



DISPLACED
WOMEN'S RIGHTS
TO HOUSING, LAND AND PROPERTY



NO PLACE LIKE HOME:

**An Assessment of the Housing, Land and Property Rights of
Palestinian Refugee Women in Camps and Gatherings in Lebanon**

NRC

NORWEGIAN
REFUGEE COUNCIL

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Norwegian Refugee Council (NRC)

The Norwegian Refugee Council (NRC) is an independent, international, humanitarian non-governmental organisation which provides assistance, protection and contributes to durable solutions for refugees and internally displaced people worldwide.

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TABLE OF CONTENTS

Executive Summary	3
Acronyms	9
NRC Lebanon and the ICLA Programme	10
Scope and Methodology of this Assessment	12
1. Introduction	14
1.1 Understanding the Context of Challenges to HLP Rights of Palestinian Refugee Women in Lebanon	16
1.1.1 Palestinian Refugees in Lebanon	16
2. Profiling Refugee Camps and Gatherings	18
2.1 Camps	19
2.1.1 Al Rashidieh Camp	20
2.2 Gatherings	20
2.2.1 Al Qasmieh Gathering	21
2.2.2 Jal al Baher Gathering	22
3. International HLP Law: A Framework for Analysis	24
4. Applicable National Laws and Norms	28
4.1 Lebanese Constitutional Law	29
4.2 Lebanese Property Law	29
4.2.1 Transfer of Property Rights	29
4.2.2 Occupation Without Title	30
4.2.3 Construction Permits	30
4.2.4 Noncompliance with National Property Regulations	30
4.2.5 Women and HLP in Lebanon	31
4.3 Islamic Law (Shari'ah)	31
4.3.1 Customary Application of Shari'ah	31
4.4 Islamic Law (Shari'ah)	32
4.4.1 Popular Committees	32
4.4.2 UNRWA	33
5. HLP Issues and Challenges in the Formal Context	34
5.1 Palestinian Refugees and HLP in Lebanon: Attitudes and Aspirations	35
5.2 Poverty and Lack of Economic and Work Rights	36
5.2.1 Impact	37
5.2.1.1 Failure to Offer Valuable Consideration	37
5.2.1.2 Gendered Impact	37
5.3 Prohibition of Acquisition of Property Rights: The 2001 Law	38
5.3.1 Impact	40
5.3.1.1 Non-Recognition of Pre-Existing HLP Rights	40
5.3.1.2 Case Study 1	41
5.3.1.3 Analysis	42
5.3.1.4 Inheritance as a Form of Prohibited Acquisition under the 2001 Law?	44

5.3.1.5	Case Study 2	45
5.3.1.6	Analysis	45
5.4	Non-Legal Responses	47
5.4.1	Case Study 3	48
5.4.2	Analysis	49
5.5	Obstacles to Home Improvements	51
5.5.1	Humanitarian Assistance	52
5.5.1.1	Case Study 4	52
5.5.1.2	Analysis	53
5.6	Uncertainty and Insecurity of Tenure in Gatherings	54
5.6.1	Case Study 5	55
5.6.2	Analysis	56
5.7	Unavailability of Services in Gatherings	57
6.	HLP Issues and Challenges in the Familial Context	58
6.1	Palestinian Refugee Women and HLP: Attitudes and Aspirations	59
6.1.1	Age and Gender Differentials in Attitudes Toward Women's HLP Rights	59
6.1.2	Impact of Gender Equity Training	59
6.1.3	The Role of Monetary Contribution to Property	60
6.1.4	The Role of Shari'ah	60
6.2	Unpredictability of Intra-Familial HLP Distribution	60
6.3	Non-Individuated HLP Rights	61
6.3.1	Access to HLP Through Male Relatives or Children	61
6.3.1.1	Case Study 6	62
6.3.1.2	Analysis	63
6.3.2	Age and Gender Differentials in Attitudes Toward Women's HLP Rights	63
6.4	No Property Claim on Dissolution of Marriage	64
6.4.1	Case Study 7	64
6.4.2	Analysis	65
6.5	Patrilineal Customs of Inheritance	66
6.5.1	Case Study 8	67
6.5.2	Analysis	68
6.5.3	Case Study 9	70
6.5.4	Analysis	70
7.	CONCLUSIONS	71
	Annex 1: Glossary of Terms	74
	Annex 2: Table of Participants	76
	Annex 3: Quantitative Data Table	78
	References	80



About this Project

NRC has embarked on a three-year initiative designed to help increase displaced women's access to housing, land and property rights through international and national advocacy. Our evidence base is drawn from NRC's extensive operational experience in 20 countries and includes the analysis of legal cases as well as desk research. The project aims to provide well-researched legal, policy and practice recommendations for the humanitarian community, including practitioners, donors, governments and civil society. In addition, we are looking at our own experience to draw lessons that can help us improve our assistance to displaced women in conflict and post-conflict situations.

This country report is part of the Displaced Women's Housing, Land and Property Rights Project. Other countries featured include Afghanistan, Colombia, Gaza, Liberia, South Sudan. A forthcoming global report will summarise these country experiences and draw wider lessons for policy-makers about the barriers faced by displaced women as they seek to access their housing, land and property rights.

The project is funded by the UK Government's Department for International Development and by the Norwegian Ministry for Foreign Affairs.

For more information, visit www.nrc.no/womenhlp.

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Photographs

The photographs throughout this report are provided courtesy of Christian Jepsen and Majida Rasul. NRC thanks all of the women who agreed to be photographed for this report, all of whom have been affected by the limited housing, land and property rights currently available for Palestinian refugees in Lebanon. They face life and the future hopeful and full of strength.



EXECUTIVE SUMMARY

The purpose of this Assessment is to identify the main housing, land and property (HLP) issues affecting Palestinian refugee women living in camps and gatherings in Lebanon, to examine the challenges they face in seeking enjoyment of their HLP rights and to explore how the protection of these rights might be promoted and strengthened.

The Assessment outlines specific issues affecting Palestinian refugee women in Lebanon and the challenges they encounter in attempting to secure their HLP rights, owing to their status as refugees in Lebanon and to their particular circumstances as women. It offers a rights-based analysis of the laws applicable to Palestinian refugee women's HLP rights in Lebanon.

