

**International Convention on the Elimination of All
Forms of Racial Discrimination (CERD)**

**Shadow Report of the Fourteenth Periodic
Report of State Parties due in 2004: Lebanon,
by the Palestinian Human Rights
Organization (PHRO)***

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1. Introduction

This report has been prepared and written by the Palestinian Human Rights Organization. The organization works for the alteration and enhancement of the legal situation of Palestinian refugees living in Lebanon. (For a more elaborate presentation of

the organization and its work please see attached document.) The report offers a presentation of the life of Palestinian refugees living in Lebanon relevant to the CERD. A full account of their situation is not possible within the realm of this assignment but it should be noticed that the aspects presented in this report do not in any way present the whole picture of the situation for Palestinian refugees in Lebanon.

The following is a presentation of historic factors affecting the current situation of Palestinian refugees in Lebanon. It has been noted by the PHRO that a shadow report of this nature should not be a compilation of surroundings facts but instead address only the legal problems related to the current meeting of CERD.

In the case of Lebanon and Palestinian refugees, it is not possible to understand the intensely complex relationship between these two parties without considering the historical context. To that end, this report will give a brief overview of the history of Palestinian refugees in Lebanon as well as a more general description of their current situation. This part will be followed by a brief presentation of two of the general principles of the Constitution of Lebanon to provide a deeper understanding of the problematic and intricate nature of the Lebanese attitude towards the various ethnic and religious groups in Lebanon and in particular Palestinian refugees. Next, a general comparison between Lebanese legislation and the CERD will be presented which will be followed by a more thorough presentation of how Lebanon violates different Articles of the CERD. Finally, a brief comparison between current Lebanese legislation and the last Concluding Observations of the CERD on Lebanon with recommendations and suggestions made to the state of Lebanon for ways to ameliorate the situation of the Palestinian refugees in the country.

1.1 Abbreviations

The following abbreviations will be used throughout the report.

CERD or Convention: International Convention on the Elimination of Ethnic and Racial Discrimination.

CERD Committee or Committee: Committee on the Elimination of Racial Discrimination

UDHR: Universal Declaration of Human Rights

ICCPR: International Covenant on Civil and Political Rights

ICESCR: International Covenant on Economic, Social and Cultural Rights

UNRWA: United Nations Relief and Works Agency

2. Palestinian Refugees in Lebanon

2.1 History- UNRWA

The UN partition of historical Palestine in 1947 resulted in a massive refugee flow to neighboring countries. To handle the refugee problem that the UN anticipated would be only temporary, a special UN organ was created with the specific task of delivering humanitarian assistance to the refugees in the region. In 1948, the United Nations Relief and Works Agency (UNRWA) was created for the express purpose of

providing support and humanitarian assistance to the Palestinian refugees were who displaced from their homes in historic Palestine. UNRWA's mission was to give temporary support to the refugees until the UN General Assembly Resolution 194 (III) (December 11, 1948) mandating the right of the refugees to return to their homes, was implemented.

UNRWA differed from the UNHCR (created only a couple of years later), in that UNRWA's mandate does not include legal *protection* of Palestinian refugees. UNRWA mainly provides services such as education, professional and technical training, health and hygiene, infrastructure and social services to the most vulnerable categories of the population (women, children and disabled). This oversight has proved to be increasingly devastating for the Palestinians as more than 55 years has elapsed since UNRWA's "temporary" mandate was created.

Because of Article 1 D of the 1951 Refugee Convention states that the Convention should not apply to persons "presently receiving from organs or agencies of the UN, other than the UNHCR, protection or assistance," the Palestinian refugees were excluded from the protection of the Refugee Convention and the UNHCR and left to rely solely on UNRWA. But for many, this reliance was not possible because in order to qualify for UNRWA support, one had to: 1- have lived in Palestine during the period June 1, 1946 to May 15, 1948 and, 2- due to the 1948 *Nakbah* (catastrophe), has lost his home and means of support. Anyone corresponding to this description and his descendants was entitled to help from the agency in those areas where the agency was established (i.e. Lebanon, Syria, Jordan and the Occupied Territories). Most of the refugees met these criteria but those who didn't did not have the right to benefit from the assistance offered by UNRWA.

Indeed, many of the refugees were forced to flee their homes in a great hurry, and thus did not take with them the appropriate documents to provide evidence to meet UNRWA's criteria. Further, because many refugees thought they would soon be returning to their homes, they did not bother to sign on with the UNRWA. To make the situation even worse, during the 1967 Arab-Israeli War, when yet more Palestinians were forced to flee their homes in historic Palestine, most did not meet UNRWA's definition of a refugee (i.e. to have lived in Palestine from 1946-1948) and thus were left with no right to benefit from the assistance of the UNRWA.

