

Displaced and Stateless
Palestinian Refugees fleeing the Syrian Crisis

Lulwa Al-Kilani
MA in Humanitarian Assistance
Tufts University

Table of Contents

Introduction	3
Palestinian Refugees, Statelessness and the Protection Gap	6
Definitions	
Protection Gap	
Statelessness and Rightlessness	
Palestinian Refugees	
Displacement of Palestinians	
Separate Regime for Palestinian Refugees	
Article 1D of the Refugee Convention	
Situation of Palestinian Refugees fleeing Syria	16
Syria	
<i>Palestinian Refugees in Syria</i>	
<i>Palestinian refugees and the Syrian Crisis</i>	
Jordan	
<i>Palestinian Refugees in Jordan</i>	
<i>Jordan and the Palestinian Refugees from Syria</i>	
Lebanon	
<i>Palestinian Refugees in Lebanon</i>	
<i>Lebanon and the Palestinian Refugees from Syria</i>	
UNRWA, UNHCR and Palestinian Refugees	26
UNRWA and the protection of Palestinian refugees	
UNHCR and the protection of Palestinian refugees	
History of UNRWA and UNHCR collaboration	
UNRWA, UNHCR and the Palestinian refugees from Syria	
<i>Jordan</i>	
<i>Lebanon</i>	
Conclusion	34
Bibliography	37

Chapter 1: Introduction

“With my stateless status, a few questions keep me up at night. Where do I settle? More accurately, where can I settle indefinitely? Will I be able to always work? Who and where do I go to if I am ever in trouble? How do I fully fund my health insurance and old age care? How will I survive potential unemployment periods?”¹

These are the kind of questions that a stateless person thinks about, they are similar to questions that citizens all over the world think about. However, in the case of a stateless person there is no baseline to start from. In a world classified by nation states, and their citizens, stateless people live on the margins without membership in any state, and, as a consequence, have few enforceable legal rights. Stateless people, lack ‘the right to have rights.’ Because no government recognizes them as citizens, they are vulnerable. They lack the basic forms of identification, some don’t have birth certificates, many can’t get documents to be able to travel and better their lives in countries that might allow them entry and work permits. Some nations might give stateless people some rights as a matter of policy, allowing them to stay in the country giving them rights and protections. However, the vulnerability of stateless people, is when the state decides not to allow them to stay, in contrast people with citizenship, they have no state to fall back on. “If they are ordered to leave, no other state, including the state where they were born, has an obligation to allow them to enter. In these circumstances, statelessness is “rightlessness.”²

The right to nationality is a fundamental human right. Article 15 of the Universal Declaration of Human Rights of 1948 declares, “Everyone has the right to a nationality.” It is the right from which other rights and entitlements can flow – to education, medical care, work, property ownership, travel, state protection – in short, to full participation in a world composed of nation states. Changing the status of people to non-citizens or threatening the security of their residency status generates insecurity and has a negative long-term social and psychological impact. “Stateless communities are the first to pay the price for political instability and insecurity in the countries where they find themselves.”³ Without access to education or employment, stateless communities are exposed to political manipulation, exploitation and poverty.

This paper analyses the situation of stateless people in times of conflict, looking at what legal protection they are being provided and how. To achieve this the paper will concentrate on a group of stateless people, the Palestinian refugees; specifically the Palestinian refugees from Syria. An assessment of the adequacy of the legal protection available to Palestinian refugees will be explored, looking at their history since they left Palestine and how they have been treated. This will lead to a thorough examination of the situation of the Palestinian refugees from Syria fleeing the conflict. The aim of this paper is to highlight the plight of Palestinian refugees from Syria and the situation that they find themselves in as

¹ Askoul, Rana, *Behind the numbers, the reality of being a stateless Palestinian is harsh*. The National, August, 2, 2014, <http://www.thenational.ae/opinion/comment/behind-the-numbers-the-reality-of-being-a-stateless-palestinian-is-harsh>

² Fullerton, Maryellen, *The Intersection of Statelessness and Refugee Protection in US Asylum Policy*. Journal of Migration and Human Security, 2014, p. 145.

³ Shiblak, Abbas, *Stateless Palestinians*. Forced Migration Review 26, August 2006. <http://www.fmreview.org/FMRpdfs/FMR26/FMR2603.pdf?q=stateless> p. 8.

they attempt to flee the conflict, as well as to suggest how UN refugee agencies should better respond to this secondary forced displacement of Palestinian refugees from Syria.

The international community post-World War II believed that statelessness was a by product of a global war, the disintegration of empires and the decolonisation process and that it would gradually decrease in the post-war world. This is illustrated by the fact that it was only in the 1990s that the General Assembly formally place the stateless within the United Nations High Commissioner for Refugee (UNHCR) mandate.⁴ At least 10 million people are estimated to be without nationality and, as a consequence, without a legal link to any country.⁵ The phenomenon of statelessness has not disappeared.

A number of factors contribute to statelessness; these include the inability of many vulnerable populations to register births, gender discrimination in nationality laws, and the impact of *jus sanguinis*⁶ citizenship regimes. Many parents are unable to register the births of their children, in particular when families have been displaced from their homes. “Children without birth certificates grow up to be adults whom no country will acknowledge as nationals.”⁷ Gender discrimination in nationality laws can also result in statelessness, especially with linked to *jus sanguinis*. To give an example, some states confer citizenship at birth according to paternal descent. A woman from such a country married to a stateless man would not be able to pass her citizenship to her child, who would be stateless.

Furthermore, statelessness in recent history has often resulted from political upheaval, armed conflict, or ethnic targeting. For example, more than one million Rohingya live on the borders of Myanmar and Bangladesh and are denied nationality by each State.⁸ They are called “illegal” immigrants, though their families have resided in the same villages for multiple generations. They need government permission to leave their villages, to marry, or to have more than two children.⁹

Palestinians form another large stateless community. The population displaced by the Arab- Israeli war of 1948 and 1967 has taken root in many other countries in the Middle East. “Statelessness has dominated and shaped the lives of four generations of Palestinian refugees since their exodus in 1948.”¹⁰ Lebanon, Syria, and other Arab States that the Palestinians generally provide residence and travel permits, but not citizenship. While many Palestinians acquired Jordanian nationality, the past decade has seen Jordan’s withdrawal of citizenship from thousands of Palestinians.¹¹

In 2011, the Syrian conflict started, creating over three million refugees fleeing mainly to surrounding Arab countries. Alongside Syrian citizens affected by the conflict is a population of about half a million Palestinian refugees. While Syrians have faced difficulties in seeking refuge in the neighboring countries; the Palestinian refugees from Syria who are also fleeing from the same conflict are also facing additional obstacles as denied access to territory and forcible return. In cases where they have gained entry, they have not enjoyed the international protection regime available to Syrian refugees.

⁴ see G.A. Res. A/Res/50/152 Feb. 9. 1996; <http://www.un.org/documents/ga/res/50/ares50-152.htm>

⁵ UNHCR, *Global Trends, 2013* p. 2

⁶ Under *jus sanguinis* principles, citizenship is based on the citizenship of the parents; under *jus soli*, citizenship is based on the territory in which the birth occurs.

⁷ Fullerton. p. 148

⁸ Fullerton, Maryellen. *Without Protection: Refugees and Statelessness A Commentary and Challenge*. Brooklyn Law School, 2013

⁹ Fullerton.

¹⁰ Shiblak, 2006. p. 8.

¹¹ Human Rights Watch, *Stateless Again, Palestinian-Origin Jordanians Deprived of their Nationality*, 2010.

Scholars, jurists and advocacy groups are increasingly challenging the legitimacy of the decision taken during the drafting of the 1951 Refugee Convention to exclude Palestinians from the international protection regime. This decision was based on the fact that the United Nations Relief Works Agency (UNRWA) was assisting Palestinian refugees; this will be discussed in more detail in subsequent chapters of this paper. “There is wider awareness of the need to make the international refugee regime relevant for Palestinian refugees and to formally acknowledge the impacts of statelessness.”¹²

This paper is divided into 4 chapters, chapter 2 examines the protection challenges faced by stateless people, using the theories of Hannah Arendt which links statelessness to rightlessness. The chapter goes on to examine the separate international legal regime that was created for Palestinian refugees after 1948, and the protection gap that it has created for them. Chapter 3 examines the situation of Palestinian refugees in Syria before the crisis, seeing how the conflict has affected them in Syria and as they fled to the neighboring countries. The chapter will highlight the discrimination that they are facing as they attempt to find refuge in Jordan and Lebanon, detailing the policies and practices of both countries towards Palestinian refugees from Syria. Chapter 4 examines the mandates of UNRWA and UNHCR in respect to the protection of Palestinian refugees. In addition, an analysis of the inter-agency collaboration on behalf of Palestinian refugees will be described, looking at their displacement in Kuwait, Libya and Iraq. Finally the chapter will look specifically at UNRWA and UNCHR activities in Jordan and Lebanon as they try to fill the protection gap the Palestinian refugees from Syria are facing. In the final chapter of the paper, recommendations will be made to UNRWA and UNHCR on how to further close the protection gap being faced by the Palestinians fleeing Syria.

¹² Shiblak, 2006. p. 9

Chapter 2 Palestinian Refugees, Statelessness and the Protection Gap

“Citizenship is...nothing less than the right to have rights. Remove this priceless possession and there remains a stateless person, disgraced and degraded in the eyes of his countrymen.”¹³

To prevent the serious consequences of statelessness for individuals and societies, the international community has agreed that all human beings should enjoy the right to a nationality. Possession of nationality is essential for full participation in society and a prerequisite for the enjoyment of the full range of human rights. Being a refugee, stateless, dispossessed, lacking the passport of a state, not having even the theoretical option of returning to one’s country—in other words, not having even the right to have rights—“has been at the very heart of the Palestinian refugee problem.”¹⁴

The protection of stateless people faces two challenges, first is in connection to nationality and citizenship as states are the mechanism through which individuals access the rights extended by international human rights law. “From the point of view of international law, the stateless person is an anomaly, nationality still being the principle like between the individual and the Law of Nations”¹⁵ The second involves the definition of refugee and refugee status. Focusing on refugees detracts from the plight of stateless populations, as they are in similar situations, neither group has a nation to call their own. However, “even at its most generous, the international refugee protection regime requires more of stateless persons than it does of nationals who seek refugee status.”¹⁶

Definitions

This year, 2014, marks the 60th anniversary of the Convention on the Status of Stateless Persons (1954 Convention). The second treaty is the 1961 Convention on the Reduction of Statelessness; both are key legal instruments in the protection of stateless people around the world and in the prevention and reduction of statelessness. The 1954 Convention established the universal definition of a “stateless person” and provides a core set of principles for their treatment. A ‘stateless person’ is defined in Article 1 (1) of the 1954 Convention:

For the purpose of this Convention: the term stateless person means a person who is not considered as a national by any State under the operation of its law.

In the case of refugees, the main document that remains the basis of international refugee law is the 1951 Refugee Convention. Article 1A (2) of the Convention defines a refugee as a person who:

As a result of events occurring before 1 January 1951, and owing to 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 (or her) nationality and unable, or owing to such fear, is unwilling to avail him (or her)self of the protection of

¹³ Marshall, T.H, quoted in Shibliak, Abbas, *Passport for what price? Statelessness among Palestinian refugees* Paper presented: ‘From Exodus to Exile: Palestinian Lives in the Levant, Bergen 7-8 September 2007.

¹⁴ Takkenberg, Lex, *The Search for Durable Solution for Palestinian Refugees: A Role for UNRWA?* in Benvenisti, Eyal & Gans, Chaim & Hanafi Sari, (eds.) *Israel and the Palestinian Refugees*, Springer, Germany, 2007, p. 380

¹⁵ Batchelor, Carol A. *Stateless Persons: Some Gaps in International Protection*. International Journal of Refugee Law, 1995, p. 235

¹⁶ Darling, Kate, *Protection of Stateless persons in International Asylum and Refugee Law*. International Journal of Refugee Law, 2009, p.751

that country; or who, not having a nationality and being outside the country of his (or her) former habitual residence as a result of such events, is unable, or owing to such fear, is unwilling to return to it.

The definition of refugee is extremely detailed, citing a range of potential victims including stateless people, while the definition of stateless people is succinct and some have argued inadequate. A refugee can sometimes qualify as a stateless person but a stateless person does not automatically become a refugee, which is how the gap between the two groups began. “A person can only be considered stateless if she meets the exact criteria specified in the definition, which is problematic because the definition is very limited and excludes people whose citizenship is useless or who cannot prove their nationality: the *de facto* stateless.”¹⁷ The definition only focuses on *de jure* statelessness and doesn’t deal with *de facto* statelessness.

The difference between the two ‘types’ of stateless persons is, *de jure* is the purely legal description and only refers to persons who are not considered nationals by any state. *De facto* stateless occurs when “a person possesses a legally meritorious claim to citizenship, but is precluded from asserting its because of practical considerations such as cost, circumstances of civil disorder, or fear of persecution.”¹⁸ In most cases, persons who are *de facto* stateless are victims of state oppression, in addition the large majority of groups that have been stateless for decades are *de facto* stateless. “This shows the flaws in the United Nation’s definition: it does not protect all stateless people.”¹⁹

The Refugee Convention resulted in three main changes in the understanding of refugees, according to Susan Akram. First, it was the international adoption of an individualised definition, which was quite revolutionary, as it changed the understanding of refugees as a group of sufferers who have their problems due to the same reason. Now, according to this perspective, a refugee is a person who leaves due to injustice and intolerance towards her individually. Second, there was a shift in emphasis from returning refugees to their places of origin to the principle of *non-refoulement* (non-return) against a refugee’s wishes. *Non-refoulement* requires that “states not return refugees to a place where their lives or freedom would be threatened.”²⁰ In addition, the Refugee Convention required that states grant persons who are refugees a number of rights, freedom of religion, rights in movable and immovable property, access to courts, freedom from undue restrictions on employment, primary education, and identity papers. Third, this new approach viewed refugees as the responsibility of the world community and not just the states directly affected.

Before going on to look at the protection gap that face stateless persons, it is important to define what is meant by the term protection. It has different connotations depending on the circumstances in which it is employed. However, this paper will be using the term with its emphasis on safety, personal dignity, integrity and empowerment, using the rights-based approach. This approach is summarised by the consensus reached in 1999 by a wide group of humanitarian and human rights agencies convened by the ICRC in Geneva. This group affirmed that protection is:

¹⁷ Ibid. p. 450.

