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**Unprotected Among Brothers: Palestinians in the Arab  
World**

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## List of Abbreviations

Arab League	League of Arab States
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
ICCPR	International Covenant on Civil and Political Rights (1966)
PLO	Palestine Liberation Organization
UDHR	Universal Declaration of Human Rights (1948)
UNCCP	United Nations Conciliation Commission for Palestine
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East

## INTRODUCTION

*We don't even know how many there really are of us. We have suffered from the absence of the United Nations Relief and Works Agency (UNRWA). We have never received any assistance. And we were deprived of every civil right enjoyed by Iraqis. Why are we so neglected? [Palestinian Refugee, Iraq] (Nabulsi 2006: 100)*

As the regime of former Iraqi President Saddam Hussein collapsed with the American-led invasion in May 2003, Palestinian refugees in the country increasingly became targets and victims of revenge attacks, extra-judicial killings, torture, kidnapping, mass evictions and displacement, as well as political and economic discrimination (see, among others, BADIL 2007; IMC 2007; Sinjab 2007; UNAMI 2007). Targeted by various sectarian militias as a distinct group - popularly viewed as having received beneficial treatment by the Hussein regime - thousands of Palestinian refugees fled towards Iraq's borders with Syria and Jordan. With no country of their own to return to, they found themselves in a vicious legal and existential state of uncertainty. For the most part holders of Iraqi refugee travel documents, the majority were not granted access to either state, thus living in makeshift camps in no-man's lands between the countries.<sup>1</sup> As a spokesperson from the United Nations High Commissioner for Refugees (UNHCR) stated regarding these camps in May 2007: 'The conditions are absolutely dire, they are places where people are dying. No man, woman or child should be living in that environment' (OCHA 2007a).

The current plight of Palestinian refugees in Iraq highlights, in its severest manifestation, the confluence of forced migration and statelessness that can lead to a devastating political, legal and, even, existential limbo. This reality is compounded by the distinct manner in which the international refugee regime – comprising international refugee and human rights law as well as mandated United Nations organizations – has approached the provision of protection and assistance for Palestinian refugees. With the assistance mandate of UNRWA geographically limited,<sup>2</sup> Palestinian refugees in Arab host states beyond the Agency's area of operations are faced with distinctly different assistance and protection challenges than those under its mandate. In what can be termed, for the purposes of this study, the 'Arab periphery', they have faced and continue to face a dangerous combination of effective gaps in international protection and assistance. As such, this thesis aims to trace the political and legal ripple effects of the *Nakbah* – the mass displacement of Palestinians from historic Palestine beginning in 1948 – for those refugees who found refuge in Arab states outside the bounds of international attempts at their assistance and protection. It will present a legal and political analysis of 'protection gaps' – in short, the lack of international and national protection that should, in principle, be guaranteed to all refugees – for Palestinian refugees in Iraq, Libya, Egypt and Kuwait, all with considerable current or past Palestinian populations.

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<sup>1</sup> Jordan currently hosts Al-Ruwaished camp while Syria hosts Al-Hol camp. Two camps – Al-Waleed and Al-Tanf – have been identified along the Syrian-Iraqi border (Wilkes 2007). A number of Palestinian refugees in Al-Ruwaished camp have been granted asylum in Brazil as part of the 'solidarity resettlement programmes' proposed in the 2004 Mexico Plan of Action (OCHA 2007b).

<sup>2</sup> UNRWA, pursuant to UN General Assembly Resolution 302(IV) of 8 December 1949, is mandated to provide assistance to Palestinian refugees in the West Bank, East Jerusalem, Gaza, Jordan, Syria and Lebanon.

Section 1 will lay out the conditions informing the legal and political challenges facing Palestinian refugees in the Arab periphery. I will discuss the particular link between the Palestinians' statelessness and their status as refugees, before situating their experiences within a context of regional migration.

Section 2 will contrast the international, regional and national protection and assistance standards these communities of Palestinian refugees should, in principle, be entitled to with an examination of their legal status and rights. The section will assess the *effective* protection gaps engendered by host state policies and legislation directly affecting the refugees' internationally and regionally recognized refugee and human rights.

Section 3 will seek to place this legal context within a comparative Arab state political framework. I will explore the relation between the foreign policy agendas of these autocratic states and their domestic policies, which are aimed at controlling and, often, marginalizing Palestinian refugees. I will argue for a layered and intertwined political and legal analysis, with particular emphasis on the impact of autocratic governance on human rights and the role of foreign policy in host state treatment of Palestinians.

It will become clear that the Palestinians' statelessness – as individual refugees and as a collective political body – presents a unifying analytical thread necessary to understand their unique position within the Arab world. Compounding their statelessness, Palestinian refugees face a troubling gap in regional and international protection, which has made them highly susceptible to various political alliances and developments within and among host states. These factors have allowed for – if not facilitated – the unrestrained actions of these states toward the Palestinian refugees in their midst. As a simultaneously disenfranchised yet politically acknowledged population, Palestinian refugees have borne the human cost of the host states' political interests and policies.

### ***Scholarship on Palestinian Refugees: Limits and Lacunae***

The specific difficulties faced by Palestinian refugees in the Arab periphery have not been examined as thoroughly as those under the assistance mandate of UNRWA. Indeed, Palestinian refugees have been the focus of substantial amounts of scholarship, ranging from studies assessing the dynamics of refugee camp life to issues of identity, health, education, and political expression (e.g. Zureik 2000). Yet, such scholarship has paid most attention to Palestinian refugees in the Occupied Palestinian Territories (OPT) as well as the neighbouring host countries where UNRWA is mandated to operate, namely Lebanon, Jordan and Syria (e.g. Brynen and El-Rifai 2007). As a result, an important research gap persists with regards to Palestinian refugee populations outside these areas. Of the limited scholarship available, the work of Shiblak (2006, 2003, 1996 and 1993), Brand (1988), and BADIL (2006, 2005), a Bethlehem-based non-governmental organization focusing on Palestinian residency and refugee rights, has proven invaluable to this study. In addition, Takkenberg's (1998) legal analysis and El Abed's (2003) case study of Palestinian refugees in Egypt have also been useful. Nevertheless, as this research will demonstrate, the intersection of law and politics has yet to be critically fleshed out and holds the potential for engaging the conditions and forces perpetuating state impunity toward non-citizens, especially refugees and stateless persons.

Before moving on, three preliminary issues deserve brief attention. First, the title of this work – *Unprotected among Brothers: Palestinians in the Arab World* – seeks to cast light on a subject long considered taboo among Palestinians in particular and Arabs more generally. Frank discussion on the treatment of Palestinians by their host brethren – hence the first part of the title – has remained popularly submerged under a rhetoric of solidarity across the Arab world. ‘Brothers’ here specifically refers to the governments in power, and not to Arabs as people or as a people. Ironically, it is within Arab states where Palestinians sought refuge that they have often been treated worst, in direct violation of international standards relating to refugees and stateless persons. At the same time, the title highlights a persistent gender bias in Arab state dealings with Palestinian refugees.<sup>3</sup> It also accurately reflects, I believe, a feeling of disappointment and anger among many Palestinians. In the words of one Palestinian living in Saudi Arabia: ‘The Arab countries destroyed us’ (Nabulsi 2006: 79).

Secondly, it is equally imperative to situate such research firmly within larger debates animating the question of Palestine. A critique of Arab state practice toward Palestinian refugees should not be misconstrued as an attempt to absolve Israel – whose political existence as a state is the cause for Palestinian dispossession and statelessness - of ultimate responsibility toward the refugees. Israel’s rejection of their right to return remains the main obstacle to finding a durable solution. Indeed, searching for durable solutions while ensuring the refugees’ current protection should be seen as mutually reinforcing; together they allow for Palestinian refugee communities to reconstitute themselves and advocate for their national and human rights, both within their host countries and the international community.

Finally, such an analysis must tread carefully in arguing for a separate legal and political examination of Palestinians in Arab states not covered by UNRWA. In many ways this is an artificial division. In relation to origin, culture, familial ties, identity, and political persuasion, among other traits, such a fault line is inaccurate, if not disingenuous. At the same time, to focus inordinately on UNRWA registered refugees further fragments Palestinian political identity and reinforces an exclusive rather than inclusive notion of who deserves political and legal recognition. As a Palestinian in Iraq has noted, by being forgotten by the international community and by Palestinian political actors themselves, many fear being forgotten in crucial political accords:

This community is completely absent in the minds of the officials of the Palestine Liberation Organization (PLO), even in their statements. When they claim the return of Palestinian refugees to their properties, they only mention the refugees in Lebanon, Syria and Jordan. No one mentions the Palestinian refugees in Iraq, nor in Egypt. [...] The refugees in Iraq need to feel that there is someone out there who thinks of them. And this is a real gap: I want some sort of special mention – this assures me I am not forgotten (Nabulsi 2006: 38).

## **1. STATELESSNESS AND PALESTINIAN REFUGEE MOVEMENT**

This section seeks to provide a necessary contextual groundwork for the legal and political analysis that follows. Due to the complex nature of the Palestinian refugee question, where law – be it international or national – is forcefully intertwined with political considerations and developments, it is necessary to underscore the importance of statelessness

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<sup>3</sup> Of course, many of these states restrict the rights of female citizens. Nevertheless, as non-citizens, Palestinian refugee women face significantly larger hurdles in securing their livelihoods and those of their families. Unfortunately, due to the limited scope of this paper, the specific challenges of Palestinian refugee women will not be addressed separately.

in understanding the Palestinian refugee predicament. Supplementing this conceptual background, the second part of this section will assess the demographic distribution of the specific communities under review and provide a brief historical analysis of inter-regional migration patterns since 1948.

### *1.1. Statelessness: Conceptualizing and Defining the Palestinian Refugee*

Statelessness brings to the fore a distinct notion of what may be termed a ‘present absence’, to apply a phrase – the ‘present absentee’ – coined by the Israeli establishment as it expropriated the lands of Palestinians who remained within the state’s borders (Petersburg 2001: 31; Zureik 1993: 105). ‘Present absence’ encapsulates the simultaneous physical presence of stateless individuals alongside their legal, political and economic absence, or, more precisely, informal existence.<sup>4</sup> Nationality, in contrast, provides formal standing within a state and, in extension, access to fundamental rights and protection. However, without this connection an ‘individual has no identity under the law. Moreover, without the protection conveyed by nationality, the fundamental human rights enshrined by international agreements remain without value, creating the potential for unrest, instability and transmission of statelessness from generation to generation’ (BADIL 2005: 117).