The Lebanese Reaction to the Palestinian Presence

In 1948, at the beginning of the Arab-Israeli "conflict," or more appropriately, *Nakbah*, hundreds of thousands of Palestinians fled historic Palestine to Lebanon where the Lebanese initially expressed solidarity with the exiles and availed the country for refuge. However, as the Palestinian presence gradually evolved into a more permanent situation, the attitude of the Lebanese towards Palestinians changed, leading to extremely harsh restrictions on the refugee community.

At the same time, due to the Egyptian and Syrian defeat by Israel in the 1967 Six-Day War, support for Palestinian guerilla movements in many Arab countries grew stronger. In the case of Lebanon, ordinary citizens demonstrated to demand that the Lebanese Government support the right of the Palestinians to mount guerilla warfare against Israel from Lebanese territories. Then, in 1969, the Cairo Agreement was signed between the PLO and the Lebanese government improving the situation of Palestinian refugees in Lebanon. The agreement granted residency, freedom of movement, labor rights as well as autonomy in the refugee camps as well as the right to attack Israel from Lebanese territory. These rights were tied to the Agreement *but* were never made national

legislation- a fact that was to have serious consequences for the future.

The PLO rapidly became a political power in Lebanon, but its presence very much disturbed the political life of the country. Attacks on Israel from Lebanese territory (by Palestinians) led to Israeli retaliation against Lebanon, which contributed greatly to the almost wholly diminished support for the Palestinian cause in Lebanon. These factors forced the already volatile political situation of the country over the edge and ultimately led to the outbreak of the 1975 civil war. The blame for this bloody fifteen-year civil war has been placed almost entirely on the Palestinians and has unfortunately resulted in large-scale Lebanese resentment toward the Palestinians and thus explains (but does not justify) the current appalling and horrific conditions for the refugees in Lebanon since the War began.

The Lebanese Fear of *Tawtin* (Resettlement).

Although the War was the main cause of resentment among Lebanese toward the Palestinians, another contributing factor was the Lebanese fear of *tawtin*- or permanent resettlement of the Palestinians in Lebanon. For the Lebanese, *tawtin* would mean the destruction of the delicate ethnic and religious balance that they have strived so hard to achieve. So, when along with the end of the civil war came the imminent possibility of *tawtin*, the Lebanese took steps to block such a reality by structurally and legally blocking Palestinian rights in all aspects of the economy, society and the law. Their goal was to make Lebanon such an unfriendly atmosphere that the Palestinians would not *want* to remain.

The post-war situation for the Palestinian refugees in Lebanon was even further exacerbated by the fact that international law still offered them virtually no protection. Although UN Resolution 194 (the right of return) had been passed, it was and continues to be largely ignored; UNRWA, as discussed above, offers no *legal* protection for the refugees- only humanitarian assistance, and the 1951 Refugee Convention excluded Palestinians from its mandate- thus leaving all categories of Palestinian refugees (whether from 1948, 1967, or 1971) without any kind of support or protection from international treaties or the international community at large. In addition to this exclusion from the rest of the world, the Lebanese government started to pass severely discriminatory laws targeted directly at Palestinians. The laws not only restrict but almost completely halt any potential for Palestinians to find work; they greatly restrict freedom of movement; curtail their freedom of association and limit their rights to the justice system. Still other Lebanese laws disallow Palestinians from receiving social security and other aid from the government, and a very recent law completely *prohibits* Palestinians from owning property in Lebanon. The conditions of Palestinians in Lebanon are desperate, and this report seeks to ameliorate the situation by bringing to light the methods and modes of discrimination and holding accountable those responsible for implementing it.

2.2. The current situation.

The Palestinian community in Lebanon can be divided into four groups; the refugees of 1948 who are registered with the UNRWA and the Lebanese General Security; the refugees of 1948 who are *not* registered with the UNRWA but *are* registered with the Lebanese General Security; the displaced persons of 1967 who do not have refugee status and cannot be registered with the UNRWA but are registered with the Lebanese General Security; and Palestinians living illegally as “non-registered” in

Lebanon.

The Lebanese Government and the Palestine Liberation Organization (PLO) estimate that there are around 415,000 Palestinian refugees in Lebanon. The number registered with the UNRWA is 390,498 (March 2003), 10 % of the population of Lebanon and this is a figure referring only to the refugees from 1948. The other Palestinian refugees, i.e. the non-registered, or those that came after the 1967 Arab-Israeli war were not calculated in this estimate. Most of the non-UNRWA registered persons have been registered with Lebanese authorities, but there are approximately 3,500 refugees (estimates from camp committees) residing in Lebanon without valid papers.

