

STOP THE ONGOING DISCRIMINATION
AGAINST
PALESTINIANS REFUGEES IN LEBANON



BADIL POSITION PAPER

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BADIL's Position Paper: Stop the Ongoing Discrimination against Palestinians Refugees in Lebanon

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Cover photo: Banners supporting the rights of Palestinian refugees were carried by Lebanese people in Beirut. The banners read: (Full civil, economic and social rights for Palestinian refugees), (The Labor Minister Camille Abousleiman's plan does not represent us). (Photo-Jana Nakhla)

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BADIL Resource Center for Palestinian Residency and Refugee Rights is an independent, non-profit human rights organization working to defend and promote the rights of Palestinian refugees and Internally Displaced Persons (IDPs). Our vision, mission, programs and relationships are defined by our Palestinian identity and the principles of international humanitarian and human rights law. We seek to advance the individual and collective rights of the Palestinian people on this basis.

STOP THE ONGOING DISCRIMINATION AGAINST PALESTINIANS REFUGEES IN LEBANON

Introduction

In recent months, Palestinian refugees have been protesting in the streets surrounding the twelve refugee camps in Lebanon, following the announcement in June and the decision of 9 July 2019 made by the Lebanese Labor Minister, Camille Abousleiman, regarding the labor laws that apply to foreigners in Lebanon.¹ In a ‘Day of Anger’, protesters brought the refugee camps to a halt, blocking entrances with burning tires and staging strikes. All Palestinian political parties and popular committees took part, voicing their objections against the discrimination they experience, or have been exposed to, when trying to obtain work permits in the country. Minister Abousleiman claims to be simply enforcing the existing laws and taking measures to protect the rights of Lebanese workers. Using these justifications, the Ministry has launched a massive crackdown to target illegal foreign labor.² Part of the Labor Ministry’s crackdown included announcing a one-month deadline on companies to obtain the required work permits, or face the prospect of being shut down.³ Foreign workers, including Palestinian refugees, are also required to obtain these permits, despite the many impediments for Palestinians of actually obtaining one.

Minister Abousleiman’s argument is based on the concept of state sovereignty and the exception regarding national preference, which entitles governments to reserve specific jobs and professions for nationals/citizens only.⁴ Under regular circumstances, these justifications are legitimate. However, the legality of such measures becomes questionable when the relevant factors, political implications and, most importantly, the impact on Palestinian refugees’ human rights are considered.

1 Minister of Labor Decision, 82/1, 9 July 2019, available in Arabic at: <https://www.labor.gov.lb/Temp/Files/d2932a83-9022-4785-bd01-5b9069e10142.pdf>

2 Letter by Minister of Labor Camille Abousleiman, 1 August 2019, available in Arabic at <https://www.labor.gov.lb/LatestNewsDetails.aspx?lang=ar&newsid=15216> [accessed 27 August 2019].

3 Ali Younes, “Palestinians in Lebanon Protest Crackdown on Unlicensed Workers”, *Al Jazeera*, 17 July 2019, available at <https://www.aljazeera.com/news/2019/07/palestinians-lebanon-protest-crackdown-unlicensed-workers-190716183746729.html> [accessed: 27 August 2019].

4 Decree No. 17561, Foreign Workers Regulations, Ministry of Labor of Lebanon, 18 September 1964, available in Arabic here: <http://www.lpdc.gov.lb/>; Letter by Minister of Labor Camille Abousleiman, *supra* note 2.

Lebanese Laws and Decrees Hindering Palestinian Refugees

The conundrum in which Palestinian refugees in Lebanon find themselves is the result of two factors. First, they are still categorized and treated as foreigners, not refugees. According to Decree No. 319 of 1962, which regulates their status, Palestinian refugees are considered to be “foreigners who do not carry documentation from their countries of origin, and reside in Lebanon on the basis of [residency] cards issued by the Directorate of Public Security, or identity cards issued by the Directorate of Political Affairs and Refugees [DPAR].”⁵ This foreigner classification, as well as the non-enforcement of existing regulations, and the discretionary power of ministers, which is politically-motivated and/or dependent on the so-called sectarian balance in Lebanon,⁶ have allowed successive Lebanese governments to circumvent their obligations and responsibilities enshrined in a number of international and regional treaties and protocols – and their own legislation.