On a global scale, statelessness is predominantly a result of discrimination against minority groups and individuals in relation to the provision of citizenship. This may be enshrined in nationality legislation, or occur in conflicts of laws between States (UNHCR 2007). Palestinians, however, reflect a national community disenfranchised as a result of post-colonial state succession, or more precisely, replacement – a crucial factor that will be explored below.

A root cause of the Palestinian refugees’ lack of protection and human security, therefore, is their statelessness. More than merely stateless, however, Palestinians represent a potent political community, a regional symbol of resistance, and, to certain regimes, simultaneously a potential ‘pawn’ as well as threat (Selim 1984: 203). This unique regional combination – stateless yet politically acknowledged – provides a unifying analytical thread by which to examine the position of Palestinians in relation to the international refugee regime, their status in the different host states as well as the political repercussions they have faced, as individuals and as a collective.

Not simply forced migrants, Palestinians represent a nation that was actively denationalized. As Brand explains, ‘[...] from full citizens of Palestine under the British mandate and Ottoman citizens before that, many Palestinians suddenly found themselves stateless, without passports, and subject to the political vagaries of the countries that “hosted” them’ (1988: 8). Contemporary historical debates regarding the 1948 Zionist-Arab war have highlighted the shift in scholarly understanding of Palestinian dispossession from Palestine between 1947 and 1949. Echoing the earlier findings of their Palestinian colleagues (e.g. Khalidi 1992; Masalha 1992; Zurayk 1956), Israel’s ‘revisionist’ historians have irrefutably

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<sup>4</sup> This predicament was articulated by future Israeli Prime Minister David Ben Gurion with regard to the state of world Jewry in 1945: ‘We are a people without a state and, therefore, a people without credentials, without representation, without the privileges of a nation, without the means of self-defense, and without any say in our fate’ (Hurewitz 1976: 220, cited in Brand 1988: 1). As Brand notes, following the establishment of Israel on the remains of Palestinian territory and society, the stateless victims of this formerly stateless political community now faced precisely the same challenges.



established the culpability of the Zionist leadership and militias in the uprooting and displacement of the land's indigenous inhabitants (Kimmerling and Migdal 2003; Morris 2004; Pappé 2006; Shlaim 2000). Whether, as Al-Aza'r notes, Palestinian dispossession was a 'pre-planned phenomenon' (2004: 1) or, as Morris (2004) maintains, simply the result of a messy war, its immediate impact was clear. In Brand's view, 'the flight or expulsion of a large portion of the indigenous population was virtually a pre-condition for further development of a Jewish state' (1988: 1). This 'pre-condition' of erasure and replacement, what Pappé (2006) deems 'ethnic cleansing', must therefore be understood as being the root and continued cause of the stateless plight of the Palestinian forced migrants. The creation of the Israeli state and its legal and territorial exclusion of Palestinian return meant the latter's effective denationalization, statelessness as well as concomitant social, political, and economic rupture.<sup>5</sup>

Since then, Palestinian statelessness has been characterized by constant flux, uncertainty and repetition. Successive Israeli military and political activities have caused an ongoing and persistent generation of Palestinian statelessness.<sup>6</sup> Moreover, even in cases of long-term Palestinian settlement, like that in Kuwait before the first Gulf war, the impact of statelessness can be felt overnight, where entire populations suddenly face immediate uprooting and dispersion. In such cases of forced migration or expulsion from countries of first, second, or even third refuge, the options available for individuals who are both refugees and stateless become dangerously limited. Though direct responsibility falls on Israel to allow for repatriation, its absolute refusal to acknowledge any such right has meant a 'perpetual orbit' for Palestinians unable to secure citizenship or valid residency papers in neighbouring Arab states, as well as for Palestinian asylum seekers in certain Western states (Shiblak 2006: 9).<sup>7</sup>

Against this backdrop, Takkenberg (1998) and Shiblak (2003, 1996) have argued that the Palestinian issue may be considered unique – though in no way a 'case apart' – among forced migration cases across the world. Unlike in most situations of refugee flight, it is not solely individual persecution or country circumstances that preclude an ability to return. For Palestinian refugees, their status as refugees and as stateless persons is borne of the dissolution and disappearance of an internationally recognized political entity to which they belong. This combination of statelessness and refugee status has placed Palestinian refugees at a serious disadvantage within their specific host states. With no effective international protection and no state of their own – with the exception of the PLO, which will be discussed further in Section 3 – their positions have been tied to the legal and political interests of the governments under whose authority they currently reside.

Defining a Palestinian refugee is thus immensely complex, a consequence of almost sixty years of regional conflict as well as political and economic instability that have resulted in successive waves of Palestinian forced and labour migrations. Though Palestinians have been internationally recognized as refugees 'as a group/class on a *prima facie* basis' (BADIL 2005: 54), no comprehensive definition has been internationally adopted (Rempel 2006: 6). Even so, international registration of Palestinian refugees has primarily rested with UNRWA

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<sup>5</sup> For an analysis of Israeli legislative and territorial practices that consolidated the exclusive Jewish character of the state, see Akram (2000).

<sup>6</sup> Since the cessation of hostilities in 1967 and the beginning of the Israeli military occupation, more than 800,000 Palestinians have been displaced from the OPT (BADIL 2005: 31).

<sup>7</sup> For a comprehensive survey of asylum practices pertaining to Palestinians, see BADIL (2005).

for over five decades.<sup>8</sup> Its definition, however, ‘merely establishes criteria for assistance – it does not define refugee status’ (Rempel 2006: 6). Moreover, due to the aforementioned regional and operational restrictions of its mandate, its records of over four million refugees explicitly exclude many of the Palestinian refugees that are the focus of this analysis.

In contrast, the following definition – derived from one put forward by the Palestinian Red Crescent Society (PRCS 1994: 36) - attempts to encompass the reinforcing forced migration and stateless dynamic informing Palestinian exile:

Palestinian refugees are former inhabitants and their descendents<sup>9</sup> of areas of historic Palestine under the sovereignty or effective military control (the occupied Palestinian territories of the West Bank, Gaza and East Jerusalem) of the state of Israel. Having lost their homes and means of livelihood as a result of the 1948 Arab-Zionist or subsequent conflict, they have subsequently been forbidden from returning to their homes and/or lands. As such, all Palestinians outside these areas who cannot return to their homes and/or lands are to be considered Palestinian refugees. Of these refugees, those unable to acquire citizenship from another state are equally to be considered stateless persons, in line with international conventions on statelessness.<sup>10</sup>

It should be stressed that this does not purport to be a legal definition by any means, but rather a conceptual definition for comprehensively evaluating the status of Palestinians, be they refugees, or both stateless persons and refugees.

## ***1.2. Palestinian Refugees in the Arab Periphery***

Palestinian refugees not only make up the largest and oldest refugee population in the world, but they are simultaneously the largest stateless population. Consequently, ‘statelessness has dominated and shaped the lives of four generations of Palestinian refugees since their exodus in 1948’ (Shiblak 2006: 8). Of the roughly 9.7 million Palestinians in the world (BADIL 2006: vii), Shiblak contends that over half are stateless (2006: 8). Of these refugees, this thesis is mainly concerned with undocumented Palestinians as well as holders of refugee travel documents issued primarily by individual Arab states who continue to seek or have sought residence in countries in the Arab periphery, including Iraq, Egypt, Libya, and Kuwait.

Due to the size, recurrence and complexity of the displacements, gathering reliable data on Palestinian refugees has proven difficult. Quantitative studies face complications relating to the geographic scope and frequency of displacement, a lack of comprehensive registration, as well as ‘technical and political complications’ (BADIL 2006: vi). With regard to the information available, the most comprehensive data collection concerns Palestinian refugees from 1948 who are registered with UNRWA. However, there exists only sparse data and information on Palestinian refugees in areas not administered by UNRWA. Egypt, for example, ‘does not release information on the numbers of Palestinians residing in various parts of the country nor does it release figures on the total number of Palestinians in the

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<sup>8</sup> Within its area of operations, UNRWA defines Palestine refugees as ‘persons whose normal place of residence was Palestine between June 1946 and May 1948, who lost both their homes and means of livelihood as a result of the 1948 Arab-Israeli conflict’ (UNRWA 2007).

<sup>9</sup> This principle is explicated in paragraph 184 of the *UNHCR Handbook on Procedures and Criteria for Determining Refugee Status* (UNHCR 1992: 43).

<sup>10</sup> See Article 1 (1) in the 1954 *Convention relating to the Status of Stateless Persons*.

country' (El Abed 2003: 3).<sup>11</sup> As BADIL stresses in its annual survey of Palestinians, 'there is no single authoritative source for the global Palestinian refugee and [Internally Displaced Persons] population. [...] Figures [...] reflect estimates according to the best available sources and population growth projections. Figures are therefore indicative rather than conclusive' (2006: 48).

Given the difficulties in obtaining authoritative population figures on Palestinians in the Arab periphery, Table 1 reflects estimates from a variety of academic and governmental sources.<sup>12</sup> The figures purposely do not distinguish between registered and unregistered Palestinian refugees.

**Table 1: Distribution of Palestinians in Arab States (Outside UNRWA Area of operations)**

	1970	1981	1992	2000	2003	2004
<b>Egypt</b>	33, 000	45, 605	150, 000	52, 531	61, 917	70, 200
<b>Kuwait</b>	140, 000	299, 710	401, 578 <sup>13</sup>	40, 592	39, 402	40, 584
<b>Libya</b>	5, 000	23, 769	29, 207	<i>Combined:</i> 79, 990	<i>Combined:</i> 115, 542	<i>Combined:</i> 119, 009
<b>Iraq</b>	14, 000 <sup>14</sup>	20, 604	31, 744			
<b>Saudi Arabia</b>	20, 000	136, 779	222, 637	295, 867	309, 582	318, 869
<b>Qatar</b>	<i>Combined:</i> 15, 000	<i>Combined:</i> 60, 737	32, 819	<i>Combined:</i> 113, 688	<i>Combined:</i> 124, 230	N/A
<b>Bahrain</b>			2, 262			N/A
<b>U.A.E</b>			50, 454			N/A
<b>Algeria</b>	N/A	N/A	4, 849	N/A	N/A	N/A
<b>Sudan</b>	N/A	N/A	N/A	N/A	N/A	3, 000

*Sources:* 1970: Abu-Lughod (1973: 97); 1981: Central Statistics Office of the PLO (1982); 1992: PRCS (1994: 5); 2000: Palestinian Central Bureau of Statistics (2000); 2003: BADIL (2005: 10); 2004: PCBS (2005: 10).