At present there are twelve (12) official UNRWA refugee-camps in Lebanon, with 217, 211 registered refugee residents. In addition, there are about fifteen (15) unregistered camps which are unofficial and are not managed by UNRWA. The conditions in these camps are shocking. The infrastructure that does exist is deteriorated; some camps were wholly or partially destroyed during the civil war and/or repeated Israeli invasions and were not permitted to be rebuilt; and poverty and unemployment is rampant. It is without question that Palestinian refugees in Lebanon have the most dire socio-economic situation in UNRWA's five areas of operation. And it is further without question that this situation was both caused by and is aggravated by the Lebanese attitude towards its Palestinian refugees.

When reading and considering the legal situation of Palestinian refugees in Lebanon the following should be noted. Up until this date, Lebanese authorities have not deemed it useful to adopt special legal definitions to clarify what the status and rights of the Palestinian refugees should be. The Lebanese authorities look upon Palestinian refugees in the same way they look upon all foreigners living in their territory and deliberately do not take into account the fact that Palestinians are stateless and as such unable to benefit from the protection of a state or participate in laws involving "reciprocity" as discussed below. The Palestinians' statelessness and thus the lack of "reciprocity" afforded to them are facts that have further complicated the nature of the Palestinian presence in Lebanon.

3. The Lebanese Constitution

The Lebanese Constitution states that Lebanon is an active and establishing member in the Arab League and the United Nations and that accordingly, Lebanon abides by the laws and constitutions of these organizations. The Constitution further states that Lebanon must adhere to the principles set forth in the Universal Declaration of Human Rights (UDHR). Further, Article 2 of the Code of Civil Proceedings within the Constitution, unequivocally states that in the case of a conflict between national and international law, the latter shall prevail. However, Lebanon continues to violate this provision by enacting regulations which discriminate against a particular group of people and thus violate international human rights instruments such as the UDHR. The blatant discrimination against a group of people based on their ethnic or national composition violates international law and thus violates domestic law by contradicting the Lebanese Constitution that states that international law should prevail.

The most devastating and egregious example of such a violation is that the principle of *tawtin* (and the Lebanon's determination to avoid it), was permanently enshrined in the fabric of their Constitution. Indeed, the Lebanese Constitutional Council approved the text of a law decree on property that expressly forbids foreigners from

acquiring property on Lebanese territory. However, that is, *unless* there is an agreement of reciprocity with the state from which the foreigner originates. The effect of such a law is to impact *no other peoples* residing in Lebanon except for the stateless Palestinians. Although the law does not expressly state that Palestinians cannot own land, the intent and effect of the law are precisely that. Such regulations which have the effect of discriminating against a specific group are contrary to the notions of equality and justice that *are* the principles of the CERD, the UDHR and other human rights treaties to which Lebanon is a signatory and thus should not be allowed to continue.

Lebanon, in its defense, argues that the international human rights covenants and conventions recognize the competence of the State to restrict the rights claimed and guaranteed by the international documents. Thus, the Council's choice to protect against the possibility of *tawtin*, by insidiously inserting it into the laws of the land, can be explained and justified as merely a justifiable act of State that is in line with the general principles of these accords.

Despite Lebanon's assurances in its last report to the Committee to work towards erasing the political system of confessionalism, the system not only continues to seep into every facet of the country's political, legal and social machinery, but has been further embedded into the legal system by incorporating the notion of *tawtin* into the Constitution. The prohibition of a group of peoples from resettling in a land based solely on their ethnicity, i.e. *tawtin*, is *prima facie* racist and discriminatory and thus contrary to all the principles enshrined in the CERD.

4. Lebanon's general practices and the CERD.

The CERD in its totality forbids any differentiation made on the basis of ethnicity or race, but it does allow for a distinction to be made on the basis of citizenship. In the case of Palestinian refugees in Lebanon, the limitations on their rights is primarily based on the pretext of their lack of citizenship. The crux of the issue is that they are recognized as refugees (most of them) yet they are treated as non-citizens, foreigners and stateless persons. So while the language used in the Lebanese law-decrees is not openly discriminatory against Palestinians, the spirit and underlying meaning is clearly and directly aimed at the Palestinian population. In fact, Members of Parliament and the Government are actually *open* about their desire to not have the Palestinians to remain on Lebanese territory- citing *tawtin* as the main justification for this attitude and policy.