¹⁸ Ibid. p. 450

¹⁹ Ibid. p. 450

²⁰ Akram, Susan M. *Palestinian Refugees and their Legal Status: Rights, Politics, and Implications for a Just Solution*. Journal of Palestine Studies, Vol. 31, No. 3 (Spring 2002). p. 37

'All activities aimed at ensuring full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law, i.e. human rights law, international humanitarian law and refugee law'.²¹

This definition of protection is clear in that preserving a person's dignity and integrity as a human being is as much a goal in humanitarian work as ensuring their physical safety and providing for their material needs. "The principle of humanity recognises human beings as much more than physical organisms in need of the means of survival. As such, humanitarian work extends beyond physical assistance to the protection of a human being in their fullness."²²

Alongside international humanitarian law and refugee law which specifically protect civilians in war, International Human Rights Law recognises that all people have certain fundamental and 'non-derogable' rights that must be protected at all times. "All these laws seek to ensure that in all situations people are to be treated humanely, that they should not be violated, abused, arbitrarily deprived or restricted and humiliated but be able to enjoy human life in its fullness."²³ In practice, this means assuring a quality of life that is free from personal assault, sexual violation, degrading treatment and physical deprivation, and that is given sufficient civil, political, social, cultural and economic opportunity and autonomy.

Protection Gap

While stateless people need the same protection, care and aid that refugees receive; this isn't always the case, with stateless people finding themselves excluded and falling between the cracks. This gap in protection is due to several factors: definition, country of reference, discrimination amounting to persecution.²⁴ This paper will use these factors to illustrate the protection gap that stateless people face.

Stateless persons have not always comprised a distinct group. Initially, refugees and stateless persons were viewed as one,

Previously refugees and stateless persons walked hand in hand, and after the First World War, their numbers and conditions were almost coterminous. Later, their paths diverged and refugees being identified principally by reference to the reasons for their flights, and their statelessness, if it existed, being seen as incidental to the primary cause.²⁵

The drafters of the 1954 Convention didn't want the definition to include *de facto* stateless persons because their aim was to obtain the greatest possible number of signatures and they wanted to prevent overlap with the Refugee Convention.²⁶ There was an assumption that *de facto* stateless people are refugees and thus covered by the Refugee Convention. This left a gap in international protection between the stateless and refugees because it removed the overlap from the definitions. This gap prevents many stateless persons from receiving refugee status because they cannot reach the heightened

²¹ ICRC, *Strengthening Protection in War, Workshops at the ICRC, 1996-2000*. 2001 p. 19.

²² Bonwick, Andrew & Slim, Hugo, *Protection, an ALNAP guide for humanitarian agencies*. Overseas Development Institute 2005 p. 30

²³ Ibid. p. 34

²⁴ Darling, Kate, *Protection of Stateless persons in International Asylum and Refugee Law*. International Journal of Refugee Law, 2009, p. 757

²⁵ Batchelor, Carol A. *Stateless Persons: Some Gaps in International Protection*. International Journal of Refugee Law, 1995, p. 239

²⁶ Batchelor. p. 247

standard; “statelessness is only one criteria for refugee status and there is not always overt state persecution.”²⁷

The basic principle of refugee law is to grant refugee status only to those requiring substitute protections. For persons with a nationality, the reference is the country of their nationality, which is obliged to protect the human rights of their citizens. For stateless people, the reference is the last former habitual residence. However, this former habitual residence does not owe any duty to protect the rights of the stateless person.²⁸ This excludes the possibility that because the stateless person does not have a nationality, she is more predisposed to being persecuted. Based on this, persons must establish that they are outside the country owing to well-founded fear of persecution. However, for stateless persons there is often no possibility for return and, thus no way to determine future threat from that county, making it impossible to determine that the person meets the refugee definition.²⁹

The persecution analysis seeks to determine whether the person is really in need of protection, rather than if the person should seek protection from a state having prior obligation to the person. Under refugee law, a person needs to prove a well-founded fear of persecution. Michael Walzer writes “refugees make the most forceful claim for admission. ‘If you don’t take me in’ they say, ‘I shall be killed, persecuted, brutally oppressed by the rulers of my own country.’”³⁰ However, the majority of stateless persons experience a series of low-level discriminatory rules, law and customs that make life difficult.³¹ One author states, “it is often difficult to determine when harassment becomes persecution, and is therefore one area where too high a threshold is put on the interpretation of what constitutes persecution.”³² This process requires that the person go through the process of proving that minor discrimination put together could be seen persecution. More importantly, statelessness itself implies a violation of human rights.

The stateless person is denied the mechanism to access fundamental rights, access to protection and access to expression as a person under the law. “The stateless are somehow invisible in the scheme of international law. They fall between the cracks in a system built on nation-states.”³³ The concept of nationality evolved with the nation-state, as it is what links the individual and that state. Article 1 of the 1930 Hague Convention³⁴ makes citizenship a matter of domestic concern providing a State’s action does not conflict with international law. In other words, international law is the exception.³⁵ “In the modern world, nationality is very important because it is essentially the right to have rights.”³⁶ According to the United Nations High Commissioner for Refugees (UNHCR), the deprivation of rights that accompanies statelessness often leaves person ‘in a Kafkaesque legal vacuum’ which reduces them to ‘non-persons, legal ghosts.’³⁷

²⁷ Bartlett, Allison, *An Endless quest for a home: the gap in protection between Stateless persons and Refugees*. Immigration and Nationality Law Review, 2012, p. 454

²⁸ Darling, p. 758

²⁹ Darling, p. 760

³⁰ Walzer, Michael, *The Distribution of Membership*, in T. Pogge and D. Moellendorft (eds) *Global Justice: Seminal Essays*. Paragon House, 2008 p. 163

³¹ Darling, p. 760

³² Darling, p. 761

³³ Fullerton, p. 3.

³⁴ “It is for each State to determine under its own law who are its nationals. This law shall be recognised by other States in so far as it is consistent with international conventions, international custom, and the principles of law generally recognised with regard to nationality.”

³⁵ Batchelor, Carol A. *Stateless Persons: Some Gaps in International Protection*. International Journal of Refugee Law, 1995, p. 239

³⁶ Bartlett, Allison, *An Endless quest for a home: the gap in protection between Stateless persons and Refugees*. Immigration and Nationality Law Review, 2012, p. 448.

³⁷ Hayden, Patrick, *From Exclusion to Containment: Arendt, Sovereign, Power and Statelessness*, Societies without Borders, 2008 p. 249

Statelessness and Rightlessness

Many scholars see Hannah Arendt as a yardstick when it comes to questions of statelessness. While her work focused on the plight of Europeans uprooted in the first half of the 20th century, many scholars have used her ideas in an effort to situate and illuminate later refugee crisis in Africa, Asia and Latin America.

For Arendt, *de facto* stateless people included “all people who are forcibly displaced and without any form of effective citizenship or political belonging, regardless of how they are categorised legally (ie as refugee, asylum seekers, forcibly displaced, *sans papiers*, internally displaced persons, etc.)”³⁸ In her own words, people in this situation are fundamentally rightless; they belong ‘to no internationally recognised community whatever’ and are thus outside ‘of mankind as a whole’.³⁹

Arendt begins her analysis of statelessness in *The Origins of Totalitarianism* with the observation that starting shortly after World War I, when the nature of forced migration changed. For Arendt, when a person lost her national citizenship and became stateless, she became ‘rightless’ as well. The rightlessness that goes with statelessness has two dimensions: a legal/political dimension and an ontological one. This paper will be concentrating on the legal/political dimensions in an attempt to understand the continuing legal and political exclusion of the stateless. Arendt’s critique, highlights how statelessness is not an odd or accidental phenomenon occurring despite the best efforts of state to prevent it, but “is a ‘normalised’ systemic condition produced by an international order predicated upon the power to exclude as a essence of statist politics.”⁴⁰

The cornerstone of Arendt’s critique is “The Rights of Man, has been defined as ‘inalienable’ because they were supposed to be independent of all governments; but it turned out that the moment human beings lacked their own government and had to fall back upon their minimum rights, no authority was left to protect them and no institution was willing to guarantee them.”⁴¹ Legally, this meant that once a person ceased living under the jurisdiction of a country’s domestic law, she became without the protection of any other law. “Once you are removed from your own national law there is no effective way to treat you as a legal subject.”⁴² This is tied to what has become a norm, that human rights are natural and inalienable, for Arendt, the loss of national rights was the same as the loss of human rights.

Thus for stateless people, as soon as they lost their citizenship and had only their humanity and human rights to protect them, it turned out that there was no institution willing and able to guarantee them. This has changed to a certain extent, with the advent of numerous human rights treaties and declarations, and other conventions, which were designed to address people who had lost the protection of their countries. However, even with these legal protections, many scholars argue that this is at best precarious and at worse non-existent. Many states are reluctant to acknowledge significant obligations to refugees and stateless people. “The most widely accepted obligation, *non-refoulement* is often respected in principle thought not in practice.”⁴³ Most nations feel that they ought to help

³⁸ Parekh, Serena, *Beyond the ethics of admission: Stateless people, refugee camps and moral obligations*. Philosophy and Social Criticism, 2014 p.650

³⁹ Arendt, Hannah, *Responsibility and Judgement*, Ed. Jerome Kohn, Schocken Books, 2003. p. 150

⁴⁰ Hayden, p. 250

⁴¹ Arendt, Hannah, *The Origins of Totalitarianism*. Schocken Books, 2004 p. 355

⁴² Parekh. p. 650.

⁴³ Parekh, p. 650

refugees few see it as a moral, political, or legal obligation. Given this, Arendt's fundamental critique of the way stateless people are treated when they are outside of their state remains true: "the prolongation of their lives is due to charity and not to right, for no law exists which could force the nations to feed them."⁴⁴

Presently, apart from Palestinians in Jordan, Israel and those who settled in Europe and America, those who live in the Occupied Palestinian Territories and host Arab countries hold travel documents are reckoned to make up more than half of the 8 million or so Palestinians, and are considered to be *de jure* stateless persons.⁴⁵ There is growing awareness that Palestinian refugees should no longer be excluded from the international protection regime and relevant instruments of international law including the 1951 Refugee Convention should apply to the Palestinian refugees.

Palestinian Refugees

The Israeli-Palestinian conflict is among the most widely discussed issues around the world. While most of the work dedicated to it has concentrated on its political side, the legal literature that deals with the refugee crisis that resulted from it and the human dimension of the conflict is relatively little. "For historical, legal and political reasons, Palestinian refugees...have been effectively denied many of the minimal legal protections available to other refugees under the 1951 Refugee Convention regime."⁴⁶

In this next section, I will be discussing the situation of Palestinian refugees, starting with a brief description of the displacement that they have faced. Then, I will look at the reasons for the establishment of a separate regime for Palestinian refugees, namely the United Nations Conciliation Commission for Palestine (UNCCP) and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). This will lead to a discussion of the Refugee Convention and in particular Article 1D, where the debate that deals with the protection gap that faces Palestinian refugees is taking place. The aim is to show that the mainstream interpretation of Article 1D is erroneous, which has led to the current situation of Palestinian refugees not being protected by the Refugee Convention, and thus facing a humanitarian and legal crisis.

Displacement of Palestinians

The history of Palestine is very rich and complicated. This paper will be looking specifically at the events that led to the refugee crisis facing the people who left Palestine seeking safety. This paper isn't concerned with discussing the causes and solutions of the Israeli-Palestinian conflict, but is concerned with an analysis of the legal issue of Palestinian refugees and the protection gap they are facing.

Palestinians went through a few waves of forced displacement, which made them into one of the biggest group of refugees in the world. The first wave of displacement of Palestinians took place between 1922 and 1948 in the period of the British Mandate. Approximately 150,000 Palestinian were relocated during that period, with the aim of creating an independent Palestinian state and to establish a

⁴⁴ Arendt cited in Parekh, p. 651.

⁴⁵ Shiblak, 2006. p. 9

⁴⁶ Akram, Susan M and Rempel, Terry, *Temporary Protection as an instrument for Implementing the Right of Return for Palestinian Refugees*, Boston University International Law Journal, Vol. 22, No. 1, Spring 2004, p.1

‘national home’ for the Jews.⁴⁷ The second wave of displacement happened between 1947 and 1949, known to Palestinians as *Nakba* (Arabic for catastrophe). This was due to the UN General Assembly Resolution 181 (II) passed in November 1947, which led to the separation of Palestine into two independent states. Approximately, 750,000-900,000 Palestinians fled to the neighbouring countries, most believing that they would be returning soon.⁴⁸ The fourth displacement of Palestinians occurred in 1967, as the result of the second Arab-Israeli war, approximately, 350,000-400,000 Palestinians were displaced⁴⁹, some for the second time as Israel occupied more land.

Furthermore, Palestinians faced secondary displacement in the host countries that they fled to. The main reasons for that are political and social crisis that lead to armed conflicts and absence of protection in those countries. These happened a number of times in recent history, more than 100,000 Palestinians became second-time refugees as a result of the Civil War in Lebanon between 1976 and 1991.⁵⁰ During the Gulf War of 1990-1991, an estimated 400,000 Palestinians were expelled from Kuwait, as a ‘punishment’ for the PLO’s support of Iraq.⁵¹ Furthermore, 35,000 Palestinians were expelled from Libya as a response to their disagreement about the Oslo peace process.⁵² Palestinians were displaced again after the US invasion of Iraq in 2003, due to the general violence. The most recent forced displacement has been due to the conflict in Syria starting in 2011. Alongside Syrians affected by the conflict are about half a million Palestinian refugees.⁵³ Who been forced out of their homes, and are facing additional obstacles such as denied access to neighbouring countries and forcible return.

As a result of different historical events millions of Palestinians either were forced to displace or moved voluntarily, and today live all over the world. However, this has not proved a success for them as they continue to face difficulties in host countries and the protection gap they face in times of conflict.

Separate Regime for Palestinian Refugees

A separate regime governs the status of Palestinian refugees. This regime is made up of two UN agencies—the United Nations Conciliation Commission for Palestine (UNCCP) and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA); in addition to certain provisions of the Refugee Convention and the UNHCR statute. “The regime is also grounded in special principles enunciated in a series of UN resolutions concerning the Palestinians.”⁵⁴

UN General Assembly Resolution No 194 (III) which was passed in 1948, deals with how to manage those who fled or were expelled from Palestine, it affirms the ‘right of return’ of those displaced. Furthermore, the resolution establishes the UNCCP whose main function was to mediate in the Arab-Israeli conflict and to facilitate a comprehensive peace, in addition part of its mandate was to ensure the ‘right of return’ for those ‘refugees wishing to return to their homes and live at peace with their

⁴⁷ Nigar, Kirimova, *The Status of Palestinian Refugees in International Law: The issue of interpretation and implementation of Article 1D of the 1951 Convention relations to the Status of Refugees in Europe*. MA in Law Thesis, submitted to Central European University, Hungary, 2010. p. 10.