A brief survey of population figures indicates periods of drastic reductions in Palestinian residents, particularly in relation to Egypt between 1992 and 2000,<sup>15</sup> as well as Kuwait, between the early 1990s and 2000. For example, 'prior to the 1991 Gulf War, an estimated 700,000 Palestinians lived in the Gulf States, including 400,000 in Kuwait' (BADIL 2006: 181). Following the war, only around 25, 000 remained (MRG 1997: 357). Not figured here is the temporary drop in Palestinians residing in Libya following the decision by President Ghaddafi to expel all Palestinians from the country in 1995. As noted in the introduction, the number of Palestinians in Iraq has also substantially declined. No accurate figures exist, because a 2003 UNHCR registration drive was forced to close as a

<sup>11</sup> The findings of a 1995 Egyptian government census were never made public (El Abed 2003: 4).

<sup>12</sup> It is worth contrasting UNHCR figures with Table 1. Under its umbrella term 'populations of concern,' UNHCR has registered, as of 2004, approximately 350,600 Palestinian refugees: Saudi Arabia (240,007), Egypt (70,245), Iraq (22,711), Libya (8,873), Algeria (4,000), Morocco (810) and Yemen (440) (UNHCR 2005: 29). Indeed, UNHCR statistics, more than UNRWA, are plagued by irregularities, limited access and a narrow operational definition of a Palestinian refugee under its mandate (BADIL 2006: 49-51).

<sup>13</sup> Figure prior to aftermath of 1991 Gulf War.

<sup>14</sup> According to Brand (1988: 9), citing Nakhleh and Zureik (1980), there were an estimated 30, 000 Palestinians in Iraq in 1970.

<sup>15</sup> 1992 estimate before the establishment of the Palestinian Authority (PA) in the OPT in 1995. As a result of employment by the PA, the Palestinian population in Egypt was significantly reduced.

result of the deteriorating security situation (UNHCR 2003: 309). These fluctuating figures represent a number of extreme examples of Palestinian secondary, or tertiary, mass displacement, more of which will be detailed in the political analysis of Section 3.

### ***1.3. Context of Regional Dispersion: Forced and Labour Migration***

To conclude this section, it is necessary to place an examination of Palestinian refugees in the Arab periphery within an historical context of fluid regional migration – both forced and labour-induced. The distribution of Palestinian refugees in the Arab region can be attributed to a combination of factors, including the refugees’ attempts at securing livelihoods as well as instances of mass forced migrations.

The bulk of Palestinians throughout the Gulf, as well as in Iraq and Libya at different periods, have migrated to these countries for labour or economic reasons from areas of first refuge, such as Lebanon, Jordan, Syria and the OPT. Yet, to apply the label ‘economic migration’ to Palestinians is almost a misnomer, as it brings with it notions of voluntariness and choice (Koser 2007: 16-19). Even as economic considerations featured predominantly in many cases of Palestinian secondary migration, one must return to underlying causal factors to gain a clearer understanding of the different forces at play. Perceived ‘pull’ factors emanating from host countries must be balanced with the realities of powerful ‘push’ factors embedded in the refugees’ statelessness and need for economic income and stability. As prior forced migrants, their regional, even global, labour migration cannot be simply characterized as a product of pure voluntary choice. Rather, it emerges as a decision directly or indirectly informed – depending on each person’s context – by the individual and collective experience of displacement and statelessness, the prevailing conditions in countries of first refuge and economic and the educational opportunities of these new host environments.

As a valuable, highly educated, though ultimately expendable labour force, Palestinians have played a crucial role in the economic development of much of the Arab world, especially in the Gulf. The 1950s saw the rapid growth and development of most Gulf states, in particular Saudi Arabia and Kuwait. These states actively recruited Palestinians, who proved adept at filling the labour shortage in a wide array of professions due to their relatively high educational levels and their professional experiences dating to before the end of the British Mandate in Palestine. Smith explains that Palestinians were especially sought by oil companies and ‘found jobs in the public sector industries of Kuwait and Qatar, and Saudi Arabia’ (1986: 94). For oil-rich countries, in particular Kuwait and Saudi Arabia, the ‘expansion of the oil sector was accompanied by adoption of development strategies that increased demand for labour in social and physical infrastructure development as well’ (Russell 1988: 184).

Nevertheless, as a result of various regional flashpoints, such as during the 1956 and following the 1967 wars, host governments increasingly saw Palestinians as politically engaged, and thus a source of instability and potentially threatening. State perception had a marked effect on the make up of the Palestinian population, such that migration increasingly became limited to those with professional qualifications (Smith 1986: 184). Consequently, the sustained growth of these Gulf states would be built on the backs of a diverse Arab, and increasingly, non-Arab – primarily South Asian – work force (Abdallah 1988: 141).

Thus, the combination of forced and labour migration spurred the dispersion of Palestinians across the wider Arab world, beyond countries of first refuge. Nevertheless, such secondary migration did not bring with it a transferral of residency status or permits. Moreover, these growing economies did not develop comprehensive and protective labour regulations, let alone special provisions for refugees and stateless migrants; virtually no long-term residency or nationality options, as vehicles for stability and basic rights, were offered. Instead of fostering a more unified cultural and political identity, migration spurred increased border regulations, which has ‘contributed to territorial integration at the state level’ (Russell 1988: 207). Labour migration became, and remains, tied to economic and political fluctuations, a phenomenon with particularly dire consequences for Palestinian survival strategies in everyday settings and especially in cases of mass expulsions. Within this context of intertwined forced and labour migration, Palestinian refugees and stateless persons epitomize the need for distinctly supra-national protection, either by the international community or by a regional body. Such mechanisms and bodies are thus the focus of the next section.

## **2. INTERNATIONAL, REGIONAL AND NATIONAL PROTECTION GAPS**

This section will first seek to outline the essential criteria of a comprehensive international assistance and protection framework, as delineated by the various international refugee and human rights law instruments. It will assess their applicability for Palestinian refugees in the Arab world, both in theory and in practice. It will then turn to United Nations organizations mandated to care for this population, so as to determine their responsibilities – in terms of assistance and protection – vis-à-vis those refugees in the specific states in question. Thereafter, I will focus on regional attempts by the League of Arab States (Arab League) to regularize the status of Palestinian refugees in the region. I will argue that the League’s protection efforts have pointedly been undermined by the political considerations of its member states. To conclude, a brief survey of the various host states will seek to document the legal statuses of Palestinian refugees with reference to basic refugee rights laid out in international refugee and human rights law as well as regional initiatives.

### ***2.1. An International Refugee and Human Rights Law Framework***

The concept of international refugee protection arises from a recognition of the need for international standards in the protection and provision of basic rights that are particular to the plight of a refugee. International protection, foremost, comes with the implementation of a durable solution, either through voluntary repatriation, resettlement or integration. In the interim, before durable solutions are found, international refugee protection ensures refugees are not mistreated by host states during the search for a solution to their predicament. As will be examined on a national basis below, such rights encompass elemental political, civil, economic and social rights, including protection from *refoulement* (the right not to be expelled or returned to a context where one’s life and freedom is threatened), arbitrary expulsion, torture and discrimination, as well as the protection of basic freedom of movement, equal access to courts of justice and administrative authorities, the right of access to adequate housing, education, employment and, in cases of hardship, assistance. Such

rights, based on relevant international refugee law and human rights instruments,<sup>16</sup> are thus to be protected on an international level in instances where national host governments prove unable or unwilling to provide such protection.

Beyond the legal plane, it is important to conceptualize refugee protection as a dynamic, ongoing process within the specific contexts of each host state. As Takkenberg argues, ‘the need for international protection starts at the very moment the authorities of the home country are no longer providing protection and lasts until a durable solution has been found, ideally through the restoration of *national* protection by the refugee’s own country’ (1998: 277; emphasis in original). Moreover, protection cannot be seen as a fixed category, but rather as an applied tool in a variety of ‘protection contexts’ (Parvathaneni 2004: 11). The practice of protection must adapt to complex cases of refugee vulnerability, and may take the form of ‘human rights protection, diplomatic protection, consular protection, protection of the vulnerable including women, children and the elderly, protection of peoples, including through political representation, protection of groups, and protection of civilian persons in armed conflict’ (Parvathaneni 2004: 11).

The notion of refugee protection acquires additional urgency when coupled with the unique position of stateless individuals. Nationals of no country, they are deprived of the basic right to state nationality, as emphasized in Article 15 of the Universal Declaration of Human Rights. The right to nationality remains the central 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’ (Shiblak 2006: 9). As examined in Section 1, the impact of statelessness cannot be overstated:

Stateless communities are the first to pay the price for political instability and insecurity in the countries where they find themselves. Without access to education and employment, stateless communities are exposed to political manipulation, exploitation and poverty (Shiblak 2006: 9).

Also tied to international protection is the practice of refugee assistance and aid in circumstances of physical and material hardship. UNHCR maintains that assistance provision ‘supports and complements the achievement of protection objectives’ as it provides for basic needs, thus enhancing the refugees’ stability and reducing their susceptibility to potential mistreatment and manipulation by host state or non-state actors (BADIL 2006: xiv). Similar to the notion of protection, international assistance obligations emerge when national authorities do not fulfil their responsibilities – on purpose or due to inability – in assisting refugees within their borders (BADIL 2006: 104).

With respect to the Arab host states under analysis, such an international legal framework is important, in order to highlight the discrepancy between the protection Palestinian refugees are entitled to under international law and the protection they actually

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<sup>16</sup> Of foremost importance for refugee rights are the 1951 *Convention relating to the Status of Refugees* as well as the 1967 *Protocol to the Convention relating to the Status of Refugees*. For Palestinians, the 1954 *Convention relating to the Status of Stateless Persons* and the 1961 *Convention on the Reduction of Statelessness* delineate added protection measures. Also significant are instruments relating to human rights standards, including the 1948 *Universal Declaration of Human Rights*, the 1966 *International Covenant on Civil and Political Rights*, the 1966 *International Covenant on Economic, Social and Cultural Rights*, and the 1984 *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, among others. Together, these establish the scope of internationally recognized rights they should, in principle, be entitled to.

receive.<sup>17</sup> Upon this legal foundation, the section that follows will seek to establish the international and regional ‘protection gaps’ affecting Palestinians. Though not a legal term, protection gaps ‘can result from a lack of relevant instruments (law, treaties) and/or mechanisms (bodies mandated with implementation) and/or deficient practice in implementation of existing standards’ (BADIL 2005: xxix).<sup>18</sup> In short, it will seek to assess the effective protection and assistance available for Palestinian refugees through international and regional institutions and bodies empowered to address the particular needs of Palestinian refugees.