Article 1 of the CERD allows signatory states to have legislative differentiation between groups if the regulation is related to differences being made between citizens and non-citizens. In the case of Lebanon, this provision of the CERD is patently applied to target the Palestinian population in a deliberate and discriminatory attempt to ensure that the Palestinian refugees do not consider remaining on Lebanese territory. This policy and agenda directly contradicts the spirit of the CERD even if the actions are defensible by referring to non-citizenship. Lebanon should be forced to end this policy and make legislative changes so the situation of Palestinian refugees is ameliorated immediately. Further, Lebanon must implement Article 2 and 7 of the CERD whereby every effort should be made through education and informational campaigns to change the general attitude of Lebanese civil society towards Palestinian refugees. The current attitude is one of resentment, hostility and overt discrimination. Thus, the situation is very much that

the Palestinian population has been attacked both directly through discriminatory legislation as well as indirectly through everyday attitudes towards them.

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

5. Discriminatory legislation.

The PHRO recalls the General Recommendation number 20 (15/03/96) of the Committee against Ethnic and Racial Discrimination (the Committee) on the implementation of Article 5 of the CERD. The Committee concluded that the rights and freedoms mentioned in Article 5 do not constitute an exhaustive list of rights. The rights and freedoms enumerated in the article derive from the Charter of the United Nations and the UDHR, which is also recalled in the preamble of the Convention. Most of the rights have been included in the ICCPR and the ICESCR and all state parties are therefore obliged to acknowledge and protect the enjoyment of human rights, but the manner in which they are implemented may differ from state to state. Article 5, apart from requiring a guarantee that the exercise of human rights shall be free from racial discrimination, does not itself create civil, political, economic, social or cultural rights, but assumes the existence and recognition of these rights by signatory States. The CERD obligates States to take strides to eliminate racial discrimination in furtherance of the enjoyment of such human rights. The Committee further states that if restrictions are imposed upon these Article 5 rights-they must neither in purpose nor effect, be incompatible with Article 1 of the Convention. In addition, many of the rights and freedoms in Article 5 such as the right to equal treatment before tribunals, are to be enjoyed by *all persons* living in a given State while other rights such as the right to participate in elections, to vote or run for election are solely the rights of citizens.

This paper will also make reference to articles in the ICCPR, ICESCR and the UDHR (to all of which Lebanon is a signatory) whose principles are breached by various Lebanese legislation. It should be noted at this point that the UDHR, the ICCPR and the ICESCR also include non-discrimination clauses which Lebanon has breached – but such a discussion is beyond the scope of this report. Instead, this report shall focus on the violation of the CERD by Lebanon through legislation which has the primary intent and effect of targeting Palestinian refugees in a discriminatory manner.

5.1 Freedom of movement.

Article 13 of the UDHR states that everyone has the right to freedom of movement and residence within the borders of each State, as well as the right to leave any country including his/her own. This applies to both individuals on the territory of signatory States as well as those subject to their jurisdiction under the ICCPR (see article 2 and 12). According to Article 4 of the ICCPR, signatory States may derogate from the rights outlined in the Convention in times of public emergency (i.e. when the existence of the state is threatened) *as long as* the derogation does not involve discrimination solely

on the grounds of race, color, sex, language, religion or other social origin. Article 5 (d) (i) of the CERD reiterates these principles by stating that signatories to the Convention undertake to “prohibit and eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, color and national or ethnic origin, to equality before the law when it comes to the enjoyment of the right to free movement and residence within the border of the state”.

Unfortunately, this provision is not being implemented with regard to Palestinian refugees in Lebanon. The refugees are prohibited from living in border areas in the South, thus limiting their choice of places to live even within the country. Palestinians are only allowed to go near the border crossing with prior authorization from the Ministry of the Interior. In addition, if Palestinian refugees wish to leave or enter certain refugee camps, they are subjected to identity checks carried out by the Lebanese or Syrian army. It must be emphasized that these discriminatory practices apply *only to* Palestinians.

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

Furthermore, as of 1994, Palestinians do not even have the freedom to leave Lebanon as they choose. Ministry of Internal Affairs Order No. 48 of September 23, 1994 states that a Palestinian refugee residing in Lebanon needs an entry or exit visa to leave or reenter the country. This law trumps Order No. 1188, of July 28, 1962 which had granted the freedom of entry and exit to *all foreigners* including Palestinians. Once again, this law attacked Palestinians who are refugees in this case, not foreigners, and thus were the prime targets of the discriminatory law.

This law is particularly severe because to leave the country as a Palestinian refugee is to risk never seeing family again. While Order No. 48 was annulled in 1999, the looming precedent of the order not only discourages fearful Palestinian refugees to go abroad but also makes other countries reluctant to grant them visas.