SUMMARY OF FINDINGS

Palestinian refugee women living in camps and gatherings in Lebanon have little opportunity to realise their HLP rights. Their enjoyment of HLP rights is dependent upon the contexts in which these rights are determined: the systematic legal discrimination against Palestinian refugees in Lebanon's complex political environment (the formal context) and the customary practices of Palestinian refugee families (the familial context).

Formal Context

In 2001, the Government of Lebanon enacted a statutory prohibition of the acquisition of rights in property for people who do not hold nationality of a recognised state (the 2001 Law).¹ In practice, after the enactment of this law, Palestinian refugees have been unable to register a wide range of property rights in Lebanon, leaving those who already possess or wish to inherit land or property with little prospect of formal protection of their HLP rights. The impact of the 2001 Law is not yet entirely clear and there has been reluctance from Palestinian refugees to test some of its perceived consequences through legal action, as it may further expose them to threats of eviction and insecurity of tenure. The justification for the 2001 Law – which has been confirmed by the Constitutional authority of Lebanon² – is the constitutional prohibition of permanent settlement of non-Lebanese citizens in Lebanon (*tawteen*

1 Presidential Decree No. 11614 of 1969, as amended by Law No. 296 of 2001, (2001 Law) which provides: "No real right of any kind may be acquired by a person who does not carry citizenship issued by a recognised state or by a person, if such acquisition contradicts the provisions of the Constitution relating to the prohibition of permanent settlement (*tawteen*)" (unofficial translation).

2 République Libanaise Conseil Constitutionnel, Décision No. 2, 10 May 2001, available at: <http://www.conseilconstitutionnelliban.com/pdf/2-2001-fr.pdf> (last accessed 10 April 2013).

in Arabic); and the fact that property ownership appears to be widely understood to be a precursor to such permanent settlement. There are currently some efforts in Lebanon to reform the 2001 Law, including a campaign by a coalition of civil society actors and international organisations,³ the success of which remains to be seen. The direct effect of international law in Lebanese national courts offers the greatest opportunity,⁴ failing reform of the 2001 Law, of bringing the national framework in line with international human rights law.⁵

The 2001 Law has particular ramifications for the estimated 103,000 Palestinian refugee families⁶ who live in informal “gatherings” outside the boundaries of official refugee camps, and who generally hold no legal title to their homes or land. Bare possession of land or property for any length of time generally does not, under Lebanese law, give rise to legal title and may constitute a felony punishable by imprisonment and/or a large fine.⁷ For a number of households in gatherings, criminal prosecutions have resulted in eviction orders. These have largely remained unenforced for years but fears remain high and refugees in gatherings can live in absolute uncertainty as to whether they will be removed from their homes. Many Palestinian refugees are able to live in gatherings as a result of informal agreements with landowners or the State, or the turning of a blind eye to their use of the land, and thus have no form of legal guarantee of their rights.

While the 2001 Law is a clear contravention of Lebanon’s obligations under international human rights law,⁸ and presents a major obstacle to legal protection of the HLP rights of Palestinian refugees, there are further challenges to Palestinian refugees’ HLP rights. Many Palestinian refugee women and their families live in poverty, which can be prohibitive of purchasing or even renting acceptable housing, or improving the conditions of homes;⁹ the impact of severe curtailments of economic and work rights for Palestinian refugees in Lebanon was reported by

3 ‘Campaign for Real-Estate Property Ownership for Palestinian Refugees in Lebanon’, funded by Norwegian People’s Aid, December 2012. For more information, contact Norwegian People’s Aid Lebanon via advocacy@npa-lebanon.org.

4 International law, upon ratification of international legal instruments by the Lebanese Parliament, becomes applicable before the national courts, subject to any relevant reservations entered upon ratification. Moreover, national courts are competent to not apply a national law on the basis of noncompliance with applicable international law, which supersedes national laws according to the hierarchy of laws enshrined in Lebanese law, under Article 2 of the Lebanese Code of Civil Procedure; See N. Saghieh and R. Saghieh, *Legal Assessment of Housing, Land and Property Ownership, Rights and Property Law related to Palestinian Refugees in Lebanon*, Norwegian Refugee Council, Lebanon, 2008, p. 22.

5 See note 8, *infra*.

6 Approximate figure – 38 percent of the Palestinian refugee population in Lebanon live in gatherings. J. Chabaan et al., *Socio-Economic Survey of Palestinian Refugees in Lebanon*, American University of Beirut and UNRWA, 2010 (AUB/UNRWA Survey) p. 10.

7 Lebanese Penal Code, art. 278.

8 Lebanon is a State party to the International Covenant on Economic, Social and Cultural Rights (1966) (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination (1969), among others. These instruments, along with the Universal Declaration of Human Rights, are among those that recognise the right to adequate housing, which comprises security of tenure, the availability of services, affordability, habitability, accessibility, locational and cultural adequacy; the right to use and control land and to transfer these rights to others; and, the right to own property. See Section 3, *infra*.

9 There are low rates and unstable forms of employment amongst many Palestinian refugees; Only 13 percent of Palestinian refugee women in Lebanon are employed. AUB/UNRWA Survey, *supra* note 6, p. 10.

all Assessment participants as being closely connected to their ability to exercise property rights. Palestinian refugees are also highly attuned to the political significance of their HLP rights – and even their own extended presence – in Lebanon, and continue to insist on their right of return to Palestine¹⁰. Although Palestinian refugees do not all consider that obtaining guarantees of security within their homes and better housing conditions would forfeit this right, the principle of *tawteen* nonetheless remains a significant issue and presents a hurdle to HLP rights advocacy for this population.

In order to improve the housing conditions in both camps and gatherings, permits from Lebanese authorities are often required.¹¹ For varying reasons dependent upon location, obtaining these permits is difficult or impossible for Palestinian refugees; in order to get a permit, payment of bribes and inflated prices for construction materials or reliance on intervention by humanitarian organisations often result. Although there was a high level of awareness amongst Assessment participants that noncompliance with permit requirements can attract criminal sanctions in gatherings, such noncompliance is not uncommon.