⁴⁸ Nigar, p. 12.

⁴⁹ Nigar, p. 13.

⁵⁰ Takkenberg, Lex, *The Status of Palestinian Refugees in International Law*, Oxford, 1998 p. 18

⁵¹ Takkenberg, p. 18

⁵² Fiddian-Qasbiyeh, Elena, *Invisible Refugees and/or Overlapping Refugeedom? Protecting Sabrawis and Palestinians Displaced by the 2011 Libyan Uprising*. International Journal of Refugee Law, Vol. 24, No. 2, 2012 p. 271

⁵³ Fritzsche, Jasmin, *Displacing the Displaced: Challenging the International Framework for Palestinian Refugees in Light of the Syria Crisis*. The Centre for Migration and Refugee studies, The American University of Cairo, October 2014. p. 7

⁵⁴ Akram, Susan M. *Palestinian Refugees and their Legal Status: Rights, Politics, and Implications for a Just Solution*. Journal of Palestine Studies, Vol. 31, No. 3 (Spring 2002). p. 38

neighbours’ and to ‘facilitate the repatriation, resettlement, and economic and social rehabilitation of refugees.’⁵⁵ Therefore, it was mandated with the protection of refugees from Palestine. The UNCCP identified who would fall under their mandate as a ‘refugee’:

the term ‘refugees’ applies to all persons, Arabs, Jews and others who have been displaced from their homes in Arab Palestine. This would include Arabs in Israel who have been shifted from their normal places of residence. It would also include Jews who had their homes in Arab Palestine, such as the inhabitants of the Jewish quarter of the Old City. It would not include Arabs, who have lost their lands but not their houses, such as inhabitants of Tulkarm.

The UNCCP has had its mandate and funding limited since the 1950s, in what has been called a “quasi deactivation.”⁵⁶ The UNCCP continues to gather information on refugee property in Israel and investigating the possibilities of compensation. In 1952 its functions were striped and its budget was limited to having a record-keeping office in New York.⁵⁷ With its protection function annulled, UNRWA was left as the only functioning UN agency able to provide any form of services to the Palestinian refugees.

In 1949, the UN General Assembly Resolution No 302 (IV), with a dual mandate of providing direct relief and establishing a ‘works program’, established UNRWA. “Hence, the agency was established as a temporary relief and service provider, complementing UNCCP’s mediation and protection mandate.”⁵⁸ UNRWA’s services are provided to people who fall under its definition of ‘Palestine Refugees’:

*Persons whose normal residence was in Palestine between 1 June 1946 and 15 May 1948 and who lost their homes and means of livelihood as a result of the 1948 war. The descendants of Palestine refugee males, including legally adopted children, are also eligible for registration.*⁵⁹

The term ‘Palestine refugee’ is not only limited to a period of time, but also geographically, to UNRWA’s five areas of operations.⁶⁰ After the 1967 war, a large number of ‘Palestine refugee’ were displaced a second time, in addition to a mass influx of new refugees. These ‘first time’ refugees initially weren’t covered by UNRWA’s mandate. However, in UN General Assembly Resolution 2252 in 1967, UNRWA was allowed to include them. While they were registered as ‘displaced person’s’ rather than ‘Palestine refugees’, they were eligible to receive UNRWA’s services. It is important to highlight that the definition used by UNRWA “is limited to needy people and is thus markedly distinct from the protection-related definitions of refugee found in the Refugee Convention and the UNCHR statute.”⁶¹ Putting this together with UNRWA’s mandate, it would suggest that its beneficiaries receive food, clothing, and shelter, but not protection from a range of human rights and fundamental freedoms that later guaranteed to refugees in the Refugee Convention and UNHCR.

⁵⁵ Fritzsche, p. 8

⁵⁶ Fritzsche, p. 9

⁵⁷ Akram, (2002)

⁵⁸ Fritzsche, p. 9

⁵⁹ UNRWA & UNHCR, *The United Nations and Palestinian Refugees*. 2007 <http://www.unrwa.org/userfiles/2010011791015.pdf>

⁶⁰ UNRWA’s five areas of operation are: Jordan, Lebanon, Syria, West Bank and Gaza. It is interesting to point out that the Egyptian government did not permit UNRWA to operate within the country.

⁶¹ Akram, (2002) p. 39

It is important to consider why Palestinian refugees were given a special regime, as they were discussed during the drafting of the UNHCR statute, and the Refugee Convention. The rationale behind the exclusion of Palestinian refugees was because their case was seen as being unique and of importance that the UN needed to establish separate and special protection for them. “The international community recognized that, unlike the refugee situations up to that time, the UN body itself bore heavy responsibility for their plight.”⁶² This was the main argument given, as Palestinians didn’t become refugees because of actions conflicting with international principles, but as a direct result of decisions made at the United Nations. The Arab states, particularly, were concerned that the inclusion of Palestinian refugees with other categories of refugees, as this would challenge the separate and unique status of Palestinian refugees and that they would be ‘relegated to a position of minor importance’⁶³ The result of this discussion was the inclusion of Article 1D in the Refugee Convention.

Article 1D of the Refugee Convention

Article 1D is comprised of two sentences:

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 resolution adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this convention.

UNCCP and UNRWA are those ‘other’ UN agencies mentioned in Article 1D. This is important as it means that Palestinian refugees are excluded from the individualized definition of refugee given in Article 1A (2) and fall within the meaning of Article 1D. However, it is also important to highlight the reason that the second sentence was included, it clearly outlines that this exclusion is temporary. The Egyptian delegation pushed for this sentence, arguing it “was to make sure that Arab refugees from Palestine, who were still refugees when the organs and agencies of the United Nations at present providing them with protection or assistance cease to function, would automatically come within the scope of the Convention.”⁶⁴

This exclusion and inclusion have been interpreted in different ways. According to the UNHCR’s Revised Note on Applicability of Article 1D of the Refugee Convention relating to the Status of Refugees to Palestinian Refugees, there two types of Palestinians who qualify for its protection. The first group are “individuals who are neither ‘Palestine refugees’ nor ‘displaced people’ but who, owing to a well-founded fear of being persecuted for one or more of the Refugee Convention groups, are outside the Palestinian territories occupied by Israel since 1967 and are unable or, owing to such fear, unwilling to return.”⁶⁵ This group can qualify as refugees under Article 1A (2) of the Refugee Convention. The second group is ‘Palestine refugees’ and ‘displaced persons’ that are outside of

⁶² Akram, (2202) p. 40

⁶³ Representative of Saudi Arabia at the Third Committee of General Assembly, cited in Fritzsche, p. 12.

⁶⁴ Fritzsche, p. 12.

⁶⁵ UNCHR, *Revised Note on Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian Refugees*. 2009 <http://www.refworld.org/docid/4add77d42.html>

UNRWA's area of operation. This group would trigger the inclusion clause of Article 1D, since 'protection or assistance has ceased' when leaving UNRWA's areas of operations. "This interpretation ensures the continuity of protection and assistance for Palestinian refugees while avoiding an overlap of competences between UNRWA and UNHCR."⁶⁶

A different interpretation of Article 1D is offered by Susan Akram, according to her Article 1D must not be understood as an exclusion clause but as a 'contingent inclusion clause.' She argues that with the collapse of UNCCP, and its protection mandate the inclusion clause through the second sentence of Article 1D should be activated. "The lack of any specific UN organ with a Palestinian refugee protection mandate has deprived Palestinians of obligatory international intervention, as is demonstrated whenever their refugee camps are bombed or they are massacred."⁶⁷ She uses the wording of the second sentence, and states that since UNRWA doesn't have an explicit protection mandate, the 'when such protection or assistance has ceased' comes into play. Since UNCCP stopped exercising its protection mandate, the Refugee Convention and UNHCR's protection mandate ipso facto cover Palestinian refugees, irrespectively of their UNRWA status. Akram uses the history of UNRWA and UNHCR working together to state "it would seem most appropriate to bring Palestinian refugees under the protection mandate of UNHCR but continue UNRWA as the assistance agency."⁶⁸

Scholars and UN practitioners have criticized Akram's approach, arguing that there is no protection gap as UNRWA's protection has grown since the 1980s and while it was, established without one, it has now an explicit protection mandate.⁶⁹ While UNRWA has identified the need for protection, they aren't necessary able to implement it on all levels. "UNRWA does officially advocate on behalf of Palestinian refugees, going beyond their relief mandate. However, UNRWA is unable to practice what it preaches when it comes to protection."⁷⁰ This inability will be discussed in chapter 4 of this paper, looking into greater detail at UNHCR and UNRWA how they have worked in the past to assist and protect Palestinian refugees. This cooperation has been successful in some cases, however it will highlight that the current international measures in place for Palestinian refugees have not been able to resolve or cope with the existing refugee situation or adapt to changes in it.

⁶⁶ Goddard, Brenda, *UNHCR and the International Protection of Palestinian Refugees*. Refugee Survey Quarterly, Vol. 28 Nos. 2 & 3 2010, p. 467

⁶⁷ Akram, 2002, p. 45

⁶⁸ Akram, 2002, p. 47

⁶⁹ B. Scott Custer Jr., a former Head of International Law in UNRWA's Department of Legal Affairs, cited in Fritzsche, p. 14.

⁷⁰ Fritzsche, p. 14

Chapter 3: Situation of Palestinian Refugees fleeing Syria

*"These forgotten ones, disconnected from the social fabric, these outcasts, deprived of work and equal rights, are at the same time expected to applaud their oppression because it provides them with the blessings of memory."*⁷¹

When the fighting broke out in Syria in 2011, among the over three million Syrian refugees⁷² that fled the country was a population of about half a million Palestinian refugees who were living in Syria.⁷³ While Syrian refugees often face difficulties in countries where they seek refuge, Palestinian refugees from Syria (PRS) who are also fleeing from the same conflict face additional obstacles such as denied access to territory and forced return. This chapter will be looking at the situation of Palestinian refugees in Syria before the crisis started, seeing how the crisis affected them in Syria and as they fled to the neighbouring Arab states of Lebanon and Jordan.

Syria

Palestinian refugees in Syria

Prior to the crisis in Syria, some Palestinian refugees lived in refugee camps and others in Syrian towns and cities, where they enjoyed many of the same rights as Syrian citizens, including access to government services. According to the 1956 Syrian Arab Republic Law no. 260, Palestinian refugees have the same rights and duties as nationals, excluding the right to citizenship and political rights, such as the right to vote. Since 1962, Palestinian refugees were issued renewable travel documents, which were valid of six years similar to Syrian passports, which meant that they could return to Syria without a visa. "Syria closely followed the guidelines set out in the Casablanca Protocol⁷⁴, guaranteeing Palestinian refugees social and economic rights while retraining their Palestinian identity and not granting them citizenship."⁷⁵

Palestinians were employed across all sectors of the Syrian economy, and were permitted to take part in Syrian trade unions where in some cases they became high-ranking officials.⁷⁶ "In 2005, over 100 Palestinian professors were registered in the University of Damascus. Many Palestinians have assumed crucial and senior posts in the state, while Palestinian businessmen and industrialists have strong presence in the Syrian labour market."⁷⁷ Palestinian Refugees also benefited from social services provided to them by the government, which were equivalent to services provided to Syrian citizens. "The Syrian regime established nurseries and kindergartens to ease the burden on Palestinian women

⁷¹ Mahmoud Darwish-Palestinian Poet

⁷² UNHCR, <http://data.unhcr.org/syrianrefugees/regional.php>

⁷³ UNRWA, Syria Regional Crisis, Emergency Appeal 2015.

⁷⁴ The Casablanca Protocol is The Arab League's Protocol on the treatment of Palestinian refugees in Arab States; which was ratified on the 11 September 1965. The actual implementation of the Casablanca Protocol varied from state to state and in 1982, the Arab League called a meeting to discuss the various problems facing Palestinian refugees. The Council of Arab Interior Ministers adopted a special resolution on the treatment of Palestinians in Arab countries, which was designed to clarify the original protocol. (text of the protocol is found <http://www.refworld.org/docid/460a2b252.html>)

⁷⁵ Fritzsche, Jasmin, *Displacing the Displaced: Challenging the International Framework for Palestinian Refugees in light of the Syria Crisis*. Cairo Studies on Migration and Refugees, Oct. 2014. p. 17.

⁷⁶ Coogan, Matthew, (Dis)integration: Palestinian Refugees in the Syrian Civil war, Jadaliyya, Sept. 2013.

http://www.jadaliyya.com/pages/index/13960/%28dis%29integration_palestinian-refugees-in-the-syria

⁷⁷Hammoud, Tariq, *Palestinian Refugees and the Syrian Revolution*, Arab Centre for Research and Policy Studies, Feb. 2013, p. 6.

who often worked outside the home.”⁷⁸ Most Palestinian children were educated in government secondary schools, and this was more often as Palestinian refugees were able to make money and move out of the camps and live among the same neighbourhoods and the Syrians, integrating socially into that society. “Since the majority of refugees reside in urban centres, their socio-economic and other characteristics are extensively shared with other urban populations.”⁷⁹

Syria’s commitment to the Casablanca Protocol, and the fact that economically it was doing well, meant that Palestinians could live a dignified life. There is a consensus among the readings that Palestinian refugees prior to the crisis had the greatest average annual income of all Palestinian refugees living in Arab states. In addition, Palestinian refugees participated in the labour force in par with the Syrian labour participation, and this was also higher than that of refugee population in other Arab countries. In addition, “other indicators of refugee integration include the fact that the vast majority of Palestinian refugees requiring medical care consulted private or government facilities as opposed to UNRWA clinics.”⁸⁰ However, it is important to point that the Palestinian population in Syria didn’t exceed three to four percent of the population. Hence, the demographic pressure wasn’t as high as it was in countries like Jordan where it reached 50 percent, or Lebanon with 10 percent.⁸¹

Palestinian refugees and the Syrian Crisis

The situation for PRS drastically changed in 2011. While trying to remain politically neutral, Palestinians became victims of the conflict, resulting in internal and cross-border displacement. From the beginning, the Palestinian community in Syria was an involuntary actor in the uprising and subsequent crisis. In the early stages of the uprising Palestinians attempted to “maintain neutrality, in line with the longstanding tradition of avoiding entanglement in domestic political disputes.”⁸² This urge of the Palestinian street to stay neutral during the Syrian crisis led to the torching of the offices of a Palestinian faction⁸³ that is considered an ally of the regime and that announced its decision to forgo neutrality. The neutrality was tested in Daraa and Latakia where the refugee camps were close to where the protests were happening in the two cities. This led the government to say that the Palestinians were instigating the violence, in an attempt to downplay the level of Syrian support and participation in the protests. However, this narrative didn’t hold, as the demonstrations went beyond the two cities to areas where there is no Palestinian presence.