## **2.2. *International Protection: Protection in Principle v. Protection in Practice***

*We demand that UNRWA makes us feel like we really exist and that we are not forgotten, which is how we feel now [Palestinian refugee, Iraq] (Nabulsi 2006: 98).*

In practice, refugee protection has rested within the purview of UNHCR, which is globally mandated to protect and assist refugees in accordance with the standards set forth in the 1951 *Convention relating to the Status of Refugees* (hereafter 1951 Convention) and its 1967 *Protocol relating to the Status of Refugees*. Yet, Palestinian refugees occupy a unique position within the international refugee regime as a national refugee population specifically covered by a separate international protection and assistance structure, embodied by the UN Conciliation Commission for Palestine (UNCCP) and UNRWA.<sup>19</sup> Both agencies were established to work in parallel to comprehensively address many of the protection and assistance needs of Palestinian refugees. This specific protection and assistance regime subsequently effectively excluded Palestinian refugees covered by it from the benefits of the 1951 Convention (by way of Article 1(D))<sup>20</sup> and, in extension, the protection efforts of UNHCR.<sup>21</sup>

Significantly for Palestinians, UNCCP was mandated to work towards both durable solutions as well as international protection (Parvathaneni 2004: 11). This proved especially problematic by the mid-1960s, when it became clear UNCCP no longer considered itself able to fulfil the protection terms of its mandate, ‘primarily due to a lack of political will to bring about a permanent solution’ (Djemali 2000: 56). Thus, instead of being covered by a comprehensive and distinct protection and assistance structure, Palestinian refugees suddenly found themselves without any form of protection by the international community. Crucially, this has meant that as a consequence of UNCCP’s suspension of activities, ‘no international agency is actively searching for a durable solution to the forced exile of Palestinian refugees’ (BADIL 2006: vii). Their long-term protection prospects have been relegated to political negotiations that have yet to yield results.

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<sup>17</sup> Iraq, Kuwait, Saudi Arabia and Libya are not signatories to the 1951 Convention. Only Egypt is a signatory, with reservations. Other Arab state signatories include Algeria, Djibouti, Mauritania, Morocco, Somalia, Sudan, Tunisia and Yemen, but they host small numbers of Palestinian refugees (BADIL 2006: 105, 133).

<sup>18</sup> For a detailed study on the identification of protection gaps, see UNHCR (2006b).

<sup>19</sup> UNCCP was established pursuant to UNGA Res. 194(III) 11 December 1948.

<sup>20</sup> Article 1(D) of the 1951 Refugee Convention states, ‘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.’ The second clause reads, ‘When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention.’

<sup>21</sup> Article 7(C) of UNHCR’s Statute incorporates only the first part – the exclusion clause – of Article 1(D) of the 1951 Convention. See UNHCR (2002) for recent reinterpretation.

Even with UNCCP's inactivity, Palestinian refugees under the care of UNRWA have nevertheless remained ineligible for the benefits of the Convention. Outside UNRWA's area of operations, however, UNHCR's 2002 *Note on the Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian Refugees* has clarified a long standing inconsistency on its part with regard to the second clause, known as the inclusion clause, of Article 1(D). The *Note* emphasizes that the 1951 Convention, in fact, extends to Palestinians registered, or eligible to be registered, with UNRWA who no longer find themselves in the Agency's area of operations and are therefore automatically entitled to the protection it provides. Significantly for many Palestinians in the Arab periphery, UNHCR competency now extends to Palestinians throughout the Arab periphery, even 'if the person has never resided inside UNRWA's area of operations' (UNHCR 2002: 2). Nevertheless, as will be argued, UNHCR's mandate to protect refugees worldwide as well as its 2002 clarification of protective responsibilities toward Palestinians outside UNRWA's area of operations have not translated into a comprehensive and effective practice of protection and assistance for these exposed refugee communities. In terms of international protection, Palestinian refugees continue to face, as a result, significant gaps in international protection along arbitrary geographic lines.

For Palestinians within UNRWA's area of operations, the lack of UNCCP activity and UNHCR's exclusionary interpretation of Article 1(D) of the Refugee Convention, which it deems precludes it from any responsibility within this area, have resulted in the sole presence of UNRWA as an assistance provider. No UN agency is empowered to specifically provide protection (BADIL 2005: 62). Within the confines of its assistance mandate, UNRWA has nevertheless attempted to enhance the protective nature of its assistance and relief programmes, with limited success.<sup>22</sup> Arguably more successful, however, has been the *indirect* protective function of its assistance mandate in securing certain fundamental rights for its registered refugees, particularly if compared to the difficulties faced by Palestinians outside its area of operations within other Arab host states. The UN Secretary General's office, for example, has argued that UNRWA's assistance activities 'provide protection [...] through registration of refugees and provision of essential services' (UNSG 2006: 183). In cases of forced migration, a lack of basic rights and international protection magnifies a group's susceptibility to increased rights violations and manipulation. Thus, the provision of basic services can buffer the effects of domestic and regional political, economic and military instability, and contribute to the stabilization of communities during and following such periods. In his extensive study, Takkenberg maintains that 'UNRWA's initial emergency operations, followed by its routine education, health and relief programmes, have in fact guaranteed a considerable number of the refugees' basic rights, that under other circumstances would have been the responsibility of the host countries' (1998: 280).

As the May 2007 fighting in Nahr El-Bared refugee camp in Lebanon highlights, Palestinian refugees receiving UNRWA assistance are in no way immune to the effects of armed conflict and human rights violations (*Economist* 2007). Yet, due to the presence of UNRWA services and institutions throughout the country, many refugees found shelter in other refugee camps and received immediate assistance. Their situation can be deemed substantially different than that of Palestinians in the Arab periphery who may be forced to flee conflict. Those in Iraq, for instance, have no specific and highly visible international

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<sup>22</sup> UNRWA has been authorized and has engaged in a number of 'passive' protection activities, precipitated by periods of intense conflict (Parvathaneni 2004: 16).



agency entrusted with their care to turn to. These refugees, as the introduction describes, have been obliged to flee the country with no guaranteed place of refuge awaiting them.

Though this argument can be a point of serious debate, the intention of this paper is not to diminish the protection gap affecting Palestinian refugees within UNRWA's territory. Certain gaps affect Palestinians within and outside UNRWA's area of operations. Rather, it seeks to highlight the different array of gaps afflicting Palestinian refugees in the Arab periphery, where international institutional cover, assistance provision, and official, long-lasting relations with the host government regarding this specific community were or are simply non-existent. This institutional vacuum directly impacts host state policies toward Palestinian refugees as well as the latter's ability to organize, reconstitute their community and ensure community cohesion.<sup>23</sup>

The absence of a specific international institutional presence is thus at the core of the refugees' predicament. Palestinian refugees in the Arab periphery, this paper suggests, face an *effective* lack of international protection *and* assistance. This gap is caused on the one hand by the fact that UNCCP's impotence is compounded by UNRWA's limited geographical reach. On the other, it stems from UNHCR's historic reluctance to engage with Palestinian refugees.

In times of acute crisis, to its credit, UNHCR has sought to provide temporary protection and assistance. Most visibly, it has engaged in joint actions with UNRWA in periods of emergency, such as the expulsions from Libya in 1995 and Kuwait in 1991 (UNRWA and UNHCR 2007). According to Djemali, 'UNHCR and UNRWA provided assistance to then stranded Palestine refugees in order to ease their plight, both by providing food and shelter and by interceding on a humanitarian basis with other States in the region in order to obtain transit and residence facilities' (Djemali 2000: 55). On a more general basis, with its 2002 *Note*, UNHCR has attempted to assist in securing travel and registration documents and providing legal aid (BADIL 2006: 176). Nonetheless, such activities and acknowledged responsibilities have not translated into a sustained practice of protection and assistance for these exposed refugee communities. On the ground and in the everyday lives of Palestinian refugees in Arab states such as Libya, Iraq, Egypt, Kuwait and other Gulf States, a very real gap in international protection and lack of international institutional presence persists, where legal and physical protection for the refugees remains either severely inadequate, or even non-existent. Outside aforementioned periods of absolute crisis, UNHCR activities have not consistently protected nor assisted these Palestinian refugees. As a result, unlike in areas of UNRWA operation, such Palestinians have not benefited from a systematic and sustained international institutional presence, nor from the significant international attention such an organization brings.

The policies directed against Palestinian refugees by Arab states with significant Palestinian populations not under UNRWA's mandate have not had to factor in long-standing United Nations institutional presence and refugee registration. They have faced considerably less international attention, scrutiny and pressure with regard to policies or

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<sup>23</sup> The case of Palestinians in Egypt highlights the fragmentary effects of inadequate international and national protection: 'In countries which have camps served by UNRWA, Palestinians recreated their own traditional communities. [In Egypt] the recreation of traditional communities was hindered chiefly by Egypt's policy not to create long-term refugee camps served by any institution, which could have helped the Palestinians to gather around the service-provider, recreate their communities and establish themselves' (El Abed 2003: 6).

actions affecting the Palestinian stateless and refugee communities within their borders. A Palestinian refugee in Baghdad, following the most recent war in Iraq, explains the repercussions of this lack of systematic international presence: ‘Many Palestinian families suffered great hardship because of the absence of UNRWA’ (Nabulsi 2006: 102). Another in Iraq states:

The Palestinian communities in Syria, Lebanon and other countries have not suffered [...] in the same way as the Palestinian community in Iraq, because as a community, we haven’t been registered but ignored. The regime did with us as it pleased and oppressed us whenever it wished, while telling the world that it gave the Palestinians money and provided them with protection (Nabulsi 2006: 99).