Familial Context

The ability of Palestinian refugee women to access and enjoy their HLP rights in Lebanon is also subject to the customary practices of Palestinian society within refugee camps and gatherings. These practices are guided by strong patriarchal hierarchies and, in reality, the way in which HLP issues are addressed at the community level is neither systematic nor predictable. Women's HLP rights, moreover, are not widely recognised as individuated or in need of specific protection. The home is seen as belonging collectively to the family and a woman's claim to a home is dependent upon her marital status and whether or not she has children.

The categories of women whose HLP rights are under greatest threat are those who are divorced and those who seek to take over possession of homes from deceased parents. Those women refugees who seem to enjoy relatively more secure claims over their homes are elderly widows and unmarried daughters. In almost all circumstances explored as part of the Assessment, Palestinian refugee women's access to homes is through male relatives – especially husbands – or adult children. This is evidenced by a strong sense of dependence observed amongst this community of women.

The customary practices of property distribution within the family purport to be based on Islamic law, or *Shari'ah*. Indeed, these rules are frequently proffered as a justification for a number of disadvantages faced by Palestinian refugee women in relation to HLP issues. While

¹⁰ See UN General Assembly, Resolution 194 (III). Palestine – Progress Report of the United Nations Mediator, A/RES/194 (III), 11 December 1948.

¹¹ Permits are required in refugee camps in Lebanon to bring construction materials within camp boundaries. No permit is required for work conducted with construction materials purchased from within the camps. In gatherings, permits are required to carry out any work that influences the structure of, adjusts or adds to the building; permits can only be requested by the owner of the land or building.

female Assessment participants were satisfied with the normative rights afforded to them under Shari'ah, women and girls were less confident than their male counterparts that the terms of Shari'ah are, in reality, implemented and believe that they are instead often trumped by the customs of Palestinian society within refugee camps and gatherings.

Infrequent Use of Legal Action

It is uncommon for Palestinian refugees in Lebanon to seek legal assistance in relation to HLP issues arising either in the formal or the familial context. In the formal context, there is a perception that, at best, Lebanese law offers no protection and, at worst, legal action can attract adverse attention and exacerbate insecurity. In the familial context, Palestinian refugee women appear resigned to the social and cultural customs which usually disfavour them; female Assessment participants tended to believe that the relevant courts are similarly biased toward men.

RECOMMENDATIONS

Formal Context

- ▶ Further understanding of the impact of the 2001 Law – Despite being enacted over ten years ago, the impact and consequences of the 2001 Law remain relatively unknown and untested. Further research is required into the actual consequences of the 2001 Law, the effects on Palestinian refugees and the identification of any obstacles to obtaining HLP rights. Such research, including a detailed review of more jurisprudence and legal opinions, would be useful to add to the conclusions of this Assessment and identify ways to challenge the 2001 Law.
- ▶ More efforts to advocate for reform of the 2001 Law – There are already efforts in Lebanon to advocate for reform of the 2001 Law, which is important recognition of the need to change the 2001 Law. Also necessary are more support and coordination for these efforts and more recognition from the domestic and international community about the need to reform the 2001 Law.
- ▶ Use of international law to challenge the consequences of the 2001 Law – Lebanon is a signatory to most human rights treaties and, with the direct effect of international law in Lebanese national courts, there is room to emphasise Lebanon's legal obligations according to these treaties, especially when there is a contradiction with domestic law. Strategies should be developed in order to determine how international law could be used to challenge the consequences of the 2001 Law.
- ▶ Improved recognition of importance of HLP rights for Palestinian refugees in Lebanon – There remains limited understanding by numerous stakeholders, including the international community, of the restricted HLP rights for Palestinian refugees in Lebanon. The effects of these restricted rights, particularly for Palestinian refugee women, have repercussions for generations of Palestinian refugees, many of whose families have been refugees in Lebanon since 1948 but who have seen their HLP rights limited or eroded over the years. It is crucial that there is an improved recognition of the lack of HLP rights for Palestinian refugees in order to address these restrictions.

Familial Context

- ▶ Further understanding of the informal and customary mechanisms for HLP rights – Access to HLP rights for Palestinian refugee women is subject to the customary practices of Palestinian society within camps and gatherings in Lebanon. Greater and more detailed understanding of the customary mechanisms in each camp and gathering is required to add to the findings of this Assessment and identify ways to improve access to rights for refugee women.
- ▶ Awareness-raising of access to HLP rights within the customary mechanisms – With a greater understanding of the informal and customary mechanisms for HLP rights, more awareness-raising amongst Palestinian refugees would provide information about the mechanisms in place and

how to access rights within those mechanisms, including emphasising the importance of a woman's claim to a home as an individuated right.

- ▶ Identifying ways to strengthen access to HLP rights through customary mechanisms – Working with local stakeholders within camps and gatherings is important to identify methods to strengthen the understanding, by refugees, of the customary mechanisms and the individual security offered by HLP rights which is particularly required by Palestinian refugee women who may be less aware of their rights. A discourse that incorporates both Islamic principles and an international HLP rights framework would be most suitable when identifying relevant ways to strengthen access to HLP rights.
- ▶ Legal empowerment of Palestinian refugee women - A legal empowerment approach is important and would help mitigate against the enforced dependence on assistance experienced by Palestinian refugees and, in particular, Palestinian refugee women. This requires an approach that promotes the action of individuals in the determination and protection of their own rights

ACRONYMS

AUB	American University of Beirut
CEDAW	International Covenant on the Elimination of all forms of Discrimination Against Women (1979)
ICERD	International Covenant on the Elimination of all forms of Racial Discrimination (1965)
DRC	Danish Refugee Council
HLP	Housing, land and property
ICCPR	International Covenant on Civil and Political Rights (1966)
ICESCR	International Covenant on Economic, Social and Cultural Rights (1966)
ICLA	Information, Counselling and Legal Assistance
IDP	Internally Displaced Person
LPDC	Lebanese-Palestinian Dialogue Committee
NGO/INGO	Non-Governmental Organisation/International Non-Governmental Organisation
NRC	Norwegian Refugee Council
PARD	Popular Aid for Relief and Development
PLO	Palestine Liberation Organization
PRA	Participatory Rapid Assessment
UDHR	Universal Declaration of Human Rights (1948)
UN	United Nations
UNHCR	United Nations Office of the High Commissioner for Refugees
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East

NRC LEBANON AND THE ICLA PROGRAMME

The Norwegian Refugee Council (NRC) is an independent, humanitarian, non-profit, non-governmental organisation which provides assistance, protection and durable solutions to refugees and internally displaced persons worldwide. As part of its efforts to save lives, alleviate suffering and promote durable solutions, NRC has developed five core competencies: (1) Education; (2) Food Security; (3) Information, Counselling and Legal Assistance (ICLA); (4) Shelter; and, (5) Water, Sanitation and Hygiene (WASH).¹²

NRC IN LEBANON

NRC has been active in Lebanon since 2006, when it commenced its activities following the 33-day conflict between Israel and Lebanon, focusing on providing Shelter assistance to Lebanese IDPs who had been displaced as a result of the conflict. NRC later expanded its humanitarian response to include Palestinian, Iraqi and, most recently, Syrian refugees, providing Shelter and Education.