Second, there is no consideration of the consequences of the protracted status of Palestinian refugees. For many years, this unjustifiable policy has been compounding the deterioration in the livelihood conditions of the growing population of refugees in the country. As a result, Palestinian refugees that fled from Palestine during and in the aftermath of the Nakba in 1948, have spent more than seven decades in Lebanon without access to their civil, social, and economic rights.

Regarding the specific laws in question, in 2010, the Lebanese parliament issued Law No. 129, by which it revised Article 59(3) of the Lebanese Labor Law of 1946. After amendment it states:

Upon termination of their employment, foreign workers shall enjoy the same rights as those enjoyed by Lebanese workers on condition of reciprocity and shall have to obtain a work permit from the Ministry of Labor. Palestinian refugees who are duly registered in the registry of the Ministry of Interior and Municipalities – Directorate of Political Affairs and Refugees, are specifically exempted from the condition of

5 Jaber Suleiman, *Marginalized Community: The Case of Palestinian Refugees in Lebanon*, (Sussex: University of Sussex, April 2006), p. 12, available at <https://assets.publishing.service.gov.uk/media/57a08c4be5274a31e0001112/JaberEdited.pdf>.

6 Jennifer Ibrahim, ‘The Discrimination against Palestinian Refugees Living in Lebanon’, *Palestine-Israel Journal of Politics, Economics and Culture*, 15, No. 2 (2008), available at <https://www.pij.org/articles/1168>.

*reciprocity and are also exempted from paying the work permit fees for the work permits issued by the Ministry of Labor.*⁷

By virtue of this amendment, Palestinian refugees who are officially registered were exempted from the reciprocity of treatment conditions (outlined in Article 59(3)) and obligatory fees payable for work permits. Although this amendment demonstrated significant progress when compared to previous provisions to which Palestinian refugees have been subjected to since 1948, they were not excluded from the requirement to apply for and obtain work permits. Thus, Palestinian refugees remained legally considered and treated as foreigners and their labor continued to be severely restricted. None of the subsequent Lebanese labor ministers have issued a decree further regulating the amendments made by Law No. 129, bringing them in line with the main recommendations of the Lebanese Working Group on Palestinian Refugee Affairs.⁸ With regards to the work permits themselves, subject to the provisions of Decree No. 17561 (1964), all non-Lebanese citizens (foreign nationals and refugees) must obtain a work permit, under one of the following conditions:

- The foreigner is a specialist or an expert who cannot be replaced by a Lebanese citizen.
- The foreigner has been residing in Lebanon before 1 January 1954, and has been working in an institution for a period not less than nine consecutive months.
- The foreigner is married to a Lebanese citizen or born to a Lebanese mother.⁹

Given that Palestinians are and have been refugees since 1948, the foreigner classification has rendered it very difficult, if not impossible, for them to obtain a work permit.

Further, Palestinians have been excluded from tens of liberal and independent professions that are designated for nationals only. Article 9 of Decree No. 17561 specifically authorizes the Labor Minister to annually issue a list of the

7 Lebanese Palestinian Dialogue Committee (LPDC), *Palestinian Refugee – Labor*, available at: <http://www.lpdc.gov.lb/labor/the-palestinian-worker-in-the-lebanese-labor-marke/49/en> [accessed 19 August 2019].

8 For more detail on the recommended decree wording, see LPDC – Lebanese Working Group on Palestinian Refugee Affairs, *A Unified Lebanese Vision for the Palestinian Refugees Affairs in Lebanon*, November 2016, available at <http://www.lpdc.gov.lb/DocumentFiles/unified%20vision-636365069171725661.pdf>.