While the Palestinian community continued to strive for neutrality, they felt a need to aid the Syrian population. This first took place in Deraa, where after the regime imposed a siege with no food, water, supplies, entering the city. The Palestinians living in the Deraa camp (on the outskirts of the city and not affected by the siege) created a humanitarian passage for food supplies and the transportation of the wounded to a field hospital that was set up in the camp.⁸⁴

⁷⁸ Coogan, p. 2

⁷⁹ Coogan, p. 3

⁸⁰ Coogan p. 3

⁸¹ There is no official source of the total number of Palestinians in Jordan or Lebanon. But UNRWA in 2014 stated that they had 2,070,973 registered in Jordan (30%) and 455,000, which makes up 10% of the population in Lebanon. UNRWA, *Where We Work*, 2014 <http://www.unrwa.org/where-we-work/jordan> and <http://www.unrwa.org/where-we-work/lebanon>

⁸² Coogan, p. 3.

⁸³ The faction is the Popular Front for the Liberation of Palestine-General Command that is based in Syria.

⁸⁴ Information found in Hammoud (2013) and Coogan (2013)

The 12 Palestinian refugee camps in Syria, among them Aleppo, Daraa, and the Yarmouk camp in south Damascus, have come under attack during the conflict, resulting in extensive civilian casualties and displacement. “All Palestine refugee camps and gathering have been profoundly affected, with several areas, such as Yarmouk, Daraa, Ein El Tal and Sbeineh camp, suffering extreme damage and almost total displacement of their residents.”⁸⁵

Since December 2013, Yarmouk camp has come under attack and siege from the Syrian army and rebel groups, leading to widespread malnutrition and in some cases death from starvation. “It is unprecedented in living memory for a UNRWA-assisted population to be subject to abject desperation in this way and the sheer humanitarian facts cry out for a response.”⁸⁶ In January 2014 an agreement to allow complete access to Yarmouk was brokered between all sides, only to break down in May 2014. According to UNRWA, Yarmouk and its surrounding areas have seen a serious escalation in armed conflict, including frequent exchange of fire and the use of heavy weapons, which have persistently disrupted the distribution of life-saving humanitarian aid to the 18,000 civilians trapped in the area. “In 2014, UNRWA was able to distribute food in Yarmouk on 131 days, averaging 89 boxes per day over the year. To meet the minimum needs of the people, at least 400 food boxes need to be distributed each day.”⁸⁷

Of approximately 560,000 Palestine refugees registered with UNRWA in Syria, over 50% are estimated to have been displaced within Syria, with a further 12% to neighbouring countries. In Lebanon, 44,000 PRS have been recorded with UNRWA; and in Jordan close to 15,000.⁸⁸

Palestinian refugees in Syria have gone from living in one of the most welcoming host countries in the region to being displaced again.

Jordan

Palestinian refugees in Jordan

It is important to provide some context to the situation of Palestinian refugees in Jordan, before going on to discuss the treatment of PRS. More than half of the 6.3 million population of Jordan is of Palestinian origin—that is, from areas west of the River Jordan, including the West Bank, today’s Israel, and Gaza.⁸⁹ With the exception of persons from Gaza, the vast majority of those persons of Palestinian origin have Jordanian citizenship. According to UNRWA, Jordan is host to more than two million ‘Palestine refugees’⁹⁰, and it has granted citizenship to most of them while allowing them to retain their status as refugees registered with UNRWA. UNRWA established 10 refugee camps in Jordan;⁹¹ these camps accommodate 18% of the total number of Palestinian refugees registered with it.⁹²

⁸⁵ UNRWA, Syria Regional Crisis Emergency Appeal 2015, p. 5

⁸⁶ Chris Guinness Spokesperson for UNRWA quoted in Choluv, Martin, *Besieged and terrified ... and the food is about to run out for Damascus refugees*, The Observer, 19 April 2014 <http://www.theguardian.com/world/2014/apr/19/syria-besieged-refugees-yarmouk-starvation>

⁸⁷ UNRWA, *The Crisis in Yarmouk Camp*, <http://www.unrwa.org/crisis-in-yarmouk>

⁸⁸ UNRWA, *Syria Regional Crisis Response Update 81* <http://www.unrwa.org/newsroom/emergency-reports/syria-regional-crisis-response-update-81>

⁸⁹ Human Rights Watch, *Stateless again, Palestinian-Origin Jordanians deprived of their Nationality*, February 2010. <http://www.hrw.org/sites/default/files/reports/jordan0210webwcover.pdf>

⁹⁰ UNRWA, *In Figures*, <http://www.unrwa.org/resources/about-unrwa/unrwa-figures-0>

⁹¹ Zarqa, Jabal el-Hussein, Irbid, Amman New camp (during the 1948 war); Talbieh, Marka, Souf, Jerash, Baqa’a and Husn (During the 1967 war).

⁹² UNRWA, *In Figures*, <http://www.unrwa.org/resources/about-unrwa/unrwa-figures-0>

According to Jordanian Citizenship Law, Palestinians were granted Jordanian citizenship. Article 3 of the 1954 law states that a Jordanian national is: ‘Any person with previous Palestinian nationality except the Jews before the date of May 15, 1948 residing in the Kingdom during the period from December 20, 1949 and February 16, 1954.’ Thus Palestinians in the East Bank and the West Bank of the Hashemite Kingdom of Jordan were granted Jordanian nationality.

In the 1980s, Jordan established a card system to track movement of Palestinians living in its territory. There were 3 cards, green ones were given to Palestinians habitually living in the West Bank, yellow to those habitually living in Jordan and with material and/or family connections in the West Bank, and blue cards were given to Palestinians habitually living in Jordan but who were originally from Gaza.⁹³ These cards were used to determine the citizenship status when Jordan handed over the administrative powers of the West Bank to the PLO in 1988. “over one-and-a-half million Palestinians went to bed on 31 July 1988 as Jordanian citizens, and woke up on 1 August 1988 as stateless people.”⁹⁴

Although Palestinians in Jordan enjoy citizenship rights, they have faced discrimination generally and especially in employment and education, in particular those who are socially and economically disadvantaged. “Their career options are limited to the private sector, they run the economy”⁹⁵, but have no access to the decision making circles and state institutions.⁹⁶ Although a small number have attained government jobs, few Palestinians of prominent and affluent families have been able to come close to the circles of power in Jordan. Despite systematic marginalisation, Palestinians in Jordan seem well settled and, indeed, do call Jordan home.

Jordan and the Palestinian Refugees from Syria

Since the beginning of the crisis in Syria in 2011, Jordan has welcomed over 637,000 Syrians⁹⁷ seeking a safe place from the fighting there. However, Jordan began denying entry to Palestinian refugees from Syria in April 2012 and officially declared a non-admittance policy in January 2013. Jordanian Prime Minister Abdullah Ensour stated that “Jordan has made clear and explicit sovereign decisions to not allow the crossing to Jordan by our Palestinian brothers who hold Syrian documents.”⁹⁸

Before April 2012, Jordanian authorities permitted Palestinians fleeing from the conflict in Syria to enter the country, and applied to them the same procedures as Syrians. They were sent to Cyber City next to the Jordanian city of Ramtha in the north. According to The Atlantic article, anyone with a Palestinian ID was automatically directed to Cyber City, where they were stayed until their asylum status was approved.⁹⁹ Cyber City is a six-story building that used to house migrant workers¹⁰⁰, that now

⁹³ Fritzche

⁹⁴ Badil, *Palestinian Refugees in Jordan and the Revocation of Citizenship*. Badil Resource Centre for Palestinian Residency and Refugee Rights, 2010, <http://www.badil.org/al-majdal/item/1569-interview1>

⁹⁵ Palestinians are viewed in Jordan as running the economy because they own most of the big businesses and banks. It is an accepted cultural fact, that Jordanians have access to the public sector, while the population with Palestinian origins runs the private sector.

⁹⁶ An interview with UNRWA employee, quoted in AlAbed, Oroub, *Palestinian Refugees in Jordan*, Forced Migration Online, February 2004, <http://www.forcedmigration.org/research-resources/expert-guides/palestinian-refugees-in-jordan/fmo025.pdf> p. 15.

⁹⁷ The total number of all Syrians in Jordan, refugees and non-refugees is now 1,385,971. Numbers are according to Syrian Refugee Affairs Directorate in Jordan, quoted in Middle East Monitor, *637,000 Syrian refugees in Jordan*, Feb. 2015.

<https://www.middleeastmonitor.com/news/middle-east/16730-637000-syrian-refugees-in-jordan>

⁹⁸ AlMonitor, *Jordanian PM: We Can't Accept Palestinian Refugees From Syria*, Jan. 11, 2013 <http://www.al-monitor.com/pulse/ar/politics/2013/01/jordanian-pm-we-cannot-receive-palestinian-refugees-from-syria.html#>

⁹⁹ Ram, Alessandra, *Trapped: The Plight of Palestinian Refugees from Syria*, The Atlantic, March 26, 2013,

<http://www.theatlantic.com/international/archive/2013/03/trapped-the-plight-of-palestinian-refugees-from-syria/274369/>

houses Palestinian and Syrian refugees and has been critiqued because of “the camp’s deplorable conditions.”¹⁰¹ There are accounts of a number of families being housed in one room, where a fence has surrounded the whole compound, with further checkpoints inside that restrict the refugees’ freedom of movement within the area.¹⁰² “Such conditions amount to arbitrary detention. At times, Jordanian security forces prohibit NGOs and humanitarian workers with valid permits from moving beyond the main entrance, making it difficult to ensure refugee rights are upheld and proper protocol is followed.”¹⁰³ According to UNRWA, there were 200 Palestinians and 200 Syrians being held in Cyber City.¹⁰⁴ Other than short periods of leave granted to some of them every two to three weeks to visit family members in Jordanian cities, Palestinians living in Cyber City can only leave the camp to return to Syria.

After April 2012, Jordan began denying entry to Palestinians. A Syrian refugee interviewed by the Atlantic, stated that when he and his wife approached the border Jordanian authorities told him: “You can come, but she is not allowed because she’s Palestinian.”¹⁰⁵ This continued to happen with little documentation or public confirmation by the Jordanian government of the non-admittance policy. This changed in January 2013, when the Prime Minister Ensour spoke to Al-Hayat newspaper and stated: “Receiving those brothers (Palestinians) is a red line because that would be a prelude to another wave of displacement, which is what the Israeli government wants. Our Palestinian brothers have the right to go back to their country of origin. They should stay in Syria until the end of the crisis.”¹⁰⁶

The number of Palestinians rejected at the Syrian-Jordanian border since the fighting began in Syrian is not known. This is due to the fact that no international agency has full access to the border crossings where the Jordanian military first encounters the asylum seekers. However, Syrian and Palestinian refugees interviewed in Jordan in February 2013 by Human Rights Watch said “they saw Palestinians, single Syrian men, and undocumented people refused entry at the border or forcibly returned after initial screening at a police centre near the northern city of Mafra.”¹⁰⁷ The Jordanian government, with this policy is in breach of the international principle of *non-refoulement*. Though Jordan has not signed or ratified the 1951 Refugee Convention, international customary law forbids the government from sending anyone back to ‘a country where they life or freedom would be threatened.’

Jordan’s non-entry policy for Palestinians may also be tied to the 1970-71 Black September confrontation between Palestinian guerrilla fighters and the Jordanian army, Human Rights Watch’s report suggests. “Jordan’s harsh treatment of Palestinians fleeing Syria also extends to Palestinian residents of Syria who are actually Jordanian citizens or descendants of Jordanian citizens of Palestinian origin.”¹⁰⁸ Jordan has generally allowed Palestinians with valid Jordanian documents into the country, however these people are at risk of having their citizenship stripped and they are deported if they seek to access government services in Jordan. The harsh reality that faces Palestinians who lose their

¹⁰⁰ Cyber City originally was meant to become the first park in Jordan that provides land, buildings and associated infrastructure as well as commercial and retail services at considerably lower costs and greater incentives for all types of investors from different industries. <http://www.cybercity.com.jo/>

¹⁰¹ Ram, p. 2.

¹⁰² Taken from articles by The Atlantic and The Electronic Intifada.

¹⁰³ Hassan, Hanine, *Palestinian refugees from Syria war left to suffer by Jordan*, The Electronic Intifada, March, 10, 2014. <http://electronicintifada.net/content/palestinian-refugees-syria-war-left-suffer-jordan/13229>

¹⁰⁴ UNRWA, *PRS in Jordan*, April 2014, <http://www.unrwa.org/prs-jordan>

¹⁰⁵ Ram, p. 2

¹⁰⁶ quoted in Fritzsche, p. 22.

¹⁰⁷ Human Rights Watch, 2014, p. 14.

¹⁰⁸ Human Rights Watch, 2014, p. 2.

Jordanian citizenship is that once again they have no country to call home. “Without nationality, individuals and families find it difficult to exercise their citizenship rights, including obtaining health care; finding work; owning property; traveling; and sending their children to public school and universities”¹⁰⁹

This situation is made harder for the Palestinian refugees in Jordan as the process of them losing their citizenship appears to be a random and arbitrary. As usually they have learned of their citizenship being stripped not from official notice, but during routine procedures such as renewing a passport or an ID card, or registering a marriage or the birth of a child at the Civil Status Department or while accessing services such as education and health. Which makes them vulnerable to arrest and deportation.

Arrest and deportation are happening to Palestinians who have either been able to enter Jordan irregularly¹¹⁰ or who have lost their Jordanian citizenship. There are various ways that the police and the intelligence services arrest them “through raids, inspections for those working illegally, and when Palestinians attempt to renew documents or seek government services.”¹¹¹ Human Rights Watch has documented cases where after their arrest, the refugees were sent to Cyber City where they waited being deported back to Syria. “In no case did authorities grant Palestinians the right to challenge their deportation.”¹¹² According to Syria Needs Analysis Project, Jordanian authorities have forcibly returned 1000 Palestinians since 2013.¹¹³ UNRWA also reported numerous cases of forcible return, including women and children.¹¹⁴

Undocumented Palestinians from Syria inside Jordan cannot ask for protection from the Jordanian government when facing exploitation. Unlike Syrian refugees, Palestinians cannot legally live in the official refugee camps, but at the same time they are unable to legally work to earn money for renting housing in Jordanian cities and towns. UNRWA acknowledges “the irregular status of Palestinian refugees from Syria in Jordan means they endure a considerable degree of insecurity.”¹¹⁵

Jordan is not the only country bordering Syria that has placed entry restriction on Palestinian refugees trying to flee the violence in Syria.