ICLA IN LEBANON

In March 2012, NRC Lebanon commenced its ICLA programme in Lebanon, having identified only a limited humanitarian response present to address a lack of internationally recognised rights faced by Palestinian refugees in Lebanon.¹³ Consequently, NRC determined the need for the ICLA programme in Lebanon to complement and strengthen other NRC core competencies to address these challenges and improve the situation for refugees in Lebanon through a rights-based approach.¹⁴ As part of the ICLA programme, NRC has built on its existing relationships and activities with Palestinian refugees in camps and gatherings, particularly in the South where NRC Lebanon has been present since the beginning of NRC country operations in 2006.

Through its extensive Shelter work in Palestinian refugee camps and gatherings in Lebanon, NRC has assisted Palestinian refugees in improving their housing conditions based on identified needs, with priority given to the most vulnerable. From its Shelter work, NRC Lebanon has regularly encountered the difficulties faced by Palestinian refugees who are trying to rehabilitate or improve their housing

¹² See Norwegian Refugee Council, NRC Policy Paper, May 2012, available at https://www.nrc.no/arch/_img/9654144.pdf (last accessed 7 April 2013).

¹³ NRC identified these challenges through its programmatic work and a number of reports and assessments.

¹⁴ See M. Wyckoff, *ICLA Assessment – Lebanon*, Norwegian Refugee Council, Lebanon, 2010.

conditions. Therefore, NRC Lebanon identified the need for a holistic response, offering greater protection and security to Palestinian refugee families, in order to improve not only the physical conditions in which Palestinian refugees live, but also to address the multitude of difficulties they face in achieving recognition of their housing, land and property (HLP) rights, complying with the national law, accessing services and exercising control over their homes. Accordingly, NRC ICLA activities in Lebanon have initially focused on HLP rights for Palestinian refugees in camps and gatherings.

ICLA Lebanon activities seek to complement the NRC Shelter programme by aiming to provide longer-term improved housing conditions for Palestinian refugees and sustainable processes for achieving these improvements, with the objective that Palestinian refugees will be able to access their rights directly. NRC ICLA's response to HLP challenges faced by Palestinian refugees is divided into three main thematic areas concerning HLP rights for Palestinian refugees in Lebanon. These are set out below.

- 1. Access to Justice** – the provision of free legal assistance, including information and counselling, to Palestinian refugees to challenge issues regarding their HLP rights and aim to obtain improved security of tenure so that Palestinian refugees can be free of the fear of eviction from their homes and find ways to improve their living conditions.
- 2. Access to Information** – the promotion of a better understanding of the formal and informal mechanisms for HLP issues, as currently used by Palestinian refugees in Lebanon. Through working with Palestinian refugees and other relevant stakeholders, strengthen the understanding and use of these mechanisms and aim towards using them as a tool to improve access to HLP rights.
- 3. Recognition of HLP rights** – increase the recognition of HLP rights for Palestinian refugees in Lebanon amongst key stakeholders, including promotion of the implementation of Lebanon's international and national legal obligations to all people, including refugees, in Lebanon.

SCOPE AND METHODOLOGY OF THIS ASSESSMENT

NRC carried out field research between 4 and 21 December 2012 in the Tyre region of south Lebanon, which is one of NRC Lebanon's ICLA programme pilot sites.

Assessment researchers used a participatory approach in conducting the field work, whereby the evidence for the Assessment was collected from members of the Palestinian refugee population itself. They also followed a case-study research methodology, using a participatory rapid assessment to test the relevance of the research objective, focus groups disaggregated according to age and gender in order to explore attitudes toward refugee women's HLP rights and identify pertinent subject matter for case studies, and in-depth interviews with Palestinian refugee women experiencing HLP issues. The selection of case studies was also guided by fact patterns identified as constituting potential test cases for the interpretation and application of the 2001 Law.¹⁵ Throughout, the primary basis of analysis remains the individual woman, while her experiences reflect the contexts in which she might attempt to realise her HLP rights.

In selecting study sites,¹⁶ NRC sought representation of a range of legal issues in order to explore cross-cutting themes and women's experiences of the common HLP issues.¹⁷ One gathering,¹⁸ Al Qasmieh, was selected as residents there have been subjected to prosecutions for illegal use of land and imposition of eviction orders on a number of its households. Another gathering, Jal al-Baher, was selected as a site where eviction is a possibility but no orders have yet been made and where housing conditions are notoriously poor. One refugee camp, Al Rashidieh, was selected in order to compare the experiences of its residents with those in gatherings.

One of the objectives of the Assessment was to identify potential partners for NRC Lebanon's ICLA programme. Accordingly, NRC consulted representatives of civil society groups, NGOs and INGOs as well as the United Nations Relief Works Agency for Palestine Refugees in the Near East (UNRWA). Researchers also interviewed NRC staff members from the ICLA and Shelter teams to gain insight into NRC Lebanon's working practices.

¹⁵ N. Saghieh and R. Saghieh, *supra* note 4, p. 73; M. Wyckoff, *supra* note 17, p. 30.

¹⁶ All located in the Tyre region of South Lebanon, and which have been or are, at the time of writing, project sites for NRC Lebanon's Shelter work.

¹⁷ The greater focus on gatherings (with two out of three study sites for this Assessment being gatherings) is on the basis that the HLP rights threats identified by NRC Lebanon are more numerous in gatherings than in camps, largely owing to the comparative legal status of the lands on which camps and gatherings are located. The greatest threat identified by NRC Lebanon prior to the study was insecurity of tenure and possibility of eviction with no real housing alternative for Palestinian refugees living in gatherings.