The persistence of this international protection and assistance gap can be explained by a number of interlocking legal, bureaucratic and political factors. First, UNHCR’s operational mandate vis-à-vis Palestinian refugees has been hampered by a rigid interpretation of its Statute (UNHCR 2006a). Second, there persists ‘the perception that the “political character” of the Palestinian refugee case is incompatible with the “neutral character” of UNHCR protection activities’ (BADIL 2004b). Significant for this analysis has also been the role of Arab states in limiting the extension of UNHCR protection and assistance activities to Palestinians throughout the Arab world. As a consequence,

UNHCR’s ability to provide legal protection to these refugees is limited by weak standing vis-à-vis the Arab states, most of which have not acceded to the 1951 Convention or the Statelessness conventions, and – in light of international political pressure for the forced resettlement/integration of Palestinian refugees back in their territory – are reluctant to provide protection benefits (BADIL 2005: 14).

This combination of factors inhibiting systematic UNHCR intervention, Takkenberg argues, has ‘contributed towards a situation where many Palestinian refugees outside UNRWA’s area of operations do not enjoy proper Convention status’ and has resulted in stateless Palestinians also not benefiting from effective UNHCR protection efforts under the 1954 and/or 1961 Conventions (1998: 309).

### **2.3. Regional Protection: Solidarity in Principle v. Solidarity in Practice**

Moving from the prevalence of an international protection gap, an effective gap in regional protection is equally persistent. Within its mandate as a regional inter-governmental body, the Arab League has sought, at varying points, to regularize member state policies toward Palestinian refugees in an effort to provide protection during a search for durable solutions. League efforts have included ‘the adoption of non-binding regional standards for the treatment of Palestinians in Arab states, and the establishment of a number of bodies to oversee Palestinian affairs in member states’ (BADIL 2006: 149). Yet, as will be shown below and in Section 3, such rhetoric of solidarity has not been reflected in practice. As El Abed argues, these standards have not been ‘upheld and Arab state policies gradually denied the rights of Palestinians’ (2003: 13-14).

Notable in affecting Palestinian refugees on the regional plane is the absence of a binding regional refugee convention particular to the Arab world (BADIL 2006: 141).<sup>24</sup> The

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<sup>24</sup> A regional effort has taken shape in the form of the 1992 *Cairo Declaration on the Protection of Refugees and Displaced Persons in the Arab World*. Nevertheless, it has never been adopted and has no legal force (BADIL 2006: 178).

most significant regional instrument remains the 1965 *Protocol on the Treatment of Palestinian Refugees* of 11 September 1965, also known as the Casablanca Protocol. Though it sets forth standards for the treatment of Palestinian refugees on a regional basis, it ‘does not have the legal status of a Convention,’ and is thus not legally binding for any signatory state (BADIL 2006: 141). Moreover, even though most of the Arab League member states ratified the Protocol, including Iraq, Jordan, Sudan, Algeria, Egypt, Yemen, Kuwait, Lebanon and Libya, the latter three have endorsed it with reservations regarding employment stipulations, while Saudi Arabia, Morocco and Tunisia are not signatories (BADIL 2006: 133). With no particular assistance provisions, the Protocol is animated by two main principles: ‘granting Palestinians full citizenship rights – but denying them naturalisation - and issuing them with refugee travel documents in order to maintain their refugee status’ (Shiblak 2006: 8). Even as the Protocol is narrower in scope than the 1951 Convention, a number of its provisions aim to secure, in principle, more rights than found in the Convention (BADIL 2006: 150). As such, the protocol provides for treatment in certain key areas on a par with host state nationals, such as employment (Article 1) and visa and residency applications (Article 5). It also establishes the refugees’ right to leave and enter their host state (Article 2), to freedom of movement (Article 3) and to a travel document (Article 4).

The discrepancy between the rights provided for Palestinian refugees in the Protocol and the actual practice of host states is striking. As will be highlighted, regional legal instruments and resolutions have not been rigorously implemented. Internal Arab League investigations ‘have concluded that implementation of [League] standards for the treatment of Palestinians in member states is poor, and monitoring and enforcement initiatives have not produced significant or lasting improvements’ (BADIL 2006: 151). According to the PLO, ‘no Arab country has ever fully or consistently implemented’ the Casablanca Protocol, a fact ‘most often ascribed to the fragile political and socioeconomic situation prevailing in these countries’ (2000: 22). Shiblak argues similarly, qualifying that only Syria has consistently upheld most of its commitment (2006: 8). As Takkenberg’s study highlights, ‘although the League made serious efforts to introduce minimum standards for the treatment of Palestinian refugees, in practice the position of these refugees was, and continues to be, largely determined by political and security considerations of the governments of the Arab host countries’ (1998: 133).

#### **2.4. National Protection: Brotherhood in Principle v. Brotherhood in Practice**

To explicate the actual treatment of these particular Palestinian refugee communities, this paper now turns to a brief overview of the refugees’ legal statuses. The following analysis will focus primarily on a number of basic rights derived from the international and regional legal framework above. Due to the limited scope of this thesis, these will encompass the right not to be expelled and to *non-refoulement* as well as the rights to residency, movement and a travel document. In investigating the application of these rights, it is important to note the fact that no generalized framework of Arab legal approaches to Palestinian refugees can be readily identified. As highlighted, ‘the absence of regional standards [...] has resulted in a situation where legal status and basic human rights of Palestinian refugees differ from one host country to another’ (BADIL 2005: 14). Moreover, Takkenberg notes that ‘a formal legal status under national law, codified in legal instruments, in many instances does not exist’ (1998: 133). Particularly in relation to Iraq, Egypt, Libya, Kuwait and Saudi Arabia, the legal status of Palestinian refugees has often been regulated and changed through executive decrees or ad-hoc legislation (Takkenberg 1998: 133).

Consequently, one Palestinian refugee in Egypt states, 'I cannot say that we are refugees, because we do not enjoy any of the rights that refugees enjoy.' (Nabulsi 2006: 80). Another in Iraq argues: 'Every new Iraqi government imposes new regulations upon us. We don't blame just this one regime; we blame all of them.' (Nabulsi 2006: 86).

#### 2.4.1. *The Right Not to be Expelled and to Non-Refoulement*

The right not to be expelled and to *non-refoulement* are enshrined in the 1951 Convention (Articles 32 and 33, respectively), Article 3 of the Convention Against Torture (CAT) and Article 13 of the International Covenant on Civil and Political Rights (ICCPR). Moreover, 'the principle of *non-refoulement* has crystallized into a rule of customary international law,' which means that all states, even non-contracting states, are legally bound to respect it (Goodwin-Gill 1996: 143). Nevertheless, 'Arab host states have frequently violated the principle of *non-refoulement*, either by expelling Palestinian refugees to the frontiers of territories where their lives and freedoms were threatened, or by denying entry to Palestinian refugees fleeing persecution by another host state' (BADIL 2006: 151-152). The mass expulsions and flight from Kuwait following the first Gulf War, Libya in 1995,<sup>25</sup> and Iraq, following the US-led occupation in 2003 and growing sectarian violence, expose the extent to which Palestinians remain unprotected. The recurrence of mass expulsion of Palestinian refugees is a gross example of the protection gap affecting Palestinians in the Arab periphery and highlights the unique vulnerability of many from this community who remain stateless. Unlike other population groups that may be expelled from host states, Palestinians often have no state to return to, are refused entry, even to states where they may have previously held residency papers, and endure protracted humanitarian emergencies along state borders (BADIL 2006: 153). This form of collective punishment will be returned to in the third section, to explore the political conditions and forces allowing for it.

#### 2.4.2. *The Right to Residency, Movement and Travel Documents*

The right to freedom of movement, residence and a travel document within a host country is present in the 1951 Convention (Articles 26, 27, 28 and 31), the ICCPR (Article 12) and the Casablanca Protocol (Articles 2, 3 and 4). Nonetheless, in most Arab states, such basic rights are most frequently tied to citizenship. As such, Arab League 'standards and international law do not require that host states grant citizenship, and few Palestinian refugees have acquired citizenship in Arab host states,' excluding most refugees in Jordan (BADIL 2006: 153). Moreover, the provision of citizenship has been tied to notions of integration or *tawteen* (implantation), which have been opposed by Arab host states as well as Palestinians themselves (Nasrallah 1997: 350). As non-citizens, Palestinians thus face distinct residency and movement restrictions in each host state, and have been issued an array of travel documents with varied regulations and restrictions, 'which in most countries do not confer secure residency status' (BADIL 2005: 14). Though Arab League Resolution 18 (9 April 1953) called for the issuance of standard documents for Palestinian refugees, until today the League has not issued such travel or identity documents. This responsibility resides with individual member states (BADIL 2006: 151). This has proven particularly problematic for Palestinians who have left their country of first refuge, since the complete discretion of host states toward these travel documents has left entire groups of Palestinians in a stateless limbo in times of crisis, such as mass expulsion. As a refugee in Saudi Arabia explains, many

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<sup>25</sup> In March 2007, Libya threatened to deport Palestinian refugees again, in retaliation for the latest Arab peace initiative (Nahmias 2007).

Palestinians are often without any documents: 'Take the refugees in Jordan or Lebanon or Syria [...], the state gave them passports or certain documents that identify them as refugees, in contrast with native citizens. But here in the Kingdom, most of the refugees don't have documents' (Nabulsi 2006: 88).

Moreover, for those with documents, moving within the region brings substantial uncertainty: 'While the 1951 Convention provides for the transfer of responsibility in respect of the issue and renewal of travel documents, the Casablanca Protocol leaves this responsibility primarily with the original host countries of the refugees' (Takkenberg 1998: 143). As a result, no 'systematic practice of transfer of responsibility for the issuing of travel documents from countries of first refuge to countries of subsequent residence has emerged' (Takkenberg 1998: 170). Thus, Palestinian refugees in UNRWA areas as well as the Arab periphery have remained dependent on their host countries of first refuge for the issuing, renewal or extension of travel documents (Takkenberg 1998: 143). As in the case of Palestinians expelled from Kuwait following the first Gulf war or those presently fleeing Iraq, many Palestinians with expired or invalid refugee travel documents from countries of first refuge such as Egypt and Lebanon, have been most affected (Takkenberg 1998: 165). Former residents of Gaza, also known as 'ex-Gazans', who hold Egyptian travel documents are one such group. Effectively barred from returning to Gaza as a result of being outside their areas of habitual residence during and following the 1967 Israeli occupation, their expulsion from places of secondary migration has meant a precarious legal limbo and an inability to return to Gaza, their area of first refuge.