Lebanon

Palestinian refugees in Lebanon

In contrast to Jordan, where Palestinian refugees were granted citizenship, and Syria where they were given social and economic rights, Lebanon has denied them both. “Palestinian refugees in Lebanon are often referred to as the most unfortunate and destitute grouping of Palestinian refugees in any Arab

¹⁰⁹ Gabbay Shaul M, *The Status of Palestinians in Jordan and the Anomaly of Holding a Jordanian Passport*. Journal of Political Science and Public Affairs 2014, <http://esciencecentral.org/journals/the-status-of-palestinians-in-jordan-and-the-anomaly-of-holding-a-jordanian-passport-2332-0761.1000113.pdf>

¹¹⁰ In the Human Rights Watch report they have documented refugees using smugglers, or false documents stating that they are Syrians to enter Jordan.

¹¹¹ Human Rights Watch, 2014, p. 18.

¹¹² Human Rights Watch, 2014, p. 18.

¹¹³ Syria Needs Analysis Project, *Palestinians from Syria*, March 2014, http://www.acaps.org/reports/downloader/palestinians_from_syria_march_2014/77/syria p. 9

¹¹⁴ UNRWA, Syria Crisis Response Annual Report, February 2013.

http://www.unrwa.org/sites/default/files/syria_crisis_response_annual_report_2013_1.pdf

¹¹⁵ UNRWA, *PRS in Jordan*, April 2014 <http://www.unrwa.org/prs-jordan>

host country.”¹¹⁶ According to UNRWA, Lebanon officially hosts nearly half a million refugees from Palestine.¹¹⁷ When trying to understand the situation of Palestinian refugees in Lebanon, one has to take into account the complex history, fragmented population and fragile state structure of the country. When the civil war broke out in Lebanon in the 1970s, Palestinian refugees were perceived as an additional threat to Lebanese security. “By the end of the civil war, the Palestinian position in Lebanon was extremely weakened, resulting in the still prevalent spatial and economic marginalisation of Palestinian refugees in Lebanon.”¹¹⁸ There are at present 12 official UNRWA run refugee camps in Lebanon, with 214,736 registered refugees living in these camps, making up 53% of the total number of registered refugees in Lebanon.¹¹⁹

The Department of Palestinian Refugee Affairs (DPRA),¹²⁰ created in 1959 is responsible for the designation of areas as camps; the registration of the inhabitants of the camps; the registration of births, marriages, deaths and changes of residence. However, neither the DPRA nor the wider Government of Lebanon provides any social services. This is left entirely to UNRWA.

According to Lebanon’s domestic law (Law 10 of 1962), Palestinian refugees are considered “foreigners who do not carry documentation from their countries of origin, and reside in Lebanon on the basis of resident cards.”¹²¹ There are three categories of Palestinian refugees living in Lebanon, those who are registered with UNRWA, those who are registered with the DAPR, and those who are ‘illegal’ as they either entered Lebanon after the Black September events of Jordan, or were internally displaced in Lebanon during the civil war. The first two groups of people have ID cards and are equipped with some rights as foreigners, such as the right to work and access to education.

However, these rights have a lot of restrictions, foreigners have to get a work permit to get a job, this is often very difficult for Palestinian refugees to obtain and thus they are denied the right to work. In addition, there a list of jobs that Palestinian can legally do in Lebanon: employment with UNRWA; employment in Palestinian associations or organisations; employment in agriculture and Lebanese companies; employment in shops and enterprises within the refugee camps.¹²² All Palestinian refugees are denied access to Lebanese public health care, relying on UNRWA medical centres as well as hospitals that have contracts with it. Palestinian refugees are denied access to Lebanese public schools. UNRWA offers secondary education to counter the restricted access to public schools and the high costs of private schools. “Palestinian refugees in Lebanon have the worst socio-economic situation in UNRWA’s five areas of operations.”¹²³

Lebanon and the Palestinian Refugees from Syria

¹¹⁶ Fritzsche, p. 23.

¹¹⁷ UNRWA, *In Figures*, 2014 http://www.unrwa.org/sites/default/files/2014_01_uif_-_english.pdf

¹¹⁸ Peteet, Julie, *From Refugees to Minorities: Palestinians in Post-War Lebanon*. Middle East Reprint, No. 18, July-September 1996. p. 30.

¹¹⁹ UNRWA, *UNRWA in Lebanon*, July 2014. <http://www.unrwa.org/where-we-work/lebanon>

¹²⁰ In 2000, Decree no. 4082 changed the name of the Department of Palestinian Refugee Affairs to the Department of Political and Refugee Affairs.

¹²¹ Quoted in Fritzsche, p. 24.

¹²² Shafie, Sherifa, *Palestinian refugees in Lebanon*, July 2007, <http://www.forcedmigration.org/research-resources/expert-guides/palestinian-refugees-in-lebanon/fmo018.pdf> p. 10.

¹²³ Shafie, p. 5

According to UNRWA, there are over 53,070 Palestine refugees from Syria seeking safety and shelter in Lebanon.¹²⁴ Since the start of the conflict in Syria, Palestinian refugees have faced specific obstacles in seeking refuge in Lebanon. The conditions under which Palestinian refugees from Syria can enter Lebanon have changed twice since the start of the Syrian conflict, once in August 2013 and again in May 2014. The following section will describe these changes and how this has affected Palestinian refugees trying to flee the conflict in Syria.

Prior to August 2013, for Palestinian refugees to enter Lebanon they had to have authorisation from the Syrian authorities to leave the country. To obtain this authorisation they needed a Palestinian Refugee ID and had to visit the Department of Immigration and Passports in Damascus. If they had this authorisation, Palestinian refugees were automatically given an 'entry card' which was valid for one week. This card could be changed for a residency visa, valid for three months and renewed, free of charge, up to four times in Lebanon, so for a total stay of one year.¹²⁵

In August 2013, there were reports that Palestinian refugees from Syria were being denied entry to Lebanon. Border police were enforcing a practice of only allowing Palestinian refugees from Syria to enter if they complied with the following: a valid pre-approved visa made by a guarantor in Lebanon; a valid visa and ticket to a third country; a scheduled medical or embassy appointment; or they were able to prove they had family legally living in Lebanon.¹²⁶ This policy wasn't published or officially announced by the Lebanese government, however, Amnesty International documented that this was happening by interviewing refugees and NGOs who work with them.¹²⁷

The policies and practices of the Lebanese authorities towards Palestinian refugees from Syria changed again in 2014. On May 4th, there was news, documented by Human Rights Watch, that Lebanon was refusing entry for Palestinians from Syria.¹²⁸ On the same day, the government of Lebanon forcibly returned around 40 Palestinian refugees to Syria.¹²⁹ Furthermore, according to Amnesty International in a leaked document from the General Security ordered all airlines to "not transport any traveller who is a Palestinian refugee in Syria to Lebanon no matter the reason and regardless of the documents or IDs that they hold."¹³⁰

A few days later, Lebanon's Minister of Interior issued a statement saying "there is no decision preventing Palestinian refugees in Syria from entering Lebanon and passing through the country."¹³¹ The statement outlined a set of requirements that would allow Palestinian refugees from Syria to enter Lebanon: an entry permit approved by General Security; a residency of one to three years or an exit and return permit; have a valid ticket and visa to a third country. However, these requirements would be costly and difficult if not impossible for the refugees to meet. What is more, border guards have the

¹²⁴ UNRWA, *PRS in Lebanon*, April 2014, <http://www.unrwa.org/prs-lebanon>

¹²⁵ Amnesty International, *Denied Refuge: Palestinians from Syria Seeking Safety in Lebanon*. July 2014. <http://www.amnesty.org/en/library/info/MDE18/002/2014/en>

¹²⁶ Amnesty International.

¹²⁷ Amnesty International, p. 10.

¹²⁸ Human Rights Watch, *Lebanon: Palestinians Barred, Sent to Syria*. 5 May 2014, <http://www.hrw.org/news/2014/05/05/lebanon-palestinians-barred-sent-syria>

¹²⁹ The Guardian, *Lebanon accused of turning away some Palestinian Syrian Refugees*. 6 May 2014, <http://www.theguardian.com/world/2014/may/06/lebanon-palestinian-syrian-refugees>

¹³⁰ Amnesty International, p. 13.

¹³¹ Rainey, Venetia, *Machnouk: New Entry rules for Palestinians from Syria*, The Daily Star, May 9 2014,

<http://www.dailystar.com.lb/News/Lebanon-News/2014/May-09/255811-machnouk-new-entry-rules-for-palestinians-from-syria.ashx>

discretion to turn away Palestinian refugees without referring back to the main authorities in Beirut.¹³² This puts Palestinian refugees from Syria in a situation where more of them are being forced to smuggle themselves across the border, putting themselves in the vulnerable position of living in Lebanon without valid papers.

The situation for Palestinian refugees from Syria who were already in Lebanon also changed after May 2014. Prior to this change, as stated earlier, they were able to renew the residency visa free of charge for one year and after that for a fee of \$200. Which would have been an issue for some refugees but after May 2014, there were reports that Lebanese authorities were refusing to renew visas for Palestinian refugees without giving any reason.¹³³

In September 2014, Lebanese authorities afforded Palestine Refugees from Syria the opportunity to extend expired visas free of charge for 3 months, while Syrians were given six months.¹³⁴ A lack of clarity over what will happen when that expires has created barriers when it comes to accessing social services, and puts the refugees in a very vulnerable situation.

According to Zizette Darkazally from UNRWA's Lebanon office, the difference of treatment between Syrian refugees and Palestinian refugees from Syria is clear: "They come to Lebanon for the same reason but they are not treated the same or have access to the same opportunities."¹³⁵

These policies and practices by the Lebanese authorities have had the effect of separating families. This has occurred because some family members have been allowed to enter while others are denied. In other cases, people have returned to Syria and then been refused re-entry to Lebanon. There are a number of reasons for them going back to Syria, to get documents they need in order to meet the visa requirements, to register the birth of children or to check on family members who not been able to leave Syria. There are a number of other consequences on Palestinian refugees from Syria, such as they cannot register births and marriages or obtain health care at government facilities; and students can't take part in official exams. This all has direct consequences on the quality of life of the refugees, makes them vulnerable to illness, violence and exploitation. "Prohibitive fees for renewing visas...which results in refugees considering to stay illegally in the country, and may compel people to return to Syria, can amount to constructive *refoulement*."¹³⁶

As refugees from the conflict in Syria, Palestinian refugees, similarly to any refugee, should at a minimum have the right to seek refuge and stay in a safe place be it in Jordan or Lebanon, until there is a change in the conflict in Syria that would allow them to return safely. In both the cases of Jordan and Lebanon, measures that prevent people escaping the conflict from accessing safety is a clear breach of the countries obligations under the principle of *non-refoulement*.

This chapter lays out the policies and practices of the Jordanian and Lebanese governments in regards to Palestinian refugees from Syria. I have described how this has affected the Palestinian refugees from

¹³² Abou Nasser, Mutawalli, *Lebanon breaks promise not to deport Palestinian refugees fleeing Syria*, The Electronic Intifada, 10 July 2014. <http://electronicintifada.net/content/lebanon-breaks-promise-not-deport-palestinian-refugees-fleeing-syria/13542>

¹³³ Amnesty International, p. 14.

¹³⁴ Purkiss, Jessica, *A series on statelessness: Palestinians fleeing death and destruction in Syria are unwelcome visitors in host countries*. Middle East Monitor, December 3, 2014. <https://www.middleeastmonitor.com/articles/middle-east/15629-a-series-on-statelessness-palestinians-fleeing-death-and-destruction-in-syria-are-unwelcome-visitors-in-host-countries>

¹³⁵ Quoted in Purkiss.

¹³⁶ Amnesty International, p. 17.

Syria, that they are being discriminated against based on national origin. The next chapter looks at how UNHCR and UNRWA have responded to the plight of the Palestinian refugees attempting to flee the crisis in Syria.

Chapter 4 UNRWA, UNHCR and Palestinian refugees

“Palestine refugees are defined by a combination of deep pride and acute need. Unique in their vulnerability, and buffeted by this raging conflict, this community awaits fulfillment of the promise to resolve the refugee issue and will in the meantime continue to require the engagement of all UNRWA partners.”¹³⁷

This chapter will examine the mandates of UNRWA and UNHCR in respect to the protection of Palestinian refugees. In addition, an analysis of the inter-agency collaboration on behalf of Palestinian refugees will be described looking at their displacement in Kuwait (1991), Libya (1996) and Iraq (2003). Finally, the case of Palestinian refugees from Syria, and the protection gap they are facing, will be detailed, looking specifically at UNHCR’s and UNRWA’s activities in Jordan and Lebanon.

UNRWA and the protection of Palestinian refugees

Following the 1948 Arab-Israeli conflict, UNRWA was established by United Nations General Assembly resolution 302 (IV) of 8 December 1949 to carry out direct relief and works programmes for Palestine refugees. The Agency began operations on 1 May 1950. “In the absence of a solution to the Palestine refugee problem, the General Assembly has repeatedly renewed UNRWA’s mandate, most recently extending it until 30 June 2017.”¹³⁸

The services of direct relief and works programmes, are provided to those fitting UNRWA’s definition of ‘Palestine refugees.’ UNRWA’s mandate has evolved since its creation in response to events that Palestinian refugees have faced. However, while UNRWA does today provide protection to Palestinian refugees, this remains geographically limited, and insufficient. This change started in 1982 when the General Assembly began to incrementally recognise a protection function for UNRWA. At first, UNRWA was asked to take “measures to guarantee the safety and security and the legal and human rights of the Palestinian refugees in all the territories under Israeli occupation.”¹³⁹ In 1993, this changed as the General Assembly resolution referred to a direct protection role for UNRWA.¹⁴⁰ Again in December 2008, the General Assembly noted that UNRWA provides protection to Palestinian refugees.¹⁴¹

UNRWA is expected to monitor, report and intervene on behalf of Palestinian refugees to improve their well being. “This includes persuading concerned authorities to behave in a certain way, mobilizing stakeholders to exert influence, and engaging in public advocacy on behalf of Palestinian refugees.”¹⁴² In addition to this, it can be argued, that in its humanitarian and development capacity UNRWA is providing protection to Palestinian refugees. However, I am arguing that even with all of these activities, UNRWA is unable to close the protection gap facing Palestinian refugees in general, and more specifically those trying to flee the Syrian conflict. This is especially true in the fact that the search for a just and durable solution is a protection gap that UNRWA is unable to fill.