¹⁸ See Section 3, *infra*, for an explanation of the terms 'gathering' and 'camp' and the differences between the two.

SAMPLE

The evidence for the Assessment was drawn from the following:

- ▶ 10 participants¹⁹ in a participatory rapid assessment (PRA);
- ▶ 40 participants in six focus group discussions carried out across one refugee camp (Al Rashidieh) and two refugee gatherings (Al Qasmieh and Jal al Baher);
- ▶ A total of 16 individual case study interviews; three in Al Rashidieh, three in Al Qasmieh, four in Jal al Baher, one in Beirut and one in Wad al Zeineh;
- ▶ Representatives of UNRWA;
- ▶ Representatives of INGOs and NGOs; and,
- ▶ Legal consultations with a Lebanese lawyer/author of a previous NRC legal assessment of HLP Rights of Palestinian refugees in camps and gatherings in Lebanon.

Although some Palestinian refugees do lawfully own their homes in Lebanon, the majority do not²⁰ and so the Assessment focuses on those families who hold no legal title to the homes in which they live, primarily on the basis that their needs are more urgent and their rights more immediately under threat.

ETHICAL CONSIDERATIONS

Assessment participants were generally identified and approached with assistance from NRC staff and partners as well as community representatives. An explanation of the purpose of the study was offered, including the public nature of this and subsequent reports and consent taken before interviews commenced. Photographs were only taken with full consent of Assessment participants. Assessment participants were offered the use of pseudonyms to protect their identities. Unless the use of a pseudonym is indicated, Assessment participants consented to the use of their real names in this and subsequent reports.

¹⁹ The term 'Assessment participants' in this report is used to refer to beneficiary participants – Palestinian refugees – as distinct from stakeholders or key informants, who are referred to by name, position or as 'key informants' depending upon level of anonymity requested by the respondent.

²⁰ R. Beer, *Housing, Land and Property Practices in the Palestinian Gatherings in Lebanon*, Norwegian Refugee Council, Lebanon, 2011, p. 5.



Photo by: Christian Jepsen

INTRODUCTION

There is a growing understanding that women's limited engagement with housing, land and property (HLP) issues often result in dependence upon male family members and insecurity within the home, which becomes a particular concern in displacement situations.²¹ In protracted refugee situations, long periods of uncertainty and, in Lebanon, the increasing curtailment of Palestinian refugees' rights,²² this vulnerability is exacerbated, rendering the need to address these issues all the more urgent.

While women and girls make up 53 percent of the population of Palestinian refugees resident in Lebanon,²³ a specific assessment of their HLP rights has not yet been undertaken. The purpose of this Assessment is to identify the main HLP issues affecting Palestinian refugee women living in camps and gatherings in Lebanon, examine the challenges faced by them in the enjoyment of their HLP rights and to identify how protection of these rights might be promoted and strengthened.

The formalistic focus of previous studies²⁴ on legal protection and community level protection of HLP rights in Lebanon overlooks the experiences of women, who operate largely in the domestic sphere and behind a curtain of collective rights. A specific understanding of the experiences and expectations of women themselves is crucial to establishing how Palestinian refugee women's rights can be promoted and protected. An analysis of the gendered aspects of HLP issues faced by Palestinian refugee women in Lebanon entails a close look at the contexts in which women experience HLP. Accordingly, this Assessment takes a socio-legal approach to analyse the rules, norms and practices applicable to Palestinian refugee women's HLP rights. In so doing, it explores the relevant social and legal processes to formulate an informed, inclusive and equitable response to the HLP challenges faced by Palestinian refugee women in Lebanon.

Throughout the Assessment, key HLP issues are explored through the use of illustrative case studies and an analysis of their impact on Palestinian refugee women and their families.

21 See 'Women's Equal Rights to Housing, Land and Property in International Law', (Nairobi: UNHABITAT, 2006)

22 See 'Exiled and Suffering: Palestinian Refugees in Lebanon' (London: Amnesty International, 2007)

23 J. Chaaban *et al.*, *supra* note 6, p. 10.

24 S. El Natour, *Real-Estate Property for Palestinian Refugees in Lebanon. The 2001 Legal Amendment Effects in Reality*, IDRC Canada, Human Development Centre, 2012; R. Williams, *From Shelter to Housing: Security of Tenure and Integration in Protracted Displacement Settings*, Norwegian Refugee Council, 2011; R. Beer, *supra* note 23; M. Wyckoff, *supra* note 17; N. Saghieh and R. Saghieh, *supra* note 4.

1.1

UNDERSTANDING THE CONTEXT OF CHALLENGES TO HLP RIGHTS OF PALESTINIAN REFUGEE WOMEN IN LEBANON

Palestinian refugees represent “by far the most protracted and largest of all refugee problems in the world”²⁵; almost five million Palestinians²⁶ have spent more than 60 years in exile since the creation of the state of Israel in 1948. They and the states which host them generally insist on their “right of return” under international law.²⁷ The legal protection of Palestinian refugees is an enduring problem: owing to complex regional politics at the time that the 1951 Convention Relating to the Status of Refugees²⁸ (the Refugee Convention) came about, and in an attempt by Arab states to highlight the political specificity of the Palestinian refugees,²⁹ they were excluded from its protection.³⁰ In the absence of systematic international legal protection of the rights of Palestinian refugees, in September 1965 the League of Arab States agreed upon a regional rights regime applicable to all Palestinians enshrined in the Protocol for the Treatment of Palestinians in Arab States (also known as the Casablanca Protocol).³¹ In 1990, amendments to the Casablanca Protocol weakened obligations of Arab states³² and allowed member states to relegate their refugee policies to national priorities.³³

1.1.1

Palestinian Refugees in Lebanon

Although sympathetic at first, Lebanon has become an increasingly reluctant host to the Palestinian refugees as their presence has transpired to be anything but temporary.³⁴ Compared with Palestinian refugees in neighbouring Syria and Jordan, those in Lebanon fare the worst. The current level of hostility in Lebanon regarding the possibility of Palestinian refugees becoming permanently settled in the country is a result of a combination of factors. The blame apportioned to Palestinian refugees for their alleged role in Lebanon’s 15-year civil war contributed to official and popular distrust and resentment toward the Palestinians,

25 UNHCR, *The State of the World’s Refugees*, Oxford University Press, Oxford, 2006.

26 J. Al-Husseini, “UNRWA and the Refugees: A Difficult but Lasting Marriage”, *Journal of Palestinian Studies*, Vol. 40, No. 1, Autumn 2010, p. 6.