In Egypt, Palestinians are eligible for different types of residency documents, most to be renewed at intervals of three or five years depending on their period of arrival.<sup>26</sup> Renewal regulations pose significant problems:

Despite the fact that Palestinians in Egypt are refugees or displaced persons and cannot go back to Palestine due to the occupation, obtaining [...] Egyptian residence permits is conditioned upon whether or not the applicant can provide a reason for his or her stay in Egypt. (El Abed 2003: 14)

This regulation is an acute concern for Palestinian men reaching adulthood. The explicit imposition of private school fees for Palestinians has led to high drop out rates, while for recent graduates there remains a scarcity of licensed work, which enhances their vulnerability to deportation. Consequently, 'many Palestinians are forced to reside illegally in Egypt until they can provide the authorities with an official reason for their stay' (El Abed 2003: 14). The restrictions on residency as well as the lack of citizenship thus impact every conceivable aspect of everyday life. In the words of a Palestinian refugee from Cairo,

We suffer a lot here in everything related to residency, moving, education, and work. Anyone over 20 years old should prove that he is either working or studying in higher education. But it is impossible to study in higher education without the approval of the security services, whilst also paying fees ranging between three to seven thousand dollars for university (Nabulsi 2006: 66).

For Palestinian refugees with Egyptian documents who live or travel abroad, these regulations have caused immense suffering. Between 1960 and 1967, following Decision No.

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<sup>26</sup> Law No. 89 of 1960, amended in 1968 by Law No. 49, in 1980 by Law No. 124 and in 1983 by Law No. 100 (BADIL 2005: 35).

28 (1960) under the presidency of Gamal Abdel Nasser, Egypt issued travel documents to Palestinians. Yet, Egypt, like other states, has curtailed or limited many of its provisions for Palestinians following regional political tensions, primarily with the PLO. Most notably, Palestinian residency and movement rights were effectively limited in the wake of Egyptian President Anwar Sadat's negotiations with Israel in the late 1970s, and the killing of an Egyptian Minister of Culture, Yusef El-Sibai, by the Palestinian faction Abu Nidal in 1978 (Sayigh 1997: 425). El Abed states that, as a result, 'regulations and administrative policies were amended to treat Palestinians in Egypt as foreigners' (2003: 5). In the same year, Sadat 'issued two administrative regulations, No. 47 and No. 48, that decreed that all regulations treating Palestinians as nationals should be annulled. Much of the basis for this gradual infringement of civil and legal rights lies in political factors' (El Abed 2003: 5). A Palestinian residing in Cairo explains:

After the peace initiatives of 1977-78, some regulations were created against us by Sadat's Camp David treaty. The Egyptians began treating us like foreigners while previously they treated us as Egyptians. So laws that were applied to foreigners were also applied to us, for residency permits, school and university fees, and the like (Nabulsi 2006: 80).

Since this period, Egypt is 'among the few [Arab League] members that require Palestinian refugees to obtain an entry or transit visa prior to entry into or transit via their territory' (BADIL 2006: 156). Palestinians abroad, therefore, must continually return to Egypt to renew their visas, either within six months of leaving, or, with proof of work or education abroad, within one year. Overstaying these limitations leads to a denial of entry (El Abed 2003: 15). As a direct consequence, as with the case of the 'ex-Gazans,' many Palestinian refugees with Egyptian travel documents are no longer considered to have legal residency in the country (BADIL 2005: 17). No authoritative figures exist; however, this predicament affects Palestinians currently dispersed in different areas, including Libya, Jordan and Lebanon.

Palestinians in Iraq have suffered from recurring periods of political and military upheaval over the past six decades. Prior to the 2003 war, Palestinian refugees were issued travel documents and residency status as stipulated in the Casablanca Protocol. Yet, 'despite the adoption of the Political Refugee Act (Law No. 51) in 1971, which provides the legal basis for the provision of asylum for "political or military reasons" (Article 1[3]), the Palestinian refugees were never given formal refugee status by the Iraqi authorities' (Wengert and Alfaro 2006: 19). Nevertheless, in comparison to other regional states, Palestinian refugees in Iraq were relatively well treated. Along with travel documents, Palestinians 'had the right to work and were given full access to health, education and other government services', as well as housing subsidies (Wengert and Alfaro 2006: 19). Nevertheless, as another Palestinian in Iraq notes regarding the five-year travel documents, 'since the nineties, the Iraqi travel document for Palestinians has been useless for travel to Arab countries; it has no value and no one recognizes it' (Nabulsi 2006: 86).

As noted in the introduction, this situation changed drastically after the fall of the Hussein regime, with Iraq becoming a country of flight rather than refuge. With the imposition of a new set of residency permits, Palestinians are obliged to renew them every two months, a process that has become increasingly difficult, humiliating and dangerous given the general violence and the specific targeting Palestinians face (Wengert and Alfaro 2006: 19).

Libya has proven an equally unstable host state in regard to residency rights. Until 1994, Palestinian refugees in Libya ‘generally enjoyed the same residency rights as Libyan nationals, although many Palestinians had to live in specially designated areas’ (BADIL 2006: 155). As mentioned above, the 1995 expulsion of over 30,000 Palestinian workers triggered a ‘humanitarian crisis on its borders and a political crisis with Egypt’ (BADIL 2006: 155). The latter refused to admit Palestinian refugees without valid Egyptian documents, a consequence of its own restrictive regulations noted above. Following a resolution to the stateless refugees’ plight in 1998, ‘expelled Palestinians were eventually re-admitted [to Libya], but residency rights have not been reinstated to their previous level’ (BADIL 2006: 155).

In the Gulf, and specifically in Kuwait, Palestinians are treated as ‘migrant workers and their residency status is closely related to employment status; all foreigners have to leave the country upon termination of their employment’ (BADIL 2006: 155). As noted in Section 1, the period from the 1950s until the early 1990s saw Kuwait impose ‘continuing tight naturalization restrictions combined with large-scale immigration [that] rendered the Kuwaitis a minority in their own country’ (Brand 1988: 113). Under the Aliens Residence Law (Decree No. 17) of 1959 – amended and enhanced as migration increased<sup>27</sup> – as well as Labour Law (No. 38) of 1964, Kuwait purposefully tied migrant employment to regulations regarding entry, exit and residence (Russell 1988: 200). Given the ramifications of the 1991 Gulf War and its aftermath, where almost 400,000 Palestinians involuntarily fled the country, Palestinians currently in the country face enhanced restrictions. Moreover, ‘since 2002, Arab citizens or residents from non-Gulf Co-operation Council states, including Palestinian refugees, have not been allowed to stay in Kuwait for more than three months’, while one-month visas, with possible extensions up to three months, exist for family visits (BADIL 2006: 181, 182). In sum, Palestinian refugees are not considered, nor treated, as refugees and stateless persons deserving particular rights and safeguards, as stipulated in international law and regional instruments.

### **3. PALESTINIAN REFUGEES AND THE POLITICS OF ARAB STATES**

To fully examine the condition of Palestinians in Arab host states, it is necessary to situate the legal analysis above firmly in a political context. The politics of Arab states, especially in relation to the Palestinian refugee question, are immensely complex, in constant flux and highly specific to each country’s modern trajectory. This paper does not attempt to put forward an overarching, definitive explanation of Arab state behaviour. Instead, it seeks to identify regional and country-specific conditions that have allowed for the mistreatment of Palestinians in the states in question. In this regard, I will explore a number of key, interconnected features related to state governance, attitudes toward human rights and non-citizens, as well as regional foreign policy, with a particular focus on the impact of Palestinian politics. Coupled with the protection gaps laid out above, these host state conditions of Palestinians have served to magnify the repercussions suffered by Palestinian refugees in this region, especially in times of social, political or military turmoil.

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<sup>27</sup> Amended by Decree No. 40 of 1987, as well as Law No. 30 (1970), Decree No. 100 (1980) and Law No. 1 (1982) (Brand 1988: 113).

### 3.1. *The 'Fierce' State: The Politics of Consolidation and Control*

The reception of Palestinian refugees by Arab host states has been fundamentally different from other regions of refuge, such as Europe, Australasia and North and South America, where Palestinians can be found today. According to Al-Aza'r, the causes of Palestinian refugee ill treatment are found in 'weakness of Arab protection for Palestinian refugees' (2004: 2).

Having, for the most part, just emerged from colonial or protectorate status in 1948 and the years that followed, most of these new Arab states were 'not well equipped and did not possess the necessary know-how to deal with the [Palestinian refugee] problem' (Al-Aza'r 2004: 1). States such as Iraq, Egypt, Libya and Kuwait were undergoing uneven and, at times, volatile processes of state consolidation. Brand contends that these states continue to struggle to construct 'economic, social, and political policies to further the extension of state control over the human and material resources that lie within their borders' (Brand 1988: 3). As a result of such efforts,

military and internal security forces – the modern state's necessary monopoly of the means of coercion – were greatly strengthened, while the state's penetration into a variety of geographic regions and economic sectors grew (Brand 1988: 2).

Ayubi (1995) seeks to formulate a typology of Arab state consolidation and structure. In his findings, the Arab state has emerged as a 'fierce' state rather than a 'strong' one; it is primarily authoritarian, or even autocratic. It has had to rely on raw, coercive power 'to preserve itself.' Such a state is not 'strong' because, to varying degrees, it lacks the "infrastructural power" that enables states to penetrate society effectively [...] and [...] it lacks ideological hegemony (in the Gramscian sense) that would enable it to forge a "historic" social bloc that accepts the legitimacy of the ruling stratum' (Ayubi 1995: 3).<sup>28</sup> Nevertheless, these authoritarian states have sought to establish unwavering political, military, and, to varying degrees, economic dominance within their boundaries. For Ayubi, 'like the traditional state, the new one remained concentrated and authoritarian, but its domain has expanded tremendously at the expense of the freedom of the group and the individual' (1995: 24).

Palestinian refugees thus arrived *en masse* during a period characterized by the growth of authoritarian state structures as well as a general reality of 'Arab economic and social underdevelopment' (Al-Aza'r 2004: 2). As a result, treatment of Palestinians was conditioned by a number of factors, significant among them 'the limited socioeconomic absorptive capacity of Arab countries and the discrimination directed against the refugees by governing authorities' (Selim 1984: 203). Shiblak, in turn, argues that 'the need to consolidate power and control over territory and population was the main factor in determining the attitudes of the Arab states towards the Palestinians in their midst' (Shiblak 1993: 15). Indeed, in the view of most states, Palestinian refugees were considered a temporary, potentially destabilizing presence, for which, as host states, they should not have to bear an undue economic and political burden.

