming associations and nongovernmental organizations because the Lebanese law to register associations requires a board composed of Lebanese citizens. The second image portrays the Palestinians in Lebanon as having a very active and flourishing civil society that is well integrated into and collaborative with Lebanese civil society. Once more, the second image is closer to the truth: Lebanon has more Palestinian civil society organizations than any other refugee host country. Palestinian civil society organizations and political groups span the entire political spectrum. Again, the first image conveys the wrong message to lawmakers and amending the law would actually be a simple matter of changing the text to fit the reality.

The same discrepancy can be found for most Palestinian refugees' legal problems. Changing the property law does not mean that half-a-million Palestinians will purchase property in the country; it basically means that those who have purchased land prior to 2001 will be able to register it and pass it on to their heirs. The issue of Palestinian ownership is being linked in the public debate to the overall issue of foreign property ownership. This has been a controversial issue since the 1960s, when there was fear that oil Sheikhs would buy all the prime real estate in the country. While the larger problem of tawteen remains highly sensitive and needs to be resolved, it should be dissociated from the question of Palestinian property.

Putting the civil rights issue in perspective will also help. The loss of welfare that the refugees have suffered since 1981, during the height of PLO power in Lebanon, is multifaceted. There is no doubt that Palestinian refugees in Lebanon suffer from poverty, unemployment, and discrimination; but it is difficult to isolate the impact that new legislation will have on these problems. Palestinian security and governance issues are rarely taken into account in empirical studies and their contribution to the refugees' misery is difficult to measure.

Palestinian refugees in Lebanon have suffered many setbacks in the last 40 years that have affected their overall welfare. The cumulative effect of these setbacks is only partially related to their legal status in Lebanon. The absence of the PLO in Lebanon—its budget, its institutions, and its protection—is by far the greatest factor affecting the lives of the refugees. The PLO, at the height of its power in the country, employed

¹⁶ One MP compared this figure to six million people in France.

¹⁷ The Najdeh Association studies are an example of what is needed. <http://www.association-najdeh.org/>

about 65 percent of the Palestinian population and distributed around 3,000 scholarships a year. Roughly 10,000 families received pensions from the organization, and its institutions benefited Palestinians and Lebanese alike. The expulsion of Palestinians from Kuwait and other Gulf countries after the Gulf war in 1991 also resulted in a loss of remittances and job opportunities.¹⁸ The collapse of the Soviet bloc has also been a factor that negatively affects the Palestinians.

So far, Palestinian refugees are net losers from the Middle East peace process, which has shifted attention to the West Bank and Gaza—as has the international community and wealthy Palestinian businessmen. The tightening of UNRWA budgets, mainly since 1995, has hurt the refugees as well. In addition, refugee host countries have tightened restrictions on movement of Palestinians while the peace process is underway. Meanwhile, Palestinian refugees have also suffered from the general worsening of economic conditions in Lebanon due to the civil war. Plus, the adverse effects of camp governance issues—like factional conflict and competition among armed groups for the recruitment of youth—also limit economic opportunities for the refugees.

Rights and Security

The camps continue to be the scene of conflict among various Palestinian factions, and the resulting violence and security conditions have an economic cost.¹⁹ Current Lebanese legislation is only one of many factors (and perhaps one of the less influential factors) that has contributed to the plight of the refugees.

The example of the refugee camp of Nahr el Bared in North Lebanon illustrates this point. The camp was destroyed during inter-factional fighting in 1983 when Yasser Arafat made it his alternative base. However, it managed to recover and became one of the richest camps in Lebanon, with a thriving market and a standard of living equivalent to, if not higher than, that of the surrounding areas. And this happened despite all the legal restrictions on the refugees. The factors behind the current tragedy that rendered them destitute are more related to security conditions in the camps (the infiltration of Fateh al Islam terrorists) than to Lebanese legislation.

Lebanon's priority is the establishment of sovereignty and rule of law over its territory. Resolving the issue of Palestinian arms is more important for the stability of the country than

resolving the issue of rights. The same applies for the welfare of the refugees. In fact, the division over the arms issue is one that is internal in both Palestinian and Lebanese contexts. For many, bearing arms is directly linked to the resistance-to-Israel option and thus disarming the factions or decreasing their control is linked to the issue of disarming Hezbollah.

The debate over rights often brings up the idea of a package deal, in which Lebanon grants the Palestinian refugees basic civil rights in exchange for them giving up arms and respecting the rule of law. But this is a dangerous and complicated proposition: The issue of arms is linked to the external actors who supply them and sponsors the organizations that have them—mainly Syria—and is not fully in the control of the Lebanese or the Palestinians.