27 See UN General Assembly, Resolution 194 (III), *supra* note 13.

28 UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137 (Refugee Convention).

29 J. Al-Husseini, *supra* note 29.

30 By virtue of Article 1D of the Refugee Convention. In any event, Lebanon is not a State Party to the Refugee Convention.

31 A. Knudsen, *The Law, the Loss and the Lives of Palestinian Refugees in Lebanon*, CMI Working Paper, 2007:1, p. 4; for a fuller explanation of this process and its consequences, see J. Al-Husseini, “The Arab States and the Refugee Issue: A Retrospective View”, in *Israel and the Palestinian refugees*, E. Benvenisti, C. Gans, S. Hanafi (eds.), Springer, 2007.

32 Arab League Council Resolution 5093, 12 September 1991.

33 A. Knudsen, *supra* note 35, p. 6.

34 J. Suleiman, *No Refuge: Palestinians in Lebanon*, Refugee Studies Centre Working Paper Series No. 64, June 2010.

manifesting in “systematic legal discrimination aimed at revoking refugee privileges and curtailing refugee rights”.³⁵ Added to this is the precarious demographic balance of Lebanon, which feeds a fragile power-sharing deal, still based on a population census carried out in 1932. Fears that the naturalisation of Palestinian refugees,³⁶ the majority of whom are Sunni Muslims, would upset the demography of Lebanon and threaten the current balance of power have been described as “obviously [...] at the heart of the Palestinian problem”.³⁷ The prevention of permanent settlement (tawteen) of Palestinian refugees in Lebanon was enshrined in the post-civil war 1989 Charter of Lebanese National Reconciliation (also known as the Ta’if Accord)³⁸ as a patriotic guarding of Lebanese territory for only Lebanese citizens. The prevention of tawteen is now the basis upon which the rights of Palestinian refugees are severely restricted in domestic law.

The impact of restrictive laws and policies of the Lebanese government is to separate Palestinian refugees from the Lebanese population. Part of the background to this is Lebanon’s insistence that the Palestinian refugees are the ultimate responsibility of the international community.³⁹ As a result, in Lebanon, they are unable to access a wide range of basic rights and are forced to rely on the assistance of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and other humanitarian organisations.

In part due to the exclusion of Palestinian refugees’ rights from the protection of the domestic law and in part owing to strong social and cultural traditions, Palestinian refugees in camps and gatherings in Lebanon typically navigate HLP issues through customary practices of distribution.

35 A. Knudsen, *supra* note 35, p. 1; *see* more generally for the politicisation of the Palestinians and their treatment in Lebanon.

36 Who constitute approximately 10 percent of the population resident in Lebanon: A. Knudsen, *supra* note 35, p. 6.

37 Y. Besson, “UNRWA and its Role in Lebanon”, *Journal of Refugee Studies*, Vol. 10, No. 3, September 1997, p. 337.

38 Section I(H).

39 This view is enshrined in Lebanese law by Decree No. 927, which created the Lebanese Department of Affairs for Palestinian Refugees (DAPR). Article 1(1) of Decree No. 927 provides that the DAPR’s duty is simply to liaise with UNRWA to “ensure” that it provides the necessary services. It does not create any obligation on the Lebanese state to provide any services to the Palestinian refugees. *See* J. Suleiman, *supra* note 38, p. 13.



Photo by: Christian Jepsen

PROFILING REFUGEE CAMPS AND GATHERINGS

Registered Palestinian refugees⁴⁰ in Lebanon have fallen under UNRWA's mandate since 1948. According to a survey conducted by UNRWA and the American University of Beirut (AUB), there are estimated to be 425,000 Palestinians registered with UNRWA in Lebanon but only 260,000-280,000 currently reside there. The Palestinian refugee population in Lebanon is young, with half of the population under the age of 25. Almost all of the Palestinian refugee population in Lebanon lives in official camps established and serviced by UNRWA (62 percent) or in gatherings (38 percent).⁴¹

CAMPS

2.1

Palestinian refugee camps in Lebanon are discrete, enclosed areas of land, recognised by the Lebanese government as holding official camp status and falling under UNRWA management. In the political context, highly visible refugee camps are of particular value in retaining a separate identity for Palestinian refugees as well as cementing UNRWA's ultimate responsibility to them.⁴²

The widely held belief is that land for the 12 official Palestinian refugee camps in existence at present⁴³ is rented by UNRWA or was otherwise granted by the Lebanese state or private landowners. Occupants of houses in these camps generally have a perception of a kind of ownership, although they are aware that under Lebanese law they cannot legally own property. The legal relationship between camp residents and their homes or the land on which their homes are built is unclear, although when these shelters were initially built and allocated to refugees by UNRWA, the right of use was granted, usually to a male head of household, on behalf of a family.

Largely, camp residents do not pay rent to UNRWA or to landowners but, over time they have developed a "well embedded, albeit legally invalid, practice of buying, selling or leasing their houses for a price".⁴⁴ A great number of UNRWA's records of housing allocations were destroyed during the Lebanese civil war but the informal governing bodies within camps⁴⁵ maintain some records as to who lives where

40 Some Palestinians, who fall under UNRWA's operational definition of Palestinian refugees ("people whose normal place of residence was Palestine between June 1946 and May 1948, who lost both their homes and their livelihoods as a result of the 1948 Arab-Israeli conflict" See UNRWA website, www.unrwa.org, last accessed 17 April 2013) are not registered with UNRWA; others are registered with the Lebanese authorities – the Department of Palestinian Refugee Affairs. See also Danish Refugee Council, *Survey Report on the Situation of Non-ID Palestinian Refugees – Lebanon, 2007*, available at: <http://www.unhcr.org/refworld/docid/477dfad80.html> (last accessed 4 February 2013).