5.2 Right to Housing

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

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

The prohibition of rebuilding, repairing or expanding Palestinian houses and camps have had serious consequences on the Palestinian population in Lebanon. To wit, all of UNRWA’s plans for construction since 1994 have been cancelled because of the government ban. Further, the situation causing military enforcement to prohibit the entry

of building materials into camps has become so desperate and violent that the army has opened fire on smugglers of building material. Finally, the long and short term health consequences of such severe overcrowding are grave.

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

5.3 The right to own property.

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

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

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

The Council thus once again affirmatively encouraged the principles of *tawtin* by approving this law – an act which amounts to the inability of stateless foreign nationals to acquire real estate property. The only possible way for Palestinians to become owners of property would be to acquire Lebanese citizenship, but for obvious reasons, this would be

an insurmountable task.

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

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

5.4 The right to nationality

Article 5(d)(iii) of the CERD states that everyone has the right to nationality without distinction as to race, color, national or ethnic origin. In addition, it is stated in Article 1(3) of the CERD that nothing in the Convention may be interpreted as affecting the legal provisions of signatory states concerning nationality, citizenship or naturalization *as long as such provisions do not discriminate against any particular nationality*.

The Lebanese Government and the majority of the Lebanese people reject any permanent settlement of the Palestinian refugees. The reason is mainly that granting citizenship to Palestinians in Lebanon who are mostly Sunni Muslims, will upset the delicate sectarian balance in Lebanon. In the past some Palestinian refugees were granted Lebanese citizenship. In the 1950s and 1960s around 50,000 Palestinian refugees were granted nationality. The majority of them were Christians, but a smaller group of middle class Muslim families were also granted nationality. In the 1990's, an additional 20,000 Palestinians were granted nationality, some Shiites and Sunnis, and the rest of them were Christians who were not granted nationality in the 1950's and 1960's. Unfortunately, these times have ended. At present, any resettlement (*tawtin*) of Palestinian refugees is forbidden by the Lebanese Constitution. This means that Palestinians born in Lebanon and even the children of Lebanese mothers and Palestinian fathers are considered Palestinian and are not granted Lebanese citizenship.

The laws on nationality, citizenship or naturalization will not be challenged by the CERD as long as the provisions do not discriminate against any particular nationality. As is clear from the laws and actions of the Lebanon, the Lebanese government does not have any intention of adhering to these provisions of the CERD when it comes to Palestinian refugees. This supposition is supported by the fact that Lebanon has allowed many other cases of refugees or foreign nationals who had been living in Lebanon since at least 1920 to naturalize based on a 1994 decree, *if* they already possessed other

nationalities. The obvious effect was to once again exclude stateless Palestinians from benefiting from the law.

5.5 The right to a fair trial.

Article 5(a) of the CERD also states that every person must be treated equally before tribunals and other organs administering justice. Article 5(b) of the CERD states that all persons have the right to security and protection by the state against violence or bodily harm whether inflicted by government officials or by any individual group or institution.

Under Lebanese law, (Article 425 of law-decree 90/83), Lebanese citizens who cannot afford a lawyer are provided with one by the State. Article 426 of the same law offers foreign nationals legal aid under the reciprocity principle. As discussed above, the reciprocity principle is based solely on the foreign national having a State from which they originate- thus again excluding Palestinians from benefiting from legal aid. Indeed, the Palestinian population, more often than not, cannot afford to hire a lawyer and are thus left unrepresented and vulnerable within in the Lebanese legal system. Furthermore, without legal representation, there is a much greater risk of being held in protective custody longer than those who do have legal counsel. And although a recent amendment limits custodial detention to 60 days, the likelihood of being tortured while detained, especially when one does not have legal representation, is greatly increased. This means that Palestinian refugees are not only more underrepresented than other groups but they are even more at risk of being tortured than other impoverished groups who have been availed the right to counsel.

We see in the Article 425 degree that once again Lebanese legislation is excluding Palestinians from the basic rights offered to other nationals residing in Lebanon. The exclusion clause for States to derogate from the Convention rights during times of emergency does not excuse or justify the treatment of Palestinian refugees within the Lebanese “justice” system. This contention is reiterated in the CERD Committee’s findings in its General Comment on the implementation on Article 5 which states that States may not impose differential treatment with regards to the rights to a fair trial on the basis of non-citizenship. In spite of this, the Lebanese authorities continue to enact legislation which encourages the cycle of injustice in all aspects of daily life for Palestinian refugees in their country.

5.6 The right to work.

The CERD states in Article 5(e)(i) that “the right to work, to free choice of employment, to just and favorable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favorable remuneration” should be enjoyed by everyone without distinction as to race, color or national or ethnic origin.