A trade-off between arms and rights is also problematic because the spokesmen for the camps often come from the very factions a package deal would seek to disarm. In fact, these armed factions could gain more power whether a deal is struck or not: If no rights are granted, they continue to gain power with their arms; and, if rights are granted, they gain power by taking the credit for obtaining them. Involving these factions in any bargain could play to their advantage.

Squaring the Circle

There is currently an opportunity to address the issue of Palestinian civil rights in parliament. The amendments passed on August 17, important as they are, only address restrictions on labor and postpone the discussion over property and association. Only when these issues are resolved would the likelihood of disarming the factions increase. The solution, in essence, is to dissociate the debate over rights from those over tawteen and Palestinian arms. As discussed before, at the conceptual level, the links created by the tawteen and arms debates, can be broken by establishing the following points:

- 1 - The living conditions and legal status of the refugees do not bear any relation to their political rights in the peace process. This means that civil rights are not connected to tawteen or the right of return. A Palestinian refugee (or a descendent) living in Boston with a Ph.D., a job, US citizenship, and a boat in Nantucket harbor has exactly the same individual right to return and compensation as a stateless refugee living in poverty in a camp in Lebanon. In fact, evidence from other

¹⁸ After the liberation of Kuwait in 1991, 90 percent of its active Palestinian population were expelled from the country.

¹⁹ The "Camps War" in 1984 and 1985 ousted Fatah from Beirut and the North and resulted in the devastation and destruction of several camps.

refugee cases shows that the former may be even keener to pursue these rights.

- 2 - Legal reforms giving Palestinian refugees the right to work and own property should not be conditional on concessions to the arms issue. Rights are inalienable and should be granted unilaterally, without a quid-pro-quo. The debate over labor rights often evoked this link.
- 3 - Linking arms and rights may render both issues irresolvable. The arms issue is not resolvable internally because of its regional and international dimensions. Palestinian armed groups with military installations outside the official refugee camps in Lebanon are part of the Syrian legacy and cannot be resolved locally. Dissociating arms from rights, however, will strengthen the position against arms.
- 4 - The issues of armed groups and the rule of law inside the camps are linked to the broader question of camp governance and that of representation of the refugees. The rule of the factions is strengthened if they get the credit for any perceived concessions on rights, so any negotiations over camp governance should not be linked to rights.
- 5 - There is also a link between the issue of camp governance and the success of the new order in Nahr el Bared. It is undesirable for both the Lebanese and Palestinians for the Nahr el Bared area to become a military zone. The Lebanese army won an important military and political battle in 2007. Success will be measured by the extent to which the area is able to provide a viable alternative to the old order that caused the tragedy.

Even if the arguments above seem like they could lead to the resolution of refugee civil rights in Lebanon, none of the arguments are credible if there is a lack of faith in the international community. Delivering a just and durable solution to the refugee issue has to be a part of the Middle East peace process.

A One-Step Solution:

A one-step piece of legislation to resolve all the civil rights issues would involve changing the status of Palestinian refugees so that they had most of the same rights as Lebanese citizens—but without citizenship, voting rights, or the ability to hold political office. The refugees would also be granted the same property owning rights as non-citizens. The law could also include clauses to stem the impact of refugees on Lebanon's treasury and economy by limiting refugees' access

to social security, health, and education services, which are the duty of UNRWA.

There are Arab League protocols and declarations to which Lebanon already adheres that can be combined and used for the one-step legislative option. These are the Casablanca Protocols and the Arab Peace Initiative. The Protocols were declared in 1965 to prevent the absorption of Palestinian refugees into host countries and to help the refugees maintain their identity. The Protocols call on member states to grant Palestinian refugees all rights enjoyed by their own citizens—except for nationality. Changes to the legal status of the refugees based on the Protocols would resolve most of the refugees' legal problems in Lebanon. Additionally, the Arab Peace Initiative, declared in Beirut in 2002, accepts the two-state solution to the Arab-Israeli conflict while asserting its support for a resolution of the refugee issue based on the recognition of their right of return.