41 J. Chaaban *et al.*, *supra* note 26, p. 10.

42 See J. Al-Husseini, "UNRWA and the Refugees: A Difficult but Lasting Marriage", *supra* note 29, pp. 6-26.

43 Prior to the Lebanese Civil War (1975-1990) there were 15 official Palestinian refugee camps; Dekwaneh, Nabatieh and Jisr al Basha camps were destroyed during the Civil War (Nabatieh was destroyed by Israeli forces) and never rebuilt.

44 N. Saghieh and R. Saghieh, *supra* note 4, p. 6.

45 See *infra*, Section 4.4.1; broadly, each camp or gathering has a Popular Committee, which is politically appointed by Palestinian political representation in Lebanon and is seen as the official governing body within the relevant camp or gathering.

and of the informal transactions concluded between camp residents, but these are limited.⁴⁶

UNRWA is responsible for management of the camps and residents receive a wide range of services from the agency, including housing, water and electricity. Nearly three-quarters of Palestinian refugees living in camps are poor, living on less than six USD a day.⁴⁷

Notwithstanding a gap in understanding as to the formal status of the land and property in the camps, there is little interference with the residents' use of the land therein by the State.

2.1.1

Al Rashidieh Camp

Al Rashidieh camp is home to more than 27,500 registered Palestinian refugees.⁴⁸ The older part of the camp was established by the French government in 1936 to accommodate Armenian refugees who fled to Lebanon. The newer part was built by UNRWA in 1963 to accommodate Palestinian refugees who were evacuated from Gouraud camp in the Baalbek area of Lebanon. It is believed that UNRWA pays rent to the government and the residents are allowed to use it.⁴⁹ Residents recognise that they do not own the land but consider the houses they live in to belong to them and abide by an informal system of buying, selling and leasing houses.

2.2

GATHERINGS

In contrast, gatherings are open areas of land defined by their lack of official refugee camp status or legal authority identified with responsibility for camp management but with a population of Palestinian refugees,⁵⁰ who have a sense of being a distinct group in a geographically identifiable area, and clearly defined humanitarian and protection needs.⁵¹ They are made up of houses built on land owned, broadly speaking, by private landlords (Palestinian or Lebanese), public authorities, (national government institutions or local municipalities), the Islamic Waqf⁵² (having been donated by the Palestinian Liberation Organization (PLO) in the early 1980s) or Palestinians themselves.⁵³

Families living in gatherings have usually lived there for extended periods, generally without legal title and usually without evidence of

46 See R. Beer, *supra* note 23, p. 18.

47 J. Chaaban *et al.*, *supra* note 26, p. xi.

48 Official UNRWA figures are available at: <http://www.unrwa.org/etemplate.php?id=141> (last accessed 17 January 2013).

49 NRC focus group with men, Rashidieh, 19 December 2012.

50 Registered or otherwise.

51 Danish Refugee Council, *Needs Assessment of Palestinian Refugees in Gatherings in Lebanon*, 2005.

52 Which is a legal mechanism similar to an endowment. See N. Saghieh and R. Saghieh, *supra* note 4, p. 73.

53 R. Beer, *supra* note 23, p. 11.

permission to do so.⁵⁴ Under Lebanese law, legal title to structures built on land owned by another only arises where permission was granted by the landowner or the construction was built in good faith that the constructor was entitled to do so.⁵⁵ Building on land owned by another can, without a valid defence, constitute a criminal offence. Permits are required to carry out construction, rehabilitation or expansion work which is externally visible and these can only be requested by a person holding legal title to the land. Under Lebanese law there is no recognition of adverse possession – bare occupation for any length of time does not give rise to any legal interest in land – except in rare and exceptional circumstances.⁵⁶ Nor does Lebanese law recognise equitable interests in land as registration with the Real Estate Registry is constitutive of rights in property and, in general, no interest can arise unless it is duly registered.⁵⁷ The vast majority of households in gatherings do not own the land on which their homes are built, nor do they pay rent to the landowners.⁵⁸ Contrary to the findings of previous reports,⁵⁹ all Assessment participants were aware of their lack of ownership over their homes.

Palestinian refugees registered with UNRWA but living in gatherings are entitled to receive some of the services provided by the agency, but these do not include housing, water and electricity. Most houses in gatherings are connected to the state-run electricity and water supplies, with only some paying for these services.⁶⁰ The poverty rate in gatherings is lower than in camps but is still significant: more than half of those living in gatherings are poor, living on less than six USD per day.⁶¹

Al Qasmieh Gathering

2.2.1

Al Qasmieh gathering is located within the Burj Rahal Municipality and is home to more than 5,000 people, the majority of whom are Palestinian refugees.⁶² The gathering occupies land owned by Lebanese individuals and the State. Assessment participants reported that when their families came from Palestine, they were farmers and the private owner of part of the Al Qasmieh gathering lands invited them to work on his farms and live on his land. Assessment participants report that there is no written evidence of this arrangement. The majority of Palestinian refugee families residing in Al Qasmieh built their own homes and have lived in the gathering since 1948. None of the families in Al Qasmieh own the land on which their houses are built, so the construction of

54 See generally, R. Beer, *supra* note 23. Some Palestinian refugees living in gatherings did purchase the land on which they live using other people's names (e.g. some properties in Bisariyeh and Kfarbadda gatherings) or otherwise have permission to be on the land.

55 NRC interview with N. Saghieh, Lebanese lawyer, Beirut, 12 December 2012.

56 See R. Beer, *supra* note 23, p. 12; N. Saghieh and R. Saghieh, *supra* note 4, p. 4.

57 This can be done by agreement between relevant parties before a Notary Public or by going directly to the Real Estate Registry and registering the acquisition of an interest; see N. Saghieh and R. Saghieh, *supra* note 4, p. 76.

58 Danish Refugee Council, *supra* note 64, p. 23.

59 See N. Saghieh and R. Saghieh, *supra* note 4, p. 4.

60 R. Beer, *supra* note 23, p. 11.

61 J. Chaaban *et al.*, *supra* note 26, p. xi.

62 There are some families of Dom origin, who mostly hold Lebanese nationality.

these houses is considered illegal under Lebanese law, owing to the absence of the requisite permission to build. A number of households in Al Qasmieh have been subject to criminal proceedings. The families involved have pooled together and appointed a lawyer, but their defence was unsuccessful and the court issued an order for their eviction, payment of the cost of demolition of the houses and payment of fines. Some prosecutions in Al Qasmieh remained ongoing at the time of the field research.