¹³⁷ Quote by UNRWA Commissioner-General, in the UNRWA, *Syria Regional Crisis, Emergency Appeal 2015*. p. 5.

¹³⁸ UNRWA, *Who we are*, <http://www.unrwa.org/who-we-are>

¹³⁹ Kagan, Michael, *Is there really a protection gap? UNRWA’s role vis-à-vis Palestinian refugees*, Refugee Survey Quarterly, 2010, p. 518.

¹⁴⁰ Kagan.

¹⁴¹ Kagan.

¹⁴² Erakat, Noura, *Palestinian refugees and the Syrian Uprising: Filling the Protection Gap during secondary forced displacement*. International Journal of Refugee Law, 2014. P.

This right is ‘the key to enjoyment of the national protection and the realization of other rights.’¹⁴³ As stated earlier in the paper, the UNCCP was created to provide diplomatic and legal protection to Palestinian refugees, including facilitating durable solutions on their behalf. However since the 1950s when this agency fell into dormancy (due to lack of political will)¹⁴⁴ no international agency has searched for durable solutions for Palestinian refugees. UNRWA cannot take on this role unless the UN General Assembly decides to expand its mandate. Until this occurs, the most UNRWA can do is to “highlight the urgent need for a solution and to help ensure that in its elaboration, the rights, views, and interests of the refugees are heard and safeguarded.”¹⁴⁵

UNHCR and the protection of Palestinian refugees

UNHCR, which started operation on 1 January 1951, was given a mandate to provide international protection to refugees through a variety of functions and to seek permanent solutions for the problems of refugees. Over the course of its 64 years of existence, UNHCR’s mandate has grown to include internally displaced person, returnees, and stateless people. The international protection it provides includes protection from *refoulement*, conducting refugee status determination, upholding the prohibition of arbitrary detention, and preventing and responding to sexual and gender-based violence.¹⁴⁶ In addition, UNHCR’s international protection mandate involves ensuring that governments respect and protect the rights of refugees under their jurisdiction. As for UNHCR’s capacity to achieve durable solutions, this includes voluntary repatriation to and reintegration to the home country; integration in countries of asylum; and resettlements in third countries. It is interesting to point that, UNHCR and UNCCP have similar mandates.

UNHCR’s international protection mandate does apply to Palestinian refugees who are outside of UNRWA’s area of operations. However, the majority of Palestinian refugees reside in UNRWA areas, and have a more complicated relationship with UNHCR. The interpretation of Article 1D, either as inclusive or excluding, has been discussed earlier in the paper. Briefly, Palestinians falling within the scope of Article 1D are refugees entitled to the protection of the 1951 Convention as they are no longer receiving protection from a UN agency. Terry Rempel explains this distinction “UNHCR’s policy may be explained, in part, by a failure to accurately differentiate between the protection mandate (according to UNCCP) and the assistance mandate (accorded to UNRWA) for Palestinian refugees.”¹⁴⁷

The drafting history¹⁴⁸ of the Refugee Convention and UNHCR’s Statute reveals that the intention was not to exclude Palestinian refugees from the general legal regime for the protection of refugees. “The intention was to exclude them temporarily in an effort to prioritize achieving a resolution to their

¹⁴³ Brailsford, Mark, *Incorporating Protection into UNRWA’s operations*, conference paper, ‘Relief and Works to Human Development: UNRWA and Palestinian refugees after 60 years. 8 and 9 October 2010, https://www.aub.edu.lb/ifi/public_policy/pal_camps/pc_events/Documents/20101008ifi_unrwa60_conference/conference_papers/day1/ifi_unrwa_conf_day1panel2_paper1_brailsford.pdf p. 17

¹⁴⁴ Within 2 years of its establishment, the UNCCP reported back to the General Assembly that conditions in Palestine ‘have made it impossible for the Commission to carry out its mandate.’ (Quoted in Goodared, Brenda, *UNHCR and the international protection of Palestinian refugees*, Refugee Survey Quarterly, 2010, p. 480)

¹⁴⁵ Brailsford, p. 2.

¹⁴⁶ UNHCR, *International Protection in Note submitted by the High Commissioner to the 45th Session of the EXCOM*, 7 September 1994. <http://www.unhcr.org/3f0a935f2.html>

¹⁴⁷ Rempel, Terry M. *UNHCR, Palestinian Refugees, and Durable Solutions*. BADIL, Information and Discussion Brief, August 2002, p. 5.

¹⁴⁸ This drafting history was discussed in more detail earlier in this paper.

condition.”¹⁴⁹ Looking at UNHCR’s 2009 Revised Note on the Applicability of Article 1D confirms this understanding. The Note states that the second paragraph of Article 1D “contains an inclusion clause ensuring the *ipso facto* entitlement to the protection of the 1951 Convention of those refugees who, without having their position definitively settled in accordance with the relevant UN General Assembly resolutions, have ceased to receive protection and assistance from UNRWA for any reason.”¹⁵⁰

To avoid legal overlapping between UNHCR and UNRWA while not compromising the continuity of protection and assistance to Palestinian refugees, was the purpose behind Article 1D. The movement of Palestinian refugees into and out of UNRWA’s areas of operations has taken place for many years. Throughout this movement, there have been situations where the two agencies have worked together, to make sure that Palestinian refugees aren’t exposed to protection gaps.

History of UNRWA and UNHCR collaboration

Palestinian refugees have faced vulnerability because of their symbolic role in the Palestine Question and its resolution. Thus, throughout the past few decades, since their first displacement, various Arab governments have treated them as politicised collective group, which has come at the expense of their humanitarian needs. UNRWA and UNHCR have worked with each other in coping with this re-displacement of Palestinian population, such as in Kuwait, Libya, and Iraq. The close collaboration between the two agencies shows how difficult it is to separate their work in practice. Below are a few examples of where UNHCR and UNRWA have collaborated to provide assistance and protection to Palestinian refugees.

Following the Iraqi invasion of Kuwait and the first Gulf War in 1990-1991, UNHCR and UNRWA worked together to assist and protect the Palestinians expelled from Kuwait. Following the war, Kuwait expelled nearly 400,000 Palestinians in retaliation to its leadership’s support for Saddam Hussein’s occupation.¹⁵¹ In this case, Palestinians faced discrimination and even though this was beyond UNRWA’s area of operation, the then Commissioner-General stated, “I consider that the responsibility of UNRWA extends to Palestinians in all parts of the Middle East (including Kuwait). If ambivalence is allowed to persist in this respect, this can only delay ad hoc UN protection and humanitarian activities.”¹⁵² UNRWA sent a mission to collaborate with UNHCR to assess the situation of Palestinian refugees in Kuwait. “Although both agencies could do little to intervene and stop the deportations, it was an important statement of UNRWA having an obligation towards Palestinians outside of its operational area.”¹⁵³ UNRWA and UNHCR worked together to facilitate their return to their countries of asylum. Most host countries¹⁵⁴ allowed the re-entry of the Palestinians. However, in the case of those not allowed to return, they ended up in Iraq where they were integrated with the Palestinian population already living there.¹⁵⁵ UNHCR played a big role in the resettlement and protection of Palestinians, since they fell within its mandate. Kuwait was significant as it marked a unique collaboration between UNRWA and UNHCR, as it transcended the strict geographical divides of their respective mandates.

¹⁴⁹ Erakat, p. 588

¹⁵⁰ UNHCR, *Revised Note on the Applicability of Article 1D of the 1951 Convention Relating to the Status of Refugees to Palestinian Refugees*. October 2009, <http://www.refworld.org/docid/4add77d42.html> p. 1.

¹⁵¹ Erakat, p. 591.

¹⁵² Quoted in Erakat, p. 589.

¹⁵³ Fritzche, p. 15

¹⁵⁴ Most of the Palestinians who were in Kuwait came from Jordan, Egypt, Lebanon and Syria.

¹⁵⁵ Erakat, p. 591.

In 1995, Libya's then President Muammar al- Gaddafi expelled all Palestinians residing in Libya, arguing that "as I care about the Palestinian cause, and in order to achieve the best interest of Palestinians, I will expel the thirty thousand Palestinians who currently live in my land."¹⁵⁶

Subsequently about 200 Palestinians were left stranded on the Libyan and Egyptian border between 1995-1997, as Egypt only permitted Palestinians with residency in Jordan and the Occupied Palestinian Territories to enter. UNRWA and UNHCR provided food and shelter for those forced to live in the desert camps. In addition, they issued a joint statement on the 'Forced Movement of Palestinians from Libya', this being the first time that the agencies had "issued a joint press release on a matter of mutual concern."¹⁵⁷ In addition to lobbying neighbouring countries to allow Palestinians holding valid documentation to enter their former host states, UNHCR and UNRWA urged Libya to allow them to return. Later, Palestinians who returned to Libya registered with UNHCR as asylum seekers.¹⁵⁸

After the fall of Baghdad, in April 2003, the security of Palestinian refugees deteriorated. What is unique in this case, is that it wasn't the government that expelled the Palestinians, but it was Iraqi citizens. "Militant groups targeted Palestinians, evicted them from their homes, and subjected them to torture, and often death."¹⁵⁹ Rather than protect them, subsequent Iraqi governments started to arrest, beat, tortured and forcibly disappeared Palestinian refugees.¹⁶⁰ This caused Palestinian refugees, feeling vulnerable, to flee to neighbouring countries for protection. According to UNHCR around 1,003 Palestinians ended up in Ruwaished camp on the Jordanian-Iraqi border, Al Hol refugee camp, Northeast Syria, and stranded in the Tanf border area between Iraq and Syria.¹⁶¹ Again here both agencies worked together to provide shelter and food for the refugees in the camps.¹⁶² In this case, UNRWA and UNHCR lobbied the Jordanian and Syrian government to allow the Palestinians to enter. In the case of Jordan this was accomplished in 2005, when King Abdallah allowed the entry of Palestinian refugees with documentation. UNHCR resettled the remaining 200 Palestinian refugees, in Brazil and Chile.¹⁶³ As for Syria, the Palestinian refugees who were in the camps fell under UNHCR's jurisdiction and UNRWA coordinated with it to provide humanitarian relief. The case of the Palestinian refugees fleeing Iraq, established that resettlement could be an option available to them.¹⁶⁴ Palestinian refugees fleeing Iraq were not registered with UNRWA; they were considered persons of concern for UNHCR. Strict adherence to the geographical mandates that demarcate UNRWA and UNHCR's responsibility would have bought them under UNRWA's control. "UNHCR's mandate extended to Palestinians who went to Jordan and Syria. In those instances, UNRWA remained an implementing partner."¹⁶⁵

The situation of the Palestinian refugees fleeing Iraq led to greater collaboration between UNRWA and UNHCR. Ismail Kahin, MENA Bureau of UNHCR responsible for the Palestinian portfolio stated

¹⁵⁶ Sited in Fiddian-Qasmiyeh, p. 291

¹⁵⁷ Fiddian-Qasmiyeh, p. 282

¹⁵⁸ BADIL Staff, *The Palestinian Crisis in Libya 1994-1996*. 2010, <http://www.badil.org/en/article74/item/1571-art-02>

¹⁵⁹ Human Rights Watch, *Nowhere to Flee: the Perilous Situation of Palestinians in Iraq*. 2006.

<http://www.hrw.org/sites/default/files/reports/iraq0706web.pdf> p. 12.

¹⁶⁰ Ibid.

¹⁶¹ UNCHR, Aide-Mémoire, *Protecting Palestinians in Iraq and Seeking Humanitarian Solutions for Those Who Fled the Country*. 2006

<http://www.refworld.org/docid/45b0fc2e2.html>

¹⁶² Fiddian-Qasmiyeh, p. 291

¹⁶³ Erakat, p. 593

¹⁶⁴ The Department of State conducted interviews in one of the camps for resettlement in the US, and agreed to take 1,053 people, making this the first time that the US has given asylum to Palestinian refugees. In addition, due to heavy lobbying by civil society partners of UNHCR, other countries offered asylum to Palestinians. (Information from Erakat)

¹⁶⁵ Erakat, p. 594

“their arrival in Syria and Jordan prompted more cooperation between the two agencies. There was a heightened contact and coordination on these specific issues. Coordination spans back to Libya but events in Iraq increased contact and coordination. They were stuck in these camps and it was very visible as vulnerable people.”¹⁶⁶

The cases highlighted the development of a “de facto policy of cooperation” between UNRWA and UNHCR. Both agencies have stepped in to protect and aid Palestinian refugees in such a way that challenged their mandates. In addition, it shows that the agencies are operationally able to move beyond geographic and legal overlapping issues to find ways to assist Palestinian refugees when they are most vulnerable.

UNRWA, UNHCR and the Palestinian refugees from Syria

The Syria conflict is another time that Palestinian refugees have been forcibly displaced both internally and to neighbouring countries. This is the most recent chapter of Palestinian refugee secondary forced displacement and it offers new opportunities and challenges for the inter-agency collaboration between UNRWA and UNHCR. This section will be detailing how the two agencies have been working, separately and jointly, to try and provide Palestinian refugees from Syria with the protection and assistance in Jordan and Lebanon.

Jordan and Lebanon are part of the UNRWA’s field of operations. It does not administer the refugee camps in both countries but is responsible for running education, health, and relief and social services programmes, which are located inside and outside camps. The governments are responsible for the administration, security and services in the camps. Jordan and Lebanon are not signatories to the 1951 Convention; in an attempt to codify the protection space and national roles; UNHCR signed Memorandums of Understanding (MOUs) with both countries in the mid 1990s. These MOUs were designed to create a policy framework for addressing refugee flows in place of the states’ case-by-case approaches.¹⁶⁷

Jordan

UNRWA operates 173 schools, 2 vocational centres, and 24 primary health centres in Jordan. There are 10 official camps housing 17% of the registered refugees in Jordan.¹⁶⁸ UNHCR has been working in Jordan since 1991. “Most Palestinian refugees from Syria in Jordan live in poverty and their precarious legal status creates difficulties for civil processes, access to services and employment.”¹⁶⁹ Over half of the Palestinian refugees from Syria in Jordan are female and 30% are female-headed households.¹⁷⁰ UNRWA is able to have limited access to the Palestinian refugees being detained in Cyber City, where they are able to provide them with basic goods.

¹⁶⁶ Quoted in Erakat, p. 595.