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<sup>28</sup> Ayubi nevertheless cautions against an Arab-centric analysis of Arab states. The formation, political underpinnings, and development of Arab states reflect tendencies found among many post-colonial states. Instead, he argues for specificity in analysis, incorporating both politico-economic and socio-cultural traits distinct to and within the Arab world, while retaining a more expanded comparative approach to state consolidation, so as not to essentialize and thus narrow our ability to analyse the ideas, forces and decisions made by each state in question.



Nevertheless, though the economic trajectories and policies of most of these states can explain some of the impetus toward more strict control of national resources as well as economic and social development, they cannot fully explain the causes for the treatment of Palestinian refugees. It is therefore necessary to engage with, what Russell terms, ‘political factors,’ which range ‘from wars to government policies concerning immigration and emigration’ (Russell 1988: 186). As will be seen, Arab politics has been characterized by a heightened degree of volatility between and within states, which has engendered considerable state-sponsored as well as non-state political violence and discrimination, from which refugee Palestinians have suffered acutely.

### **3.2. *Authoritarianism, Human Rights and the Law***

A feature prevalent among the Arab states in this study is a lack of adherence to notions of human rights, as reflected in international human rights and refugee law and standards. They have not developed robust legal structures to secure the human rights of most of their residents, or adopted specific provisions for refugee rights. Castles and Miller write that ‘on the whole, the situation of migrants in the Arab region is characterized by extraordinary deprivation of basic rights. Forced migration is prevalent and linked to the failure of political systems’ (2003: 123). Ayubi traces this common quality to the fact that Arab states have ‘never been associated, [since their] emergence and development, with the idea of liberty [...]. The more extended the concept of the state, the narrower the scope for freedom’ (Ayubi 1995: 24). In relation to Iraq and Egypt, for instance, Kazziha contends that ‘the new state structures which were established [...] were diametrically opposed to any liberal or democratic tendencies in society, and sought to consolidate the authoritarian rule of the army officers and their allies’ (Kazziha 1988: 213). In practice, ‘a number of [...] Arab states have remained attached, in a rather supercilious as well as anachronistic way, to the idea of sovereignty in matters relating to human rights, which can be seen even more starkly with regard to the rarity and inadequacy of legislation relating to refugees’ (El Quali 1996: 14, cited in Trégan 1999: 34; own translation). As discussed above, state treatment of refugees should in theory reflect international standards, as delineated in the 1951 Convention, ICCPR and CAT, among others. However, while most are signatories of key human rights covenants,<sup>29</sup> Arab host governments ‘have failed to abide by them and to integrate their provisions in their national laws’ (Shiblak 1996: 38).

For Palestinian refugees, as a particular refugee and stateless minority, the lack of a viable human rights structure has seriously jeopardized the provision of even basic rights. As BADIL notes, ‘in the absence of binding and enforceable regional standards for the treatment of Palestinian refugees in host states, their legal status is regulated by the national legislation of each country’ (2005: 13). In so doing, these states have mostly dealt with forced migration through ad-hoc, unregulated approaches devoid of national legislation designed to regulate refugee affairs and ensure the protection of refugees (Al-Aza’r 2004: 3). The refugees’ legal status and the provision of basic rights are inherently unstable as they are issued ‘by ministerial decrees or administrative orders, which allow differing interpretations and abuses of power and can easily be reversed in response to changing political conditions’ (Shiblak 1996: 39). Moreover, despite obligations set forth in the Casablanca Protocol to provide

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<sup>29</sup> ICCPR: Ratified by Egypt (1982), Libya (1976), Iraq (1976), Kuwait (1996); CAT: Egypt (1987), Libya (1989), Kuwait (1996), not signed by Iraq (UNHCHR 2004).

treatment on a par with nationals, Palestinian refugees in Egypt, Libya, Iraq, Kuwait, and other Gulf States are relegated to the status of foreign migrants, often without formal reference to their refugee status (BADIL 2004a). What distinguishes them foremost from other foreigners, who are also subjected to a deficient rights environment, is the instability and lack of last resort – return to country of origin – born of their statelessness.

El Quali maintains that ‘the absence of an Arab legal corpus with regard to refugees can be explained by a number of factors, in particular the weakness of the Arab states in adhering to the various international legal instruments as well as the rarity and inadequacy of national legislation pertaining to the issue’ (1996: 13, cited in Trégan 1999: 33; own translation). For instance, he contends that even ‘the question of adhering to the 1951 Convention has become, over time, a taboo question in the Arab countries of the Middle East and the Gulf’ (El Quali 1996: 13, cited in Trégan 1999: 33; own translation). Therefore, according to Al-Aza’r, the absence of a human rights framework for Arab states, in particular, ‘explains the continued suffering of Palestinian refugees, irrespective of changes and variations in the capacity of Arab countries’ (2004: 2).

Compounding the inadequate human rights environment and standards of Arab host states is the primacy of state political considerations and interests in determining the refugees’ treatment. A general climate of unregulated state behaviour has meant that ‘national and regional political considerations often over-ride international and regional protection standards and result in very partial protection of Palestinian refugees’ (BADIL 2006: 152). Raffonelli maintains that the absence of international and regional protection has meant that refugee treatment has remained within the unregulated purview of the states in which Palestinians live (2004: 73). As a consequence, ‘host governments’ relations with the Palestinian leadership [...] have strongly influenced decisions affecting Palestinian refugees, especially where the actions of the leadership have contradicted the politics of the government’ (Raffonelli 2004: 73). Takkenberg also contends that ‘changes in political relations almost automatically have an impact on the situation of the Palestinian refugees in the countries concerned’ (1998: 133).

Political developments from the 1970s saw a sea change in Arab host states’ treatment of Palestinians. Egypt had pledged but gradually reneged on its agreement, as a signatory to the Casablanca Protocol, to help preserve Palestinian national identity, while ensuring the treatment of Palestinians on a par with its own citizens (El Abed 2003: 16). This period saw

a sudden change of heart by the host government as a result of political conflict with the PLO’s leadership, with punitive collective measures on more than one occasion taken against ordinary Palestinians. Their status was redefined and changed from residents with full citizenship rights but without nationality to foreigners whose residence status was uncertain (Shiblak 2003: 6).

In comparative terms, Raffonnelli finds that political interests trumped efforts at refugee protection:

Egypt, Libya, Iraq, and Lebanon all extended substantial rights to Palestinian refugees at one time—including the right to employment and travel, and freedom of movement—until each government rescinded them. Subject to shifting interests on the part of their host governments, Palestinian refugees have suffered for policy decisions that often had nothing to do with them (2004: 73).

Thus, Palestinian refugee rights remain tied to regional and host-country political developments, where state interests and foreign policy objectives have led to the manipulation, and in some cases, marginalization of the refugees within their borders.

### **3.3. *Foreign Policy: The State and the Palestinians***

Palestinian refugees have been affected, for better or worse, by the foreign policy approaches of their respective host states. Intimately tied to the governance structures and attitudes outlined above, foreign policy considerations and interests have impacted the domestic treatment of these communities. Moreover, it is the contention of this paper that the particular nature of Palestinian refugeehood – for the most part stateless while politically symbolic – has engendered an array of host state political, legislative and military responses that have sought to both co-opt as well as marginalize resident Palestinian communities for political gain and control.

Before delving into specific foreign policy relations between Arab states and Palestinian actors, primarily the PLO, it is instructive to lay out general differences and similarities amongst Arab states in both their foreign policy outlooks and abilities.

As Korany and Dessouki argue, in general terms, Arab states

differ in their perceptions of the global system and of their role within it; they differ in their policies toward major regional issues such as the Arab-Israeli conflict and ways of achieving a comprehensive peace in the region; they differ in the way they relate to each other; and, finally, they differ in their political structures and foreign policy decision-making processes (1984b: 324).

On fundamental issues, these states perceive and act on their interests in very different ways, which impact their attitude toward and treatment of Palestinians within their borders. Moreover, as the case of Egypt has shown, treatment can change within states in response to external political developments as well as internal challenges, such as regime change and consolidation.

Nonetheless, Iraq, Libya, Kuwait and Egypt display a number of similar foreign policy characteristics, which are also shared by other developing countries outside the Arab region. In these states, ‘legal-institutional structures provide the leader with seemingly unlimited powers, yet social and political realities (such as segmented societies, geographic vulnerabilities, economic dependency, and political instability) impose severe constraints’ (Korany and Dessouki 1984b: 326). These Arab regimes have and continue to experience a distinct combination of each of these constraints, which amplify the influence of domestic policy considerations in the perception and formulation of each state’s foreign policy. Domestic obstacles are also ‘reinforced by the vulnerability of weak states, the lack of an institutional base, and the pattern of personal legitimacy prevailing in most Arab regimes’ (Korany and Dessouki 1984b: 326). In general terms, therefore, most Arab states, to varying degrees, exhibit a ‘gap between verbal articulation of goals and actual foreign policy behaviour’, similar to other developing countries characterized ‘by limited capabilities in relation to their foreign policy objectives’ (Korany and Dessouki 1984b: 328, 326).

In addition, as small and medium-sized powers with direct interests in Arab political and economic affairs, their foreign policies are primarily regional in orientation. In this context, state interest has all but trumped ideological, national or religious solidarity. Shiblak contends that the 'pan-Arab national brotherhood of the 1950s and 1960s has faded away, to be replaced by a self-centred agenda of fragmented, sub-national states and narrow interests' (Shiblak 2006: 8). 'Raison d'état' has nonetheless enveloped itself in a discourse of pan-Arab solidarity. What has resulted is a noticeable disconnect 'between the sources of a particular policy, which are in many cases specific state interests, and the justification of that policy – usually articulated in pan-Arab rhetoric' (Korany and Dessouki 1984a: 4). The combination of authoritarianism and lack of adherence to international human rights and refugee legal standards has allowed for the development and carrying out of domestic and foreign policies strongly centred on regime preservation and state consolidation. For Palestinian refugees, such as those expelled from Libya or Kuwait, this has meant the subordination of their rights to state interests as perceived in particular moments by particular governing authorities.