2.2.2

Jal al Baher Gathering

Jal al Baher is located directly on the coast in Tyre where the land is state property under the jurisdiction of the Ministry of Public Works and Transport. The local municipality, Al Abassieh, is hostile to the existence of the gathering since it feels commercial projects have been hindered and that the gathering is an eyesore on the beach. Previous private lawsuits to evict families have so far been unsuccessful.⁶³ According to both the municipality and the Popular Committee of Jal al Baher, an offer was made to move families to two apartment buildings close to the gathering but the families refused. Residents who were interviewed for the Assessment were generally unaware of any specific threat of eviction but they felt that they could be moved at any time from the gathering.

⁶³ There have been no lawsuits submitted by the Municipality or the State; where an extension of the gathering fell on private property, the landowners filed a lawsuit against the residents. A settlement was later reached in this case. One family in El Buss camp had to leave their home and grocery store in exchange for compensation; see Case Study 3, *infra*.



Photo by: Majida Rasul



Photo by: Christian Jepsen

INTERNATIONAL HLP LAW: A FRAMEWORK FOR ANALYSIS

The Assessment's rights-based approach analyses the extent to which Palestinian refugee women are able to enjoy and protect their HLP rights guaranteed by international law. Full enjoyment of their international HLP rights would manifest in adequate housing⁶⁴ comprised of security of tenure, the availability of services, affordability, habitability, accessibility, locational and cultural adequacy;⁶⁵ the right to use and control land and to transfer these rights to others;⁶⁶ and, the right to own property.⁶⁷ In relation to refugees there is a further, specific obligation imposed by the Refugee Convention) on host states⁶⁸ to guarantee a range of rights relating to immovable property on at least the same terms as other non-citizens in a host state.⁶⁹ While Palestinian refugees are excluded from the protection of the Refugee Convention,⁷⁰ its provisions offer a valuable reference point for the standard of rights that Palestinian refugees, as refugees, should enjoy, in the interests of non-discrimination. Lebanon is also a State Party to the 1976 International Covenant on Civil and Political Rights (ICCPR)⁷¹ and the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), which mandate the equal protection of the law for all, without discrimination on the basis of race, gender or nationality.⁷²

The right to adequate housing is clearly categorised as within the framework of social and economic rights. As such, Lebanon as a State party to the 1976 International Covenant on Economic, Social and Cultural Rights (ICESCR) is under a positive obligation to "take steps [...] with a view to achieving progressively [their] full realization" and this is not, in general, confined to the rights of citizens.⁷³ Although legislative measures are expressly mentioned as steps for achieving realisation of rights contained in the ICESCR, they are not exhaustive of a State party's obligation.⁷⁴ A State's obligation can be fulfilled according to its available resources,⁷⁵ and developing countries can determine to what extent they guarantee the economic rights of non-nationals, but in so doing, must give "due regard" to human rights.⁷⁶ Justiciability (the provision of a judicial remedy for abuses) of the right to adequate

64 UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3 (ICESCR), art 11(1).

65 UN Committee on Economic Social and Cultural Rights (CESCR) General Comment 4, *The Right to Adequate Housing (Art.11 (1))*, 13 December 1991, E/1992/23, para. 7.

66 See Norwegian Refugee Council, *Housing, Land and Property Training Manual*, 2011.

67 Which is free from arbitrary deprivation: UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), art. 17 (UDHR).

68 Who are States party to the Refugee Convention.

69 Refugee Convention, art. 13.

70 And, in any event, Lebanon is not a State party to the Refugee Convention.

71 Although Lebanon entered reservations against nationality rights, discussed *infra*.

72 Non-discrimination is also included in Article 2(2) of the ICESCR and UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171 (ICCPR), art 2(1).

73 ICESCR, arts 2(1), 2(2).

74 UN CESCR, General Comment 3, *The Nature of States Parties' Obligations (Art. 2, par.1)*, 14 December 1990, E/1991/23, para. 4.

75 ICESCR, art. 2(1).

76 *Id.*, art. 2(3).

housing is also a noted part of a State's responsibility.⁷⁷

Non-discrimination is both an express obligation on States party to a number of international instruments⁷⁸ as well as a general principle of international human rights law; all persons are afforded the right to equal protection of the law.⁷⁹ The provisions of the ICERD do not prejudice a State's freedom to differentiate between its citizens and non-citizens,⁸⁰ as long as such differentiation does "not discriminate against any particular nationality".⁸¹

Non-discrimination, as it relates to gender, is "integrally related [to] and mutually reinforc[es]"⁸² guarantees of equal enjoyment of rights by men and women.⁸³ The obligations of Lebanon, as a State party to the 1979 International Covenant on the Elimination of all forms of Discrimination Against Women (CEDAW), are numerous and include not only vertical guarantees⁸⁴ of equality before institutions of the state and the law, but also protection against horizontal discrimination.⁸⁵ Equality of men and women before the law is particularly mandated in relation to the conclusion of contracts and administration of property,⁸⁶ and the equal enjoyment, between spouses, of the right to own, acquire, manage, administer, enjoy and dispose of property is specifically guaranteed in the CEDAW.⁸⁷ A woman's equal rights to those of men are also guaranteed under international law, generally,⁸⁸ with respect to the nationality of her children.⁸⁹

Although a full analysis of the right to work is beyond the scope of this Assessment,⁹⁰ the economic situation of Palestinian refugees in Lebanon is inextricably linked to their enjoyment of HLP rights. International

77 UN CESCR General Comment 3, *supra* note 87, para. 5.

78 *E.g.*, ICESCR, art. 2(2), ICCPR, art. 2(1).

79 UDHR, art. 7.

80 UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, United Nations, Treaty Series, vol. 660, p. 195 (CERD), art. 1(2).

81 CERD, art. 1(3); for confirmation that the Article 1(3) proviso directly qualifies the provisions of Article 1(2) CERD, see United Nations Committee on the Elimination of Racial Discrimination (UN CERD) *General Recommendation No. 11, Non-Citizens (Article 1)*, 19 March 1993, A/48/18, para. 1.

82 UN CESCR General Comment 16, *Substantive Issues Arising in the Implementation of the International Covenant on Economic, Social and Cultural Rights*, 11 August 2000, E/C.12/2000/4, para. 3.