¹⁶⁷ Ward, Patricia, *Refugee Cities: Reflections on the Development and Impact of UNHCR Urban Refugee Policy in the Middle East*. Refugee Survey Quarterly, 2014, p. 81.

¹⁶⁸ UNRWA, *Fields of Operation*, <http://www.unrwausa.org/page.aspx?pid=415>

¹⁶⁹ Hassan, Hanine, *Cyber City in Jordan: The Epitome of Palestine Refugees’ Despair and Legal Limbo*, Al-Majdal, Autumn 2014, <https://www.badil.org/en/al-majdal/item/2089-art6>

¹⁷⁰ UNHCR, *Inter-Agency Regional Response for Syrian Refugees*, October 2013, <https://www.unhcr.org/hk/files/2013%20Emergency/Syria/21%20Oct/Inter-agency%20regional%20responsefor%20Syrian%20refugees%203-9%20Oct%202013.pdf> p. 2

Since the beginning of 2014, UNRWA has managed over 414 protection cases, including over 837 requiring interventions.¹⁷¹ As stated earlier, as of March 2013, *refoulement* is a major issue facing Palestinian refugees from Syria in Jordan, UNRWA has intervened in 91 cases of successfully stayed 41 deportations of Palestinian refugees back to Syria.¹⁷² While the principle of *non-refoulement* is within UNHCR's mandate, "practical political considerations in Jordan make it difficult for them to actively support UNRWA's advocacy on behalf of Palestinian refugees facing this threat."¹⁷³ Checking the 3RP (Regional Refugee & Resilience Plan 2015-2016)¹⁷⁴ website for Jordan Response Plan, it is clear that the issues facing Palestinian refugees from Syria have not been addressed and are not part of the plans for 2015. The 2014 Syria Regional Responses Plan's section on Jordan, excluded Palestinians as well. Furthermore, Human Rights Watch reports that the Inter-Agency Task Force (IATF), which is the local coordination mechanism for aid agencies working on the Syria refugee response in Jordan and is chaired by UNHCR, does not discuss issues related to Palestinians refugees from Syria.¹⁷⁵

High-level appeals by both agencies have advocated for Palestinian refugees fleeing Syria, the UN High Commissioner for Refugees, Antonio Guterres, has appealed for greater protection saying "dramatic situation of the Palestinian refugees in Syria. Most of them already displaced inside the country, and some with problems in leaving the country."¹⁷⁶ Lisa Gilliam, UNRWA's Deputy Director of its Executive Office, speaks about the different in the treatment the Palestinians are facing now compared to when they were fleeing Iraq, "The Palestinian refugee issue was well integrated into every general meeting of the UN humanitarian response. In Jordan, the extreme sensitivity the Palestinian influx from Syria presents to Jordanian authorities seems to create a level of wariness on the part of sister agencies towards UNRWA."¹⁷⁷

Although both agencies meet to discuss the situation of the Palestinian refugees from Syria, neither agency has been able to offer 'meaningful' protection to Palestinian refugees to overcome issues of their exclusion, detention and *refoulement*.

Lebanon

Palestinian refugees represent an estimated 10% of the population of Lebanon.¹⁷⁸ They do not enjoy several important rights; for example, they cannot work in as many as 20 professions. Because they are stateless, Palestinian refugees are unable to claim the same rights as other foreigners living and working in Lebanon. UNHCR has worked in Lebanon since 1964 however; prior to 2011, its operation was a relatively modest-meeting the needs of 10,000 mostly Iraqi refugees.¹⁷⁹

¹⁷¹ UNRWA, *Syria Crisis Update Issue 83*, January 2015, <http://www.unrwa.org/newsroom/emergency-reports/syria-regional-crisis-response-update-83>

¹⁷² UNRWA, *Syria Crisis Update Issue 44*, April 2013, <http://www.unrwa.org/newsroom/emergency-reports/syria-crisis-situation-update-issue-44>

¹⁷³ Erakat, p. 604.

¹⁷⁴ The 3RP "is a country-driven, regionally coherent plan to address refugee protection and humanitarian needs whilst building the resilience of vulnerable people and impacted communities and – recognizing the centrality of national resilience and stabilization plans – strengthening the capacity of national delivery systems." <http://www.3rpsyriacrisis.org/>

¹⁷⁵ Human Rights Watch, 2014, p. 3

¹⁷⁶ Statement by Antonio Guterres, at the hearing on 'Syria's Humanitarian Crisis' to the United States Senate Foreign Relations Subcommittee on Near Eastern and South and Central Asian Affairs. March 2013.

<http://www.charityandsecurity.org/system/files/Senate%20hearing%20transcript%20on%20Syria.pdf>

¹⁷⁷ Quoted in Erakat, p. 605.

¹⁷⁸ UNRWA, *Where we work, Lebanon*, <http://www.unrwa.org/where-we-work/lebanon>

¹⁷⁹ UNHCR, *UN Family in Lebanon*, <http://www.un.org.lb/Subpage.aspx?pageid=49>

Like Jordan, Lebanon treats Syrian and Palestinian refugees differently; the issues of barring their entry were discussed in the previous chapter. But their situation doesn't get better even when they do cross into Lebanon. The June 2014 a joint UNRWA and WFP needs assessment revealed poor food consumption patterns among the Palestinian refugees from Syria. "PRS households spent nearly half of their income on food alone which has led to high food insecurity."¹⁸⁰ 59% of Palestinian refugees from Syria are living in one room, while almost 54% do not have running water.¹⁸¹ UNHCR assisted UNRWA at the beginning of the crisis in Syria, by monitoring the border, providing UNRWA with numbers and information about Palestinians who were crossing the border. At a later time, UNRWA was able to beef up its presence, and now has its own staff monitoring and patrolling the border.

UNRWA had budgetary shortfall since the start of the Syria conflict, this could be attributed to the fact that most of the funding was going towards refugees registered with UNHCR. Coordination of the humanitarian sector in Lebanon is led by UNHCR, and when it speaks about refugees it doesn't do so on behalf of Palestinians, which is left to UNRWA, however at the beginning of the crisis this wasn't effectively coordinated. In the case of Lebanon, the first time Palestinian refugees were included in the Syria Regional Plan was in fourth one, (January-July 2013).¹⁸² The report states that "in view of the limited ability of Lebanon-based Palestinian community to absorb, support and host additional refugees it appears crucial that this group should also receive attention in the coming months." The Lebanon report in the 3RP (2015-2016)¹⁸³ includes the needs of Palestinian refugees from Syria, which means that UNHCR in collaboration with other UN agencies including UNRWA will be providing services to them.

In Lebanon, Palestinian refugees from Syria are facing a protection gap, however as they are included in the UN's regional response plan, means that they might fare better than those who are in Jordan. While in the case of Palestinian refugees who fled Iraq to Syria, where the two agencies collaborated to provide services, in this case UNHCR made a clear distinction between the Palestinian and Syrian refugees. The only difference in the two cases, as both Syria and Lebanon are UNRWA areas of operations, is that the Palestinians fleeing Iraq were not registered with UNRWA.

The treatment of Palestinian refugees from Syria shows a retreat in the level of regional collaboration between UNRWA and UNHCR. Jordan and Lebanon has imposed a de facto no-entry policy on Palestinian refugees fleeing Syria. As a result, Palestinian refugees from Syria have faced detention, exclusion and *refoulement* from Jordan and Lebanon. UNRWA and UNHCR have been unable to meaningful intervene on behalf of the Palestinian refugees in this case.

While inter-agency collaboration was enough to protect Palestinian refugees during their secondary forced displacement from Kuwait, Libya and Iraq, it has not been adequate in the case of the Syria conflict. "On its face, the major difference between this event and those that preceded it is the magnitude of the crisis as well as the status of Palestinian refugees as registrants, or not, of UNRWA."¹⁸⁴ In the case of Kuwait and Libya, the Palestinians were the only ones fleeing. Which could mean that the two agencies had more available resources to make it more conducive to collaborate.

¹⁸⁰ Regional Refugee & Resilience Plan 2015-2016, Lebanon, <http://www.3rpsyriacrisis.org/wp-content/uploads/2014/12/3RP-Report-Lebanon-formatted.pdf> p. 31.

¹⁸¹ Erakat, p. 606.

¹⁸² Erakat, p. 607.

¹⁸³ Regional Refugee & Resilience Plan 2015-2016, Lebanon.

¹⁸⁴ Erakat, p. 613.

However, in the case of Iraq, this was not the case, as Iraqis and Palestinians were fleeing, the burden on the donors and the host countries was high, this didn't stop UNRWA and UNHCR from collaborating. The Palestinian refugees fleeing Iraq didn't suffer as big a protection gap compared to those who are fleeing the conflict in Syria. The key distinction between the cases is the status of Palestinian refugees; in Syria they are registered with UNRWA, in Iraq they were not. "Although Palestinians fled from Iraq into UNRWA's areas of operation, they remained under UNHCR's mandate and were assisted by UNRWA."¹⁸⁵ This leads to the conclusion, that UNHCR could be assisting Palestinian refugees from Syria had they lacked their UNRWA status. Such a conclusion would not follow the intent of the UNHCR Statute and the Refugee Convention, which supports collaboration between UNRWA and UNHCR, as does the precedent of the cases illustrated in this chapter.

¹⁸⁵ Erakat, p. 613.

Chapter 5 Conclusion

“The internationally established separate regime for Palestinian refugees allows for discriminatory policy responses in Jordan and Lebanon.”¹⁸⁶

This paper has analysed the interplay between the international refugee protection framework, the one in place for Palestinians refugees, and the policies of the Jordanian and Lebanese government in relations to the movement of refugees from Syria. In addition, this paper analysed the *de facto* policy of collaboration of UNRWA and UNHCR when it came to the secondary displacement of Palestinian refugees in the Arab region, and looking at how this has regressed in the case of the Syria crisis.

With the entry into force of the Refugee Convention and the establishment of the UNCHR, the international community’s attitude towards refugees drastically changed. First, refugees were recognized as individuals, decided case-by-case specific definition, rather than as groups or categories. Second, countries granted refugee status based on political considerations of whether the country the refugee was fleeing was considered an ‘enemy state’. The 1951 Refugee Convention provided a definition what was ideologically neutral which made granting protection to a refugee a non-political act. Finally, the 1951 Refugee Convention made the flow of refugees an international problem, no longer a regional or single-state problem, a burden that should be shared by everyone.

However, existing international legal framework is based on the understanding that Palestinian refugees are distinct form other refugees, due to the nature of the first displacement. In summary, during the drafting of the 1951 Refugee Convention, Arab states argued that Palestinians, unlike other refugees, has become refugees as a direct result of a decision of the UN. The understanding at that time was that the UN should be obliged to protect these refugees and find durable solutions rather than the host countries. The individualised definition of a refugee was not intended to apply to Palestinian refugees. “No legal definition of Palestinian refugee has ever been adopted by the international community.”¹⁸⁷ As a result, Palestinian refugees were separate from the refugee concept outlined in the 1951 Refugee Convention.

Over the past six decades, this exclusion has led to the discrimination of Palestinian refugees at the international and domestic level, and has resulted in a protection gap. In the Arab countries that are host to Palestinian refugees, there is a long-standing consensus that the solution to the Palestinian issue is repatriation to their homes and lands in the now occupied Palestine. As a result, there are a series of agreements and resolutions that bind Arab host countries to give Palestinian refugees the right to remain in their territories with only temporary status.¹⁸⁸ In addition, most Arab states are not signatories to the 1951 Refugee Convention, and are thus not bound by either Article 1A(1) or Article 1D. However, they are bound by the customary international law principle of *non-refoulement* obliging them not to expel Palestinian refugees from their territories to places where their ‘lives or freedom would be threatened.’ Due to the fact that Arab host countries don’t recognise Palestinians as refugees under the

¹⁸⁶ Fritzsche, p. 26.

¹⁸⁷ Akram, Susan M. *Temporary Protection and its Applicability to the Palestinian Refugee Case*. BADIL-Information and Discussion Brief, June 2000, p. 4.

¹⁸⁸ As discussed earlier in the paper, the most important of these is the Casablanca Protocol-the Protocol of the Treatment of Palestinians in the Arab States.

1951 Refugee Convention, they are routinely denied the right to work, to travel freely, to unite with family members, to own property, or to benefit from a wide spectrum of international human rights guarantees.

Looking at the recent policies of the Jordanian and Lebanese government towards Palestinian refugees fleeing Syria, the implications of the protection gap are clear. Both countries have discriminated against Palestinian refugees, in terms of entry and access to basic services, in comparison to Syrian nationals, even though both are fleeing the same conflict. Both countries have used the struggle of Palestinians against Israel and their right of return as a way to compartmentalising and discriminating against them. Jordan's argues that its policies are 'positive' discrimination, which is similar to the logic used by Arab states during the drafting of the 1951 Refugee Convention which lead to the exclusion of Palestinian refugees. The policies in Lebanon, based on similar reasons, have lead to extreme socioeconomic marginalisation of the Palestinian refugees in that country.

Syrian refugees are registered with UNHCR and covered by its protection mandate. Palestinian refugees fleeing from Syria are unable to register with UNHCR, and do so with UNRWA. This is due to UNHCR's interpretation of Article 1D as an exclusion clause. As long as international law maintains separate treatment for Palestinian refugees, "they create a space for a legally sanctioned type of discrimination that is extremely detrimental to displaced Palestinians."¹⁸⁹ There should be an effort to integrate the Palestinians into the international protection system in place under the 1951 Refugee Convention. This would entail activating the contingent inclusion clause in Article 1D of the 1951 Refugee Convention, where Palestinian refugees would be covered by the protection set out in the convention. Thus, displaced Palestinian refugees, inside and outside of UNRWA's areas of operations, would fall under UNCHR's protection mandate.

I believe it is that the intent and spirit of the drafters, of the 1951 Refugee Convention and UNHCR Statue, was to extend UNHCR's protection to Palestinian refugees when needed. "The delineation between their mandates aimed to avoid redundancy in services and function, not to reduce protection, coordination, and cooperation available to Palestinian refugees."¹⁹⁰ While UNRWA and UNHCR collaboration in the past has bridged the protection gap facing Palestinian refugees, this policy has proven inadequate in the course of the Syria crisis. The scale of the crisis has stretched the two agencies' financial and personnel resources to their limit, which has impacted on the potential for collaboration. In addition, the classification of Palestinians fleeing Syria as UNRWA registrants has limited the reach of UNHCR's protection at borders, within UNRWA's areas of operation, as well as within states that are party to the 1951 Refugee Convention.