Central to each state's understanding of self-interest has been its relation to the Palestinian question and, in certain cases, its interaction with Palestinians as stateless political agents. In regional terms, the question of Palestine has undoubtedly left a significant imprint on both the substance as well as the structure of Arab political interaction (Kazziha 1988: 213). From being relegated to the sideline of Arab inter-state politics, Palestinian refugees asserted themselves as an important political force beginning with the aftermath of the 1967 war. The PLO, comprising numerous Palestinian political factions, displayed an increasing 'capacity to act in the international system due to the growing ability of resources and skills necessary for the conduct of foreign policy behaviour' (Selim 1984: 221).

Nevertheless, the peculiar non-state and extra-territorial character of Palestinian political organizing has severely constrained its political manoeuvrability within and among regional states, while also hindering attempts to ensure protection for Palestinian communities in these countries.

Until today, the PLO has found its ability to chart an independent political path constrained by its need to maintain support from regional states, which provide important financial, political, military and territorial resources, as well as from Palestinians residing within these same states, who contribute essential political, financial and human capital. As a result, 'the PLO's attempt to ensure its autonomy and establish a direct relationship with the Palestinians inevitably engulfed it in conflict with most regimes' (Selim 1984: 229). Brand argues that Palestinian politics has been invariably embroiled in both state-specific and larger regional developments:

The lack of a sovereign territorial base means that the fate of Palestinian efforts toward political mobilization and nation-building are, to a far greater degree than those of state actors, inextricably tied, not only to developments in one or two countries, but to conflicts and contradictions throughout the region as a whole (1988: 6).

A direct impact of the statelessness in Palestinian politics has been the recurrence of tension between Arab host states and Palestinian actors. Selim emphasizes that the PLO's non-state character and concomitant reliance on regional state support has led states to expect 'a higher level of compliance from [the PLO] than they expect from their state clients' (1984: 198). As Khalidi notes, in addition to continued conflict with Israel, 'Palestinian political structures suffered from the efforts of several Arab governments to dominate them,' yet the

PLO's 'weakness and dependence on different Arab states for diplomatic support, bases, and money often drew it into a delicate and exceedingly dangerous balancing act' (2006: 145). He argues, moreover, that 'all of these Arab powers at one time or another strongly opposed the PLO, or worked assiduously to limit its independence and freedom of action, if not to subordinate it entirely to their foreign policy objectives' (2006: 168). In order to do so, many Arab states, including Iraq, Libya, and Egypt have tended to protect and support dissenting factions and offshoots, thus facilitating their control over internal Palestinian politics and increasing their infiltration into the Palestinian communities in the respective countries. Selim maintains that 'in a sense, the PLO became a microcosm of inter-Arab politics' (1984: 200). Most host state policies toward the Palestinian communities in their midst were thus aimed at ensuring tight control and political manipulation. For these autocratic regimes, such as Gulf states and Egypt during various regional flashpoints, 'the activism of Palestinian nationalist groups was a source of concern,' as they sought to secure domestic compliance with foreign policy objectives as well as to stifle any potential source of domestic dissent or challenge to the reigning authorities (El Abed 2003: 7).

In addition, the regimes in question were equally hesitant to engage in direct confrontation with the state of Israel. At a qualitative military disadvantage, these states were acutely aware of Israel's demonstrated willingness to intervene in and destabilize regional host governments (e.g. in Lebanon from 1978 onward). Palestinian activism, and the high levels of domestic support engendered among wide swaths of the countries' populations, thus had the potential to emerge as a direct threat to regimes concerned with maintaining control of the levers of state power.

Shiblak contends, therefore, that '[...] with the rise of the Palestinian national movement and the perhaps inevitable confrontation with the host countries, commitment to provide secure and permanent residency status to the Palestinian refugees waned' (1996: 39). In response to such confrontations, states such as Egypt, Libya and Kuwait, and Iraq today, have imposed, at varying points, retaliatory legal and political collective punishments to restrict the social, economic and political rights of Palestinians living within their respective territories (Shiblak 2006: 8). These policies and decrees have served to substantially restrict the manoeuvrability of Palestinians within their host communities, thus effectively marginalizing the most vulnerable – those with little, or no, recourse to established networks and sources of formal and informal income and protection.

In many cases, these restrictions can be traced back to a changing and deteriorating political relationship between the host states and the PLO. Smith writes that 'the fragmentation of the PLO and the determination of countries like Egypt [...] to negotiate with Israel meant that the Palestinians living in [host] countries were kept under an even tighter rein than usual' (1986: 105). El Abed argues that 'as a weak and dispersed minority, Palestinians were affected by political tensions between the PLO and the Egyptian government' (2003: 16). On the one hand, the government suppressed Palestinian activism during periods of strain, such as by banning specific Palestinian groups or by initiating sweeping security arrests within the community. On the other, 'the Egyptian public was heavily influenced by media campaigns projecting negative ideas about Palestinians. Both of these led to tense conditions for Palestinians residing in Egypt' (El Abed 2003: 6). A Palestinian refugee in Cairo explains:

[...] Every time heated disagreement breaks out between the PLO's leadership and the government here, new arbitrary regulations are issued against Palestinians. These regulations remain in force even when they come to an agreement. So we have a lot of arbitrary regulations (Nabulsi 2006: 82).

Since the early 1990s, the concentration of Palestinian politics within the OPT has further left Palestinian communities in the Arab periphery subject to the unchallenged interests and policies of host states. Significantly, 'the establishment of the Palestinian Authority in the West Bank and Gaza and the concomitant reduction in the power and profile of the PLO have left communities in the Arab world in a disturbing limbo' (Brand 2000: 47). Whatever political representation and protection the PLO provided is now, for the most part, ineffectual or symbolic, at best. Moreover, internationally sponsored negotiations between the PLO and Israel have raised concern among host Arab states 'about international pressure for a permanent settlement of Palestinians in their territory.' In response, states of first refuge as well as of the Arab periphery have entrenched their attitudes against the enhanced provision of regional and national protection (BADIL 2006: 152).

Equally damaging for Palestinian rights was the political fallout from the 1991 Gulf war, which hastened a gradual decline in the commitment of member states of the Arab League to the Casablanca Protocol. Shiblak states that until this period, 'the Arab states on an individual basis had been annulling by administrative decrees the rights accorded to Palestinians under the Casablanca Protocol' (1996: 42). Most of the Gulf States 'never fully implemented the protocol, whilst others, such as Egypt and Libya, have done so inconsistently' (Takkenberg 1998: 144). Moreover, immediately following the war – ostensibly as a response to the PLO for its support of Saddam Hussein (Takkenberg 1998: 149) – the League Council adopted Resolution 5093, which included the proviso that the Protocol was to be abided by 'in accordance with the rules and laws in force in each state,' thus officially endorsing the primacy of national decrees and legislation over the recommendations of the Protocol (Terry 2000: 41). As a result, a number of states, including Kuwait and Libya, which had only previously begun lifting restrictions due to Arab League efforts, re-instated or strengthened restrictions on Palestinian refugees (BADIL 2006: 152).

In sum, the political structures and interests of Arab host states have severely impinged on Palestinian refugees as individuals as well as a collective. Beyond simply curtailing the freedoms and rights of Palestinian refugees, host state policies have seriously obstructed Palestinian efforts to reconstitute their communities, organize politically, and challenge the status quo of their dispossession. Moreover, in addition to undercutting Palestinian political structures and aspirations, these domestic and foreign policies continue to have 'the perverse effect of furthering a key Zionist objective by dispersing Palestinians even further from their homeland' (Shiblak 2006: 9).

## CONCLUSION

This paper has attempted to examine significant legal and political challenges facing stateless Palestinian refugees in Arab states outside the area of UNRWA operations. In countries such as Iraq, Kuwait, Libya and Egypt, Palestinians face considerable gaps in international, regional and national protection. A consistent lack of comprehensive UNHCR presence and intervention, inadequate host state respect for Arab League efforts and the refugees' basic rights, as well as host state abuse of refugee communities for foreign policy purposes have served to place Palestinians in an uncertain legal and political limbo. Coupled with the unique political character of the Palestinians' statelessness, these factors help explain the complex and precarious position of Palestinians within their respective host states.

In this context, I have argued for the necessity of an intertwined legal and political analysis. Especially in the context of Arab states, a legal analysis cannot stand alone in explaining the mistreatment and lack of protection faced by these refugees. Moreover, a comprehensive political analysis must appreciate the way the law has been used as well as disregarded by host states to further political ends.

As a preliminary exploration, it is evident that the treatment of Palestinian refugees in Arab states is intimately linked to regional political dynamics and the domestic insecurities as perceived by these states. Moreover, Palestinian political relations with the Arab host states play a critical role in shaping – positively or negatively – the treatment of the respective Palestinian communities.

Nevertheless, the political analysis has not purported to identify a set of overarching patterns among the various Arab states in question. In most cases, their differences – in demographic make-up, particular political development, and foreign policy outlook – outweigh their similarities. Yet these similarities – their lack of codified refugee legislation, dismal human rights records, post-colonial politics of consolidation and control, and the particularity of Palestinian statelessness and the Palestinian political cause – provide an intriguing backdrop for understanding how and why these states have (mis)treated Palestinian refugees within their territory, even as they have publicly espoused solidarity with the Palestinian cause.

Though an in-depth political examination remains beyond the scope of this research project, Section 3 has sought to lay an important foundation for further study. In tracing the political conditions that have allowed for – if not facilitated – the unrestrained actions of these states toward the Palestinian refugees in their care, a number of additional research questions arise. Future research may seek to trace the specific political rationales and forces – e.g. domestic concerns and pressures, political economy, foreign policy interests, regime change and/or consolidation – that lie behind each host state's treatment of Palestinian refugees. In doing so, key legal and political mechanisms of each state that continue to perpetuate these protection gaps can be identified. Such findings will inevitably beg additional questions centring on how these protection gaps could be closed with respect to the different contexts of each Arab state and what models may be developed for carrying out such initiatives.

A thorough understanding of this multifaceted phenomenon allows for a novel contribution to the study of refugee protection as well as the comparative politics of Arab

states. The refugees' political and legal context within the Arab state system provides important insight into the dynamics of statelessness as well as the relations and interests of the host state vis-à-vis non-citizens and refugees. Moreover, it can provide a long-term understanding of how forced migration, particularly in cases of large-scale ethnic cleansing, has regional, if not global, ripple effects. These consequences impact a diverse array of actors and substantively shape the context within which regional as well as national law and politics are formulated.

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