9 Decree No. 17561, Foreign Workers Regulations, *supra* note 4.

professions which are exclusively reserved for Lebanese citizens. Although, in 2005 Ministerial Decision No. 67/1 was issued entitling Palestinians, in theory, to practice about 70 professions from which they were previously excluded, they remain excluded from pursuing a large number of other employment opportunities.¹⁰ According to the Lebanese Palestinian Dialogue Committee (LPDC), liberal professions such as law, engineering, medicine, pharmacy, and many others, are still exclusively restricted to Lebanese citizens only, whereas other professions are in effect inaccessible to Palestinian refugees due to their inability to fulfill other similar reciprocity conditions.¹¹ Despite the exemption of Palestinians from the reciprocity rule that applies under the Labor code,¹² the effect of this exemption is still limited in its effect. On the one hand, Palestinian refugees are still subject to special laws and regulations of trade unions (syndicates), which enforce their own reciprocity conditions. On the other hand, the requirement to get a permit in advance, with its approval, is still dependent on the discretionary power of both the Labor Minister and the concerned trade union.¹³ On the latter point, the 2015 report of the Lebanese Labor Ministry shows that, in 2015, just 848 renewed or first-time permits were issued to Palestinians, of approximately 210,000 permits issued to foreigners.¹⁴ Other problems arise with newly graduated Palestinian university students who are unable to work in their chosen field of study due to trade union limitations.¹⁵

In addition to this, Law No. 128 of 2010 also amended Article 9 of the Social Security Law of 1963, to exempt Palestinians from a similar requirement of reciprocity and allow them to ‘benefit from the end-of-service indemnity and workmen compensation’.¹⁶ While this may have eased the burden of

10 LPDC, *supra* note 7., See also: Jaber Suleiman, *supra* note 5, p. 17.

11 LPDC, *supra* note 7.

12 Decision of the Lebanese Minister of Labor 29/1, Businesses, Independent Careers, Liberal Professions and Jobs Designated for Lebanese Nationals Only, February 2018, available in Arabic at: <https://www.labor.gov.lb/Temp/Files/74a11682-051a-4d83-a8fe-905a54b3968f.pdf>

13 Leaders for Sustainable Livelihoods, *The Labor Sector in Lebanon: Legal Frameworks, Challenges, and Opportunities*, 2017, p. 8, available at <https://data2.unhcr.org/en/documents/details/69776>.

14 General Directorate of the Ministry of Labor, *Annual Report on Achievements from January 2015 to December 2015*, 2016, p. 26, available in Arabic at: <https://www.labor.gov.lb/Temp/Files/0798d3be-0d3a-4c69-b87c-a0ad30b0f9fc.pdf>

15 Haniyeh urges Lebanon to end crackdown on unlicensed Palestinian workers’, *Press TV*, 17 July 2017, available at <https://www.presstv.com/Detail/2019/07/17/601163/Haniyeh-Lebanon-crackdown-Palestinian-workers> [accessed: 22 August 2019].

16 LPDC, *Palestinian Refugee – Social Security*, available at: <http://www.lpdc.gov.lb/social-security/the-benefit-of-the-palestinian-refugee-from-the-ns/35/en>, [accessed 19 August 2019].

securing financial assistance when finishing or retiring from work, Palestinian workers are still excluded from the sickness, maternity and family allowances allocated to Lebanese national citizens.¹⁷ The conundrum here is that Palestinians remain obligated to contribute 23.5 percent of their wages towards the National Social Security Fund (NSSF), but they only benefit from the 8 percent of those funds that are allocated towards funding the end-of-service indemnity scheme.¹⁸

The practical impact on Palestinian refugees in Lebanon

It is clear from the above laws and practices how difficult it is for Palestinians to legally obtain a permit and secure fair and safe employment and benefits without facing discrimination. As such, it is unsurprising that the Palestinian labor force is concentrated in the lower paying jobs in Lebanon such as construction, small crafts and agriculture.¹⁹ According to the United Nations Reliefs and Works Agency (UNRWA), there are around 450,000 registered Palestine refugees in Lebanon²⁰ and they make up about 10 percent of the Lebanese population, and yet from the five UNRWA fields located in the Arab region, Lebanon has the highest percentage of refugees living in dire poverty.²¹