The notion of giving preference to Lebanese citizens in professional career fields dates back to the 1950’s, a time, curiously, when the current President opposed the notion of prohibiting Palestinian refugees from working. However, the situation changed dramatically due to the 1995 decree (no. 621/1) which literally listed approximately seventy (70) different professions within the private sector to which preference to Lebanese nationals *must be given*. The enumerated list is increased every year in relation

to job supply and demand. The 1995 decree is an updated version of previous decrees, the first being passed in 1983 (no. 38/11). The decree is applicable to all foreigners, but with special emphasis on the Palestinians due to the inevitable reciprocity clause. It is very upsetting to note that despite Lebanon's membership in the Arab League, which treats the Palestinian Authority (PA) as representing an Arab state, Palestinians in Lebanon are *not considered* to have a state for the purposes of the right to reciprocity with Lebanon. Such behavior is totally hypocritical and Lebanon should be forced to define what the Palestinians are to them for purposes of making honest and fair laws regarding their status whether it be citizens, foreign nationals, refugees, or stateless "non-identified" persons. The fact that these laws are so deliberate in their attacks on Palestinian rights, yet so innocently worded merely adds insult to injury for this oppressed and desperate population.

Lebanese Labor Law.

Lebanese labor law outlines three types of work options for aliens:
1-Work by membership in a syndicate. In Lebanon many professions are directed by syndicates. Those wishing to work in syndicate professions must be members of such. Eligibility for membership requires that the applicant be a Lebanese citizen *or* the applicant be a citizen of a country where Lebanese citizens may work in the same profession. Since Palestinians are stateless, the reciprocity requirement prevents Palestinian refugees from becoming members of a syndicate and thus prevents them from being able to practice these professions.

2- Work by work permit.

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

3- Jobs not requiring work permits.

These jobs are primarily in the areas of agriculture, construction and other forms of manual labor. However, with the recent influx of Syrian workers and the generally hostile attitude towards Palestinian refugees by Lebanese civil society, these jobs have also become difficult for Palestinians to obtain.

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

situation was remarked upon in the Concluding Observations of the 1998 Committee and recommendations were made to Lebanon to amend this situation. Lebanon was to take all appropriate measures, including legal measures, to fully guarantee access to work to all foreigners *including Palestinians*. These recommendations still have not been implemented by Lebanon.

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

5.7 Absence of social security.

Article 5 (e)(iv) of the CERD guarantees everyone, without distinction as to race, color or national or ethnic belonging, the right to social security.

In Lebanon, employed Palestinian refugees, despite being contributing members to the social security funds, *are not* entitled to social security benefits. This is, once again, attributable to the reciprocity clause which denies them the social and welfare rights to which a foreign national *should* be entitled. The discriminatory legislation excluding Palestinians from the right to social security cannot be defended by reference to the derogation-clause in Article 4 of the ICESCR nor by any other principle of law. Lebanon persists in ignoring the humanitarian situation of Palestinian refugees in Lebanon which leaves them without rights enjoyed by other groups. These actions render Lebanon in violation of their international obligations as described above.

5.8 Restriction on the freedom of association

Article 5 (d)(ix) of the CERD guarantees everyone the enjoyment of the right to freedom of peaceful assembly and association without any distinctions as to race, color or national or ethnic belonging. These rights are non-derogable.

In Lebanon, associations are regulated by laws from August 3, 1909, and later by a law dated October 9, 1962. According to these laws, to form an association one must be a Lebanese citizen and one must register its group's constitution with the appropriate governmental authorities in exchange for a receipt certifying its creation. Foreigners, however, may only create associations under the condition of reciprocity – leading, again, to the exclusion of Palestinians from free association. These facts are contrary to what Lebanon alleged in its last report to the CERD-Committee. A personal point in fact is that PHRO *itself* requested registration by the government of Lebanon in 2001, and this request *still* has not even been acknowledged.

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

5.9 Right to Education

Article 5(e)(v) of the CERD states that everyone has the right to education and training without being subjected to distinction based on race, color or national or ethnic grounds. According to Article 26 of the UDHR, every person has the right to education. The UDHR further states that education shall be free, at least in the elementary and fundamental stages, and that higher education shall be equally accessible to all on the basis of merit. Further, the ICESCR states in Article 13 that the right to education is recognized as applied to all people and, among other things, that higher education shall be made accessible to all on the basis on capacity.. These rights are non-derogable under Article 4 of the ICESCR.