The incentive for UNRWA and UNHCR to collaborate on the case of Palestinians refugees was highlighted earlier. In the past they have worked very well together as complementary agencies that provided the Palestinian refugees with both assistance and protection. The mandates of both these organisations can and have fit together as pieces of a puzzle, making sure that the international refugee regime is doing its duty for people in times of conflict. This type of collaboration should continue to protect Palestinian refugees at all times, to close the protection gap afflicting Palestinian refugees and thus avoiding replicating their efforts. The fluid operational and geographic collaboration should

¹⁸⁹ Fritzsche, p. 27.

¹⁹⁰ Erakat, p. 615.

continue, regardless of the status of the displaced Palestinian refugees. Such collaboration, should shape how the two agencies run meetings, advocate with governments for refugee rights, monitor border crossings, and engage in emergency response. Looking beyond the Syria crisis and the humanitarian needs of the Palestinian refugees, UNRWA and UNHCR should consider viable options for closing the protection gap by making durable solutions available to Palestinian refugees. Achieving this is not in the hands of the UN agencies, but the international community, however until then all these efforts, while very much needed to provide protection to the Palestinian refugees, will continue to be ad hoc and insufficient.

Bibliography

- Abou Nasser, Mutawalli, *Lebanon breaks promise not to deport Palestinian refugees fleeing Syria*, The Electronic Intifada, 10 July 2014. <http://electronicintifada.net/content/lebanon-breaks-promise-not-deport-palestinian-refugees-fleeing-syria/13542>
- Akram, Susan M. *Temporary Protection and its Applicability to the Palestinian Refugee Case*. BADIL-Information and Discussion Brief, June 2000
- Akram, Susan M. *Palestinian Refugees and their Legal Status: Rights, Politics, and Implications for a Just Solution*. Journal of Palestine Studies, Vol. 31, No. 3 (Spring 2002)
- Akram, Susan M and Rempel, Terry, *Temporary Protection as an instrument for Implementing the Right of Return for Palestinian Refugees*, Boston University International Law Journal, Vol. 22, No. 1 , Spring 2004
- AlAbed, Oroub, *Palestinian Refugees in Jordan*, Forced Migration Online, February 2004, <http://www.forcedmigration.org/research-resources/expert-guides/palestinian-refugees-in-jordan/fmo025.pdf>
- AlMonitor, *Jordanian PM: We Can't Accept Palestinian Refugees From Syria*, Jan. 11, 2013 <http://www.al-monitor.com/pulse/ar/politics/2013/01/jordanian-pm-we-cannot-receive-palestinian-refugees-from-syria.html#>
- Amnesty International, *Denied Refuge: Palestinians from Syria Seeking Safety in Lebanon*. July 2014. <http://www.amnesty.org/en/library/info/MDE18/002/2014/en>
- Arendt, Hannah, *Responsibility and Judgment*, Ed. Jerome Kohn, Schocken Books, 2003
- Arendt, Hannah, *The Origins of Totalitarianism*. Schocken Books, 2004
- Askoul, Rana, *Behind the numbers, the reality of being a stateless Palestinian is harsh*. The National, August, 2, 2014, <http://www.thenational.ae/opinion/comment/behind-the-numbers-the-reality-of-being-a-stateless-palestinian-is-harsh>
- BADIL Staff, *The Palestinian Crisis in Libya 1994-1996*. 2010, <http://www.badil.org/en/article74/item/1571-art-02>
- Badil, *Palestinian Refugees in Jordan and the Revocation of Citizenship*. Badil Resource Centre for Palestinian Residency and Refugee Rights, 2010, <http://www.badil.org/al-majdal/item/1569-interview1>

Bartlett, Allison, *An Endless quest for a home: the gap in protection between Stateless persons and Refugees*. Immigration and Nationality Law Review, 2012

Batchelor, Carol A. *Stateless Persons: Some Gaps in International Protection*. International Journal of Refugee Law, 1995

Brailsford, Mark, *Incorporating Protection into UNRWA's operations*, conference paper, 'Relief and Works to Human Development: UNRWA and Palestinian refugees after 60 years. 8 and 9 October 2010,
https://www.aub.edu.lb/ifi/public_policy/pal_camps/pc_events/Documents/20101008ifi_unrwa60_conference/conference_papers/day1/ifi_unrwa_conf_day1panel2_paper1_brailsford.pdf

Bonwick, Andrew & Slim, Hugo, *Protection, an ALNAP guide for humanitarian agencies*. Overseas Development Institute 2005

Choluv, Martin, *Besieged and terrified ... and the food is about to run out for Damascus refugees*, The Observer, 19 April 2014 <http://www.theguardian.com/world/2014/apr/19/syria-besieged-refugees-yarmouk-starvation>

Coogan, Matthew, (Dis)integration: Palestinian Refugees in the Syrian Civil war, Jadaliyya, Sept. 2013. http://www.jadaliyya.com/pages/index/13960/%28dis%29integration_palestinian-refugees-in-the-syria

Darling, Kate, *Protection of Stateless persons in International Asylum and Refugee Law*. International Journal of Refugee Law, 2009

Erakat, Noura, *Palestinian refugees and the Syrian Uprising: Filling the Protection Gap during secondary forced displacement*. International Journal of Refugee Law, 2014

Fiddian-Qasmiyeh, Elena, *Invisible Refugees and/ or Overlapping Refugeeedom? Protecting Sabrawis and Palestinians Displaced by the 2011 Libyan Uprising*. International Journal of Refugee Law, Vol. 24, No. 2, 2012

Fritzsche, Jasmin, *Displacing the Displaced: Challenging the International Framework for Palestinian Refugees in light of the Syria Crisis*. Cairo Studies on Migration and Refugees, Oct. 2014.

Fullerton, Maryellen, *The Intersection of Statelessness and Refugee Protection in US Asylum Policy*. Journal of Migration and Human Security, 2014

Gabbay Shaul M, *The Status of Palestinians in Jordan and the Anomaly of Holding a Jordanian Passport*. Journal of Political Science and Public Affairs 2014, <http://esciencecentral.org/journals/the-status-of-palestinians-in-jordan-and-the-anomaly-of-holding-a-jordanian-passport-2332-0761.1000113.pdf>

The Guardian, *Lebanon accused of turning away some Palestinian Syrian Refugees*. 6 May 2014, <http://www.theguardian.com/world/2014/may/06/lebanon-palestinian-syrian-refugees>

Goodared, Brenda, *UNHCR and the international protection of Palestinian refugees*, Refugee Survey Quarterly, 2010

Hammoud, Tariq, *Palestinian Refugees and the Syrian Revolution*, Arab Centre for Research and Policy Studies, Feb. 2013

Hassan, Hanine, *Cyber City in Jordan: The Epitome of Palestine Refugees' Despair and Legal Limbo*, Al-Majdal, Autumn 2014, <https://www.badil.org/en/al-majdal/item/2089-art6>

Hassan, Hanine, *Palestinian refugees from Syria war left to suffer by Jordan*, The Electronic Intifada, March, 10, 2014. <http://electronicintifada.net/content/palestinian-refugees-syria-war-left-suffer-jordan/13229>

Hayden, Patrick, *From Exclusion to Containment: Arendt, Sovereign, Power and Statelessness*, Societies without Borders, 2008

Human Rights Watch, *Nowhere to Flee: the Perilous Situation of Palestinians in Iraq*. 2006. <http://www.hrw.org/sites/default/files/reports/iraq0706web.pdf>

Human Rights Watch, *Lebanon: Palestinians Barred, Sent to Syria*. 5 May 2014, <http://www.hrw.org/news/2014/05/05/lebanon-palestinians-barred-sent-syria>

Human Rights Watch, *Stateless again, Palestinian-Origin Jordanians deprived of their Nationality*, February 2010. <http://www.hrw.org/sites/default/files/reports/jordan0210webwcover.pdf>

ICRC, *Strengthening Protection in War, Workshops at the ICRC, 1996-2000*. 2001

Kagan, Michael, *Is there really a protection gap? UNRWA's role vis-à-vis Palestinian refugees*, Refugee Survey Quarterly, 2010

Middle East Monitor, *637,000 Syrian refugees in Jordan*, Feb. 2015. <https://www.middleeastmonitor.com/news/middle-east/16730-637000-syrian-refugees-in-jordan>

Nigar, Kirimova, *The Status of Palestinian Refugees in International Law: The issue of interpretation and implementation of Article 1D of the 1951 Convention relations to the Status of Refugees in Europe*. MA in Law Thesis, submitted to Central European University, Hungary, 2010

Parekh, Serena, *Beyond the ethics of admission: Stateless people, refugee camps and moral obligations*. Philosophy and Social Criticism, 2014

Peteet, Julie, *From Refugees to Minorities: Palestinians in Post-War Lebanon*. Middle East Reprint, No. 18, July-September 1996. p. 30.

Purkiss, Jessica, *A series on statelessness: Palestinians fleeing death and destruction in Syria are unwelcome visitors in host countries*. Middle East Monitor, December 3, 2014.

<https://www.middleeastmonitor.com/articles/middle-east/15629-a-series-on-statelessness-palestinians-fleeing-death-and-destruction-in-syria-are-unwelcome-visitors-in-host-countries>

Rainey, Venetia, *Machnouk: New Entry rules for Palestinians from Syria*, The Daily Star, May 9 2014, <http://www.dailystar.com.lb/News/Lebanon-News/2014/May-09/255811-machnouk-new-entry-rules-for-palestinians-from-syria.ashx>

Ram, Alessandra, *Trapped: The Plight of Palestinian Refugees from Syria*, The Atlantic, March 26, 2013, <http://www.theatlantic.com/international/archive/2013/03/trapped-the-plight-of-palestinian-refugees-from-syria/274369/>

Regional Refugee & Resilience Plan 2015-2016, Lebanon, <http://www.3rpsyriacrisis.org/wp-content/uploads/2014/12/3RP-Report-Lebanon-formatted.pdf>

Rempel, Terry M. UNHCR, *Palestinian Refugees, and Durable Solutions*. BADIL, Information and Discussion Brief, August 2002

Shafie, Sherifa, *Palestinian refugees in Lebanon*, July 2007, <http://www.forcedmigration.org/research-resources/expert-guides/palestinian-refugees-in-lebanon/fmo018.pdf>

Shiblak, Abbas, *Passport for what price? Statelessness among Palestinian refugees* Paper presented: 'From Exodus to Exile: Palestinian Lives in the Levant, Bergen 7-8 September 2007

Shiblak, Abbas, *Stateless Palestinians*. Forced Migration Review 26, August 2006. <http://www.fmreview.org/FMRpdfs/FMR26/FMR2603.pdf?q=stateless>

Syria Needs Analysis Project, *Palestinians from Syria*, March 2014, http://www.acaps.org/reports/downloader/palestinians_from_syria_march_2014/77/syria

Takkenberg, Lex, *The Search for Durable Solution for Palestinian Refugees: A Role for UNRWA?* in Benvenisti, Eyal & Gans, Chaim & Hanafi Sari, (eds.) *Israel and the Palestinian Refugees*, Springer, Germany, 2007

Takkenberg, Lex, *The Status of Palestinian Refugees in International Law*, Oxford, 1998

UNHCR, *UN Family in Lebanon*, <http://www.un.org.lb/Subpage.aspx?pageid=49>

UNHCR, Syria's Humanitarian Crisis' to the United States Senate Foreign Relations Subcommittee on Near Eastern and South and Central Asian Affairs. March 2013. <http://www.charityandsecurity.org/system/files/Senate%20hearing%20transcript%20on%20Syria.pdf>

UNHCR, *Inter-Agency Regional Response for Syrian Refugees*, October 2013, <https://www.unhcr.org/hk/files/2013%20Emergency/Syria/21%20Oct/Inter-agency%20regional%20responsefor%20Syrian%20refugees%203-9%20Oct%202013.pdf>

UNCHR, *Aide-Mémoire, Protecting Palestinians in Iraq and Seeking Humanitarian Solutions for Those Who Fled the Country*. 2006 <http://www.refworld.org/docid/45b0fc2e2.html>

UNHCR, *Revised Note on the Applicability of Article 1D of the 1951 Convention Relating to the Status of Refugees to Palestinian Refugees*. October 2009, <http://www.refworld.org/docid/4add77d42.html>

UNHCR, *International Protection in Note submitted by the High Commissioner to the 45th Session of the EXCOM*, 7 September 1994. <http://www.unhcr.org/3f0a935f2.html>

UNCHR, *Revised Note on Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian Refugees*. 2009 <http://www.refworld.org/docid/4add77d42.html>

UNRWA & UNHCR, *The United Nations and Palestinian Refugees*. 2007 <http://www.unrwa.org/userfiles/2010011791015.pdf>

UNRWA, *Fields of Operation*, <http://www.unrwausa.org/page.aspx?pid=415>

UNRWA, *Syria Crisis Update Issue 44*, April 2013, <http://www.unrwa.org/newsroom/emergency-reports/syria-crisis-situation-update-issue-44>

UNRWA, *Syria Regional Crisis Response Update 81* <http://www.unrwa.org/newsroom/emergency-reports/syria-regional-crisis-response-update-81>

UNRWA, *Syria Crisis Update Issue 83*, January 2015, <http://www.unrwa.org/newsroom/emergency-reports/syria-regional-crisis-response-update-83>

UNRWA, *Syria Regional Crisis, Emergency Appeal 2015*.

UNRWA, *Where we work, Lebanon*, <http://www.unrwa.org/where-we-work/lebanon>

UNRWA, *PRS in Lebanon*, April 2014, <http://www.unrwa.org/prs-lebanon>

UNRWA, *UNRWA in Lebanon*, July 2014. <http://www.unrwa.org/where-we-work/lebanon>

UNRWA, *In Figures*, 2014 http://www.unrwa.org/sites/default/files/2014_01_uif_-_english.pdf

UNRWA, *PRS in Jordan*, April 2014 <http://www.unrwa.org/prs-jordan>

UNRWA, *Syria Crisis Response Annual Report*, February 2013. [http://www.unrwa.org/sites/default/files/syria crisis response annual report 2013 1.pdf](http://www.unrwa.org/sites/default/files/syria%20crisis%20response%20annual%20report%202013%201.pdf)

UNRWA, *The Crisis in Yarmouk Camp*, <http://www.unrwa.org/crisis-in-yarmouk>

Ward, Patricia, *Refugee Cities: Reflections on the Development and Impact of UNHCR Urban Refugee Policy in the Middle East*. Refugee Survey Quarterly, 2014

Walzer, Michael, *The Distribution of Membership*, in T.Pogge and D. Moellendorft (eds) *Global Justice: Seminal Essays*. Paragon House, 2008