For decades, the Lebanese government justified its position towards Palestinian refugees by claiming that UNRWA bears the full responsibility of providing them with the necessary provisions and aid.²² In other words, since UNRWA provides (albeit limited) aid to Palestinian refugees, there is no need for the

17 Ibid.

18 Ibid.

19 Paula Astih, Palestinian Labor in Lebanon: Economic, Sectarian Considerations, *Asharq Al-Awsat*, 3 August 2019, available at <https://aawsat.com/english/home/article/1842041/palestinian-labor-lebanon-economic-sectarian-considerations>, [accessed 18 September 2019].

20 UNRWA, *Where We Work – Lebanon*, available at: <https://www.unrwa.org/where-we-work/lebanon> [accessed 19 August 2019]. Other statistics note that the number of Palestinian refugees actually residing in Lebanon is likely significantly lower, due to the conditions in Lebanon. Some estimates put the number as low as 170,000 refugees actually residing in Lebanon. For more detailed information on Palestinian refugee statistics in Lebanon see: LPDC, Central Administration of Statistics, Palestinian Central Bureau of Statistics, *The Population and Housing Census in Palestinian Camps and Gatherings - 2017, Key Findings Report (Population, Buildings and Housing Units)*, (Beirut, Lebanon, 2018) available at <http://www.lpd.gov.lb/DocumentFiles/Key%20Findings%20report%20En-636566196639789418.pdf>.

21 UNRWA, *supra* note 22.

22 Jennifer Ibrahim, *supra* note 6.

Lebanese government to augment or replicate this.²³ However, though the UN-mandated agency is required to provide relief (such as basic health, education and social services as well as work),²⁴ its mandate and capacity does not allow it to absorb the Palestinian workforce. Only about 3,000 Palestinian refugees are employed by UNRWA in Lebanon.²⁵ According to the Palestinian Central Bureau of Statistics, the rate of unemployment among Palestinian refugees in Lebanon was 18.4 percent in 2017.²⁶ After residing in Lebanon for more than 70 years, these facts demonstrate the failure of the host state to fulfill its obligations in terms of ensuring Palestinian refugees access to work.²⁷

Official Palestinian Reactions

In response to the mounting protests and the Ministry's decision, the Palestinian Ambassador in Beirut, Ashraf Dabbour, called on the Lebanese government to exempt Palestinians from these arbitrary measures.²⁸ Ismail Haniyeh, the head of the Hamas party, has called on the Lebanese President, the Prime Minister and the Speaker of the Lebanese parliament to immediately overturn the decision, stressing that such measures would further complicate the lives of Palestinian refugees and not allow them to live their lives in dignity.²⁹ Azzam al-Ahmad, President Abbas's special delegate

23 Jaber Suleiman, 'UNRWA and Host Country Relations', *Safir Newspaper*, 2016, available in Arabic at <https://www.badil.org/ar/publications-ar/periodicals-ar/haqelawda-ar/item/2206-art-05.html>. [accessed 6 September 2019].

24 United Nations, *Resolution 302 (IV) Assistance to Palestine Refugees*, A/RES/302, 8 December 1949, available at <https://unispal.un.org/DPA/DPR/unispal.nsf/5ba47a5c6cef541b802563e000493b8c/af5f909791de7fb0852560e500687282?OpenDocument>. [accessed 24 August 2019].

25 UNRWA, *Statement on the Situation of Palestine Refugees in Lebanon*, July 2019, available at <https://www.unrwa.org/newsroom/official-statements/unrwa-statement-situation-palestine-refugees-lebanon>. [accessed 27 August 2019]. See also *UNRWA in Figures 2019*, July 2019, available at https://www.unrwa.org/sites/default/files/content/resources/unrwa_in_figures_2018-2019_eng_july_final.pdf.

26 Palestinian Central Bureau of Statistics, 'General Population Census in the Camps and Palestinian Communities in Lebanon', 2017, available at <http://www.pcbs.gov.ps/post.aspx?lang=en&ItemID=3013>, or available in Arabic here <http://www.pcbs.gov.ps/census2017/wp-content/uploads/2017/12/LebanonRefCensus2017.pdf>.