UNRWA provides lower education to those refugees registered with the agency. UNRWA does not, however, provide Palestinian refugees with higher education. This means that if Palestinian refugees want to pursue higher education, (although many see this as pointless given the utter lack of job opportunities for Palestinians with or without degrees), they must resort to Lebanese Universities and other costly educational institutions. This means that since Palestinian refugees are treated as foreigners in Lebanon, despite their status as refugees, they have to compete with all other foreigners for acceptance into educational institutes. The quota for admitting foreigners has an upper ceiling but not a lower one, meaning that Lebanese students can be given the seat of a foreigner if the need should arise. Needless to say even if they were admitted, it would be financially very difficult for them to actually attend. In April 2002, the tuition fees for foreign students in these universities was three times as much as for Lebanese students. Since the employment situation for Palestinian refugees is as it is, most families cannot afford to send their children on to higher education. This barrier in education is yet another way the Lebanese can force Palestinians into poverty, degeneration and despair through subtle and insidious legal means.

5.10 Right to health

Article 5 (e)(iv) of the CERD states that everyone has the right to public health without being subjected to discrimination. Further, Article 12 of the ICESCR everyone has the right to enjoy the highest attainable standard of physical and mental health. Again Article 4 of the ICESCR makes it possible for signatory states to derogate from the rights included in the convention but derogations must be determined by law and only in so far as the limitations are compatible with the nature of the rights of the convention and solely for the purpose of promoting the general welfare in a democratic society. UNRWA provides for basic medical care for registered Palestinian refugees. However, the only services offered are in the area of maternity, childcare, family planning, and the prevention and control of infectious and non-infectious diseases. The principal factors limiting access to healthcare are an increase in the population, an increase in the cost of medical care and the budgetary restrictions that have been imposed on the UNRWA. Since 1993, UNRWA has had to introduce restrictive criteria which have led to reduced funding for emergency treatments and medical staff recruitment and a reduction in medical equipment and the level of maintenance of the clinics.

Access to the public sector health care services is limited because the infrastructure is lacking and highly underdeveloped. The public hospitals are hardly sufficient for Lebanon's population *not even* including Palestinians- so the majority of the population is essentially forced to use private hospitals if they want decent care. In the case of Palestinian refugees the access to public health care is denied *completely* since Palestinian refugees are *supposed to* receive health care from the UNRWA. However, as

discussed above, this is not the case. Thus, the majority of Palestinian refugees are forced to seek help at private hospitals for which they may have to spend their life savings to attend.

The case of Palestinian refugees is truly unique. They are supposed to be assisted by an organ of the United Nations, yet the same organ's efficiency in delivering this help is inadequate due to various factors discussed above. The system which was expected to "handle" the Palestinian refugee situation has become ineffective thus the refugees are left without any proper medical care. The Lebanese action in relation to health care cannot be accepted as non-discriminatory or excusable in any other way with reference to the derogation-clause in Article 4 of the ICESCR. Palestinian refugees are deliberately being denied public health care and UNRWA is used as a scapegoat to justify the reasons why. There is no justification or excuse for either UNRWA's lack of services, or Lebanon's refusal to allow the Palestinians' basic health services. Hopefully by bringing these ills to the attention of the CERD, such situations can be improved.

5.11 Summary

As has been discussed, in most areas of Lebanese law, Palestinian refugees have been targeted out of both fear of *tawtin* and resentment from Palestinians' role during the Civil War. Despite the blatant racism implicit in such a principle, the aversion to *tawtin* has been incorporated into the Lebanese Constitution. What is worse is that Lebanon continues to allege they are not discriminating against any groups and are assiduously adhering to the principles of the CERD. This is clearly a fallacy- and one that deeply harms every Palestinian refugee every minute that these laws continue to be implemented.

The Lebanese vow they are adhering to the principles of the CERD and their own Constitution states that international law *trumps* domestic law. However, the principle of *tawtin*, clearly prohibited in the CERD, is nonetheless made part of the very fabric of the Lebanese legal system. It is profoundly ironic that the Lebanese Constitution professes "the abolition of political confessionism is a basic national goal and shall be achieved according to a gradual plan". It is apparent that the "gradual plan" is too gradual to be considered one that is striving to eliminate all forms of racial discrimination. And in the case of Palestinian refugees, it seems to be achieving the very opposite effect.

6. The Concluding Observations of the CERD 30/03/98

In the concluding observation of the CERD concerning Lebanon's implementation of the Convention in 1998, the following were among the recommendations made. In response to Lebanon's statement that there are no discriminatory practices against any group in Lebanon, the Committee recommended that Lebanon take all appropriate measures to *prevent and combat all forms of racial discrimination* according to Article 2 of the Convention. It further recommended that Lebanon ensure that all people, including migrant workers; members belonging to ethnic groups; and refugees, obtain *equal treatment before the law*. The Lebanese maintain in their report that all of these groups *are* in fact receiving equal treatment- a fact that would be greatly surprising to the Palestinians of Lebanon. The Committee also recommended that Lebanon take all appropriate measures, including those of legal nature, to fully guarantee access to work and equitable conditions of employment to all foreign workers,

including Palestinians. Furthermore, in light of Article 7 of the Convention, the Committee recommended that Lebanon allocate appropriate resources in the field of teaching, education, culture and information, with a view to combating all forms of racial discrimination and to promote understanding, tolerance and friendship. The Committee also recommended the declaration provided for in Article 14 of the Convention enabling the Committee to receive individual complaints against the state.