The one-step legislation would thus include four principal clauses:

- 1 - A legal definition of tawteen as being the acquisition of Lebanese nationality. This is already proposed by one of the parties that presented draft proposals to parliament.
- 2 - A review of Lebanon's current reservations on the Casablanca Protocols, which would give Palestinian refugees equal rights with Lebanese citizens—except for citizenship, voting, or holding public office—and would be conditional on its impact on the treasury. This means that Palestinians do not need to obtain work permits anymore or that their refugee registration, which gives them the right of residence, would also give them permission to work. This would also resolve problems associated with other laws and regulations, such as the association law.
- 3 - An interpretation of Lebanon's implicit recognition of the Palestinian state through the Arab Peace Initiative to enable the Palestinians to enjoy the benefits of reciprocity clauses. This would also enable them to own property because they would no longer belong to an unrecognized state.
- 4 - Reassurance that both the Casablanca Protocols and the Arab Peace Initiative protect against tawteen and support the right of return.

What actually happened in Parliament

Legislative amendments that were passed in August reflect a political compromise among the Lebanese parties; in the end,

they had little if anything to do with the substance of the issue. Initially, Parliament split among sectarian lines and across the political divide between March 14 and March 8 coalitions. During the debates, there were two principal political concerns:

- The March 14 alliance was eager to reach a compromise that would stop the country from being divided over the issue along sectarian lines. The compromise became the main objective in that process and Palestinian rights the secondary one.
- Competition between the Kataeb party and the Free Patriotic Movement of General Aoun over their own Christian constituencies took precedence over the issue of Palestinian rights. This led them to compete by taking tougher stances to appeal to their constituencies, where elections are won and lost by a very small margin.

The compromise that was reached in the end was very significant. It led to the amendment of legislation exempting registered Palestinian refugees from all fees related to obtaining a work permit, lifting the restrictions on their employment from all categories and professions except where the rules of Professional Orders have to be satisfied and also making an exception in their favor by also exempting them from reciprocity requirements. Refugees were given access to social security benefits when it comes to benefiting from end of service indemnity, and labor arbitration tribunals with a separate account proposed in order to isolate this from any impact on the Lebanese treasury. Other legal issues such as property ownership and the access to registration of associations were deemed too sensitive to be dealt with at the same time and were postponed.

The fact that this result was reached is very important; it is an indication of the country's ability to compromise and of the distance it has taken from the legacy of the civil war. Most importantly, the links between lifting restrictions on Palestinian labor and permanent settlement was not made in the legislation and also there was no link with the arms issue even though both these links were brought up several times in the debates.

The end result is less satisfactory to the Palestinians for several reasons. The need for a work permit was maintained as part of the compromise. The formula adopted was to symbolically maintain the foreign status of the refugees in order to allay the fears of tawteen while at the same time exempting them from the fees and facilitating the procedures. International engagement and responsibility over the refugees was maintained in the compromise by excluding the refugees from access to the health services, which are deemed the responsibility of UNRWA. Other legal issues such as property ownership and the formation of associations were not dealt with and

there is concern that priorities have shifted to other matters. The re-launch of direct talks between Israel and the PLO may again have an adverse effect and cause further delay in discussing rights issues. It is in Lebanon's interest to resolve all these issues in order to increase confidence and facilitate dealing with other more important and urgent matters like camp improvement and camp governance. If the current negotiations bear fruit, there is also the necessity of preparing for implementation and strengthening the Lebanese position in a process that may take over ten years.

Where do we go from here?

The controversy over a few centimeters in the width of the staircase at Nahr el Bared brings out the range of psychological, political, and technical issues involved in addressing the situation of the Palestinians in Lebanon, as does the civil rights debate.

There are various ways the international community can help local actors in their efforts to resolve these problems.

- The staircase has to be built. The reconstruction of Nahr el Bared, is of utmost importance and is a means of gaining confidence in the new order that is being developed to replace the old one that allowed the takeover of the camp by Fateh al Islam terrorists. Arab and international funding needs to be secured. The camp is being rebuilt because the inhabitants are the victims of the battle—not the cause of it.
- UNRWA needs to be brought out of financial crisis mode. UNRWA is important not just as a service provider, but because it symbolizes international engagement in the issue for both the Lebanese and Palestinians, and because it has a shared responsibility in the issue. This assurance of international involvement will help facilitate the resolution of other problems, like the rights issue.
- Improvement in the chances of a negotiated solution to the Palestinian-Israeli conflict is imperative. The aftermath of the summer war of 2006 and the Gaza war of 2008-2009 created considerable damage to Lebanon's confidence in international legal norms and protection. This confidence needs to be restored.
- On the regional level, firm diplomatic pressure can help with the issue of the supply of arms from outside the camps—over which Syria has control.

The staircase must lead to a more comfortable home, to a life of dignity and prosperity under the rule of law. The staircase does not lead to a substitute for justice for the refugees or for their right of return; it is not a symbol of permanent settlement.



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