27 UNHCR, *The Situation of Palestinian Refugees in Lebanon*, February 2016, available at <https://www.refworld.org/pdfid/56cc95484.pdf>.

28 'Security Forces Prevent Palestinian Protesters from Marching to Parliament', *Naharnet*, 16 July 2019, available at <http://www.naharnet.com/stories/en/262699> [accessed: 22 August 2019].

29 'Haniyeh urges Lebanon to end crackdown on unlicensed Palestinian workers', *Press TV*, *supra* note 15.

to the Lebanese government and a member of the Executive Committee of the Palestine Liberation Organization (PLO), discussed the measures with Lebanese officials, saying that they went against Lebanese-Palestinian efforts “to organize the residency, work and rights of Palestinian refugees in Lebanon.”³⁰ Similarly, the Palestinian Authority (PA) has made urgent statements aimed at senior Lebanese officials, including Nabih Berri, the Speaker of the Parliament, asking them to exempt Palestinian refugees from enforcement of these laws.³¹ The PA argued that regulations on labor laws that applied to Palestinians living in Lebanon were amended and approved in 2010 and that these granted them a special status which differentiated them from other non-Lebanese workers, and therefore, the exemption is justified.³²

However, despite this, Palestinian officials have not articulated any specific demands to the Lebanese government on this issue. The PA’s hesitance to condemn the Lebanese government’s actions or to request them to issue official decrees regulating the laws (No. 128 and 129) of 2010 is problematic. Furthermore, the PA should make a formal request for the Lebanese government to take serious measures to ensure that Palestinian refugees’ basic rights are met, in accordance to international law standards.

Lebanon and its Obligations under International Law

As demonstrated and reiterated by the protesters in Lebanon, the civil, social and economic rights of Palestinian refugees must be recognized and upheld; to continue to deny their basic human rights, is a violation of international law. Whilst not a signatory to the 1951 Convention Relating to the Status of Refugees or to its 1967 Protocol, Lebanon is still under international obligations to adjust its laws in conformity to a number of international instruments and ensure civil and socio-economic rights to Palestinian refugees accordingly. Additionally, Lebanon signed the Casablanca Protocol in 1966, which entitled Palestinian refugees residing in Member States of the League of Arab States (LAS) with legal status equivalent to that of a state national, including the right

30 ‘Bassil Backs LF in Controversy Over Regulating Palestinian Labor’, *Naharnet*, 23 July 2019, available at <http://www.naharnet.com/stories/en/263010-bassil-backs-lf-in-controversy-over-regulating-palestinian-labor> [accessed 19 August 2019].

31 Jack Khoury, ‘Lebanon Exempts Palestinian Refugees From Foreign Worker Clampdown Following Protests’, *Haaretz*, 18 July 2018, available at: <https://www.haaretz.com/middle-east-news/premium-palestinians-in-lebanon-take-to-the-streets-over-foreign-worker-clampdown-1.7536544> [accessed 19 August 2019].

32 Ibid.

to employment, while preserving their national identity until they are able to return to Palestine.³³ However, despite being a signatory, there have been notable reservations by Lebanon on adhering to the Protocol.³⁴ Lebanon's reservations crucially contradict the content and the purpose of this protocol, which contravenes fundamental international legal principles. Lebanon's lack of adherence to the protections enshrined therein, particularly the right to non-discrimination in the local labor force, violate their international obligations.