As is obvious from the constant abuse of Palestinian rights in Lebanon, the recommendations made by the Committee have not led to any real changes for the refugees- a fact implicit in Lebanon's latest report to the CERD (which was for all intents and purposes, a duplicate of their previous report).

Lebanon remains very much trapped in an old-world mentality which embraces the notion of political confessionalism. The fact that *tawtin* was written into the Constitution epitomizes this. There is an urgent need to uproot the old ways of thinking begin serious change to the current discriminatory system.

7. Recommendations to the state of Lebanon

To alter and enhance the situation for the Palestinian refugees, PHRO would like to make the following recommendations. The recommendations should be seen in light of the complicated nature of the problem of Palestinian refugees and it being an essential part of a larger context-namely the Israeli occupation of Palestine since 1948. Most of the Palestinians who fled to Lebanon always believed that it would be only a temporary situation. Unfortunately, it has become permanent due to factors beyond the control of the refugees themselves. This must begin to be understood by Lebanese society as a whole, so as to lessen the intense hostility (and discrimination) towards Palestinian refugees in Lebanon. The refugees must not only be *defined* as refugees, but *treated* as such legally. Treating them as refugees in a legal sense will not mean that Palestinian refugees will want to settle in Lebanon, but it will allow them to live a dignified and humane existence for the first time in 55 years. Granting Palestinian refugees fundamental human rights should not be a choice for Lebanon, it should be its *duty* under the various international rights conventions that Lebanon has signed and ratified.

The PHRO recommends the state of Lebanon to:

1. Legally treat its Palestinian population as refugees and not as "foreigners" which is the case today.
2. Recognize the Palestinians that currently are "non-registered" with any authority and allow them to benefit from the social and legal system.
3. Ratify the Refugee Convention from 1951 and its Protocols which would provide for protection of the refugees (not only the Palestinians). By ratifying this Convention, refugees in Lebanon will finally have the opportunity to live a normal, healthy and worthwhile existence.
4. Lebanon should reconsider its discriminatory policy toward and unjustified fear of *tawtin* according to its obligation in Article 2 (c) of the CERD. To this end, Lebanese authorities and Palestinian representatives (including NGO's) should engage in dialogue as a way to assuage Lebanese fears and begin to build a trusting and constructive relationship with the Palestinian community in

Lebanon.

5. In accordance with Article 2 of the CERD, Lebanon should undertake the pursuit, *by all appropriate means and without delay*, a policy of eliminating racial discrimination in all its forms. This could be achieved by education, policy-making as well as legal measures which could change the attitude towards Palestinian refugees within the Lebanese society. Lebanon should further implement and respect their obligation according to Article 2 (a) of the CERD (to not engage in acts or practices of racial discrimination) and it should ensure that national and local authorities and institutions comply with this obligation. Lebanon also should comply with the obligation laid down in article 2 (e) and eliminate barriers between the Lebanese and the Palestinians by discouraging anything that tends to strengthen racial division.
6. Enter into dialogue with representatives for the Palestinian refugees (including NGOs) to promote understanding between Palestinians and Lebanese.
7. Lebanon should implement the obligations laid down in Article 5 of the CERD in relation to Palestinian refugees, especially in regards to the right to work, the right to own property and the right to a fair trial without being subjected to discrimination.
8. Lebanon should implement their obligation laid down in Article 6 of the CERD which states that signatory states shall assure to everyone within their jurisdiction effective protection and remedies through competent national tribunals and other institutions against any acts of racial discrimination that violate the rights and freedoms contrary to the CERD.
9. Lebanon should pay special attention and give extra effort to alter their current policy of hindering and violating the right to adequate housing for Palestinian refugees. They should especially allow for the re-building and building anew of houses inside refugee-camps and allow for the reparation of the camps destroyed during the Civil War and the War of the Camps.
10. Recognize the competence of the CERD Committee to receive individual complaints. This will not only be positive for individuals who will have the possibility to have their cases considered by an international committee, but will also benefit the state of Lebanon by receiving important and constructive feedback in the Concluding Observations by the CERD Committee.