Lebanon is also a signatory to the International Covenant on Civil and Political Rights (1966), the Convention on the Elimination of Racial Discrimination of 1965 (CERD), as well as the International Covenant on Economic, Social and Cultural Rights of 1966 (ICESCR). Lebanon is in clear violation of their international obligations under these conventions, in the manner in which it discriminates against Palestinian refugees solely based on their national origin. In this case, most notably is their right to employment under just and favorable conditions, including appropriate benefits such as social security.³⁵ Whilst it is important to note that Article 2(3) of the ICESCR allows developing countries the discretion in determining the extent to which non-nationals are guaranteed economic rights, it must be noted that the discrimination levied against Palestinian refugees in Lebanon with regards to the right to work and to social security is not "a distinction between citizens and non-citizens but between different groups of non-citizens on the basis of nationality (Palestinian) and descent. It is therefore in contravention of Article 5 of the convention [CERD]."³⁶ The Lebanese government is therefore obligated, under international law, to uphold the rights of Palestinian refugees and ensure civil, social and economic rights, not just regarding employment, but all other legal rights enshrined by these protocols and conventions.

33 League of Arab States, *Protocol for the Treatment of Palestinians in Arab States* ("Casablanca Protocol"), 11 September 1965, available at: <https://www.refworld.org/docid/460a2b252.html> [accessed 16 September 2019].

34 It is important to note that whilst Lebanon did ratify the Casablanca Protocol, it did so with significant reservations. Notably, one of these was the addition to Article 1 of the Protocol (which allowed Palestinians the right to employment on par with the state's citizens) that stated "on equal terms with the Lebanese citizens and in accordance with the laws and regulations in operation." This in actual fact meant that Palestinians were subject to the Labor laws of Lebanon rather than those found in the Casablanca Protocol, which defeated the purpose of the protocol and Lebanon's ratification of it. For more information, refer to League of Arab States, *supra* note 33.

35 Jaber Suleiman, *supra* note 13,

36 Amnesty International, *Lebanon: Economic and Social Rights of Palestinian Refugees*, 22 December 2003, p. 8-10, available at <https://www.amnesty.org/download/Documents/108000/mde180172003en.pdf>.

Conclusion: A Call for Action

In this context, the narrative that is wrongly assumed is that if the civil, social and economic rights of the Palestinian refugees are recognized and granted, then they will no longer pursue their right of return to Palestine. It follows then that Palestinian refugees would eventually occupy the high ranking jobs that ought to be reserved for the Lebanese people and take advantage of the beneficial labor and social security systems that are in place. However this logic is false; recognizing the rights of Palestinians, specifically rights to employment and social security, is vital and is not up for negotiation. Palestinians are not seeking equal treatment to those of Lebanese nationals, but rather, they are requesting that the Lebanese government uphold its obligations under international law to ensure them access to their basic human rights due to their recognized status as refugees. Allowing the Palestinians these rights will enable them to become more economically independent, which in turn strengthens their will and resolve. In such a situation, the right to return to Palestine becomes more attainable – or, at the very least, Palestinians forcibly displaced outside of their homeland will retain their dignity to continue to fight for their right of return to Palestine.

Furthermore, the PLO, rather than taking steps to ensure the protection of their rights, has prioritized upholding diplomatic relations with the Lebanese government at the expense of the rights of Palestinian refugees. Instead, it is incumbent on the PLO to develop a comprehensive approach for the protection of Palestinian refugees in Lebanon (and in other host countries) in order to ensure that their rights are upheld and protected. This is a core part of their duty as the official representative of the Palestinian people, regardless of their geographic location.

The legality and propriety of Lebanese laws and measures, as well as the latest campaign aimed at combating illegal workers, must be considered in light of international obligations of Lebanon, and not merely its domestic laws. These laws and measures must consider the specificity of the status of Palestine refugees. The Lebanese government, in particular the Labor Minister, is required to regulate the 2010 amendments of the Labor Law and Social Security Law. So too, the PLO must endeavor and prioritize its diplomatic interventions to ensure that the rights of the Palestinian refugees are respected and upheld.



The conundrum that Palestinians refugees in Lebanon find themselves in is the result of two factors. First, that they are still categorized and treated as foreigners, not refugees. Second, there is no consideration of the consequences of the protracted status of Palestinian refugees. This unjustifiable policy has been reproducing deterioration of the livelihood conditions of the growing population of refugees in the country for many years. As a result, Palestinian refugees that fled from Palestine during and in the aftermath of the Nakba in 1948, have spent more than seven decades in Lebanon without access to their civil, social, and economic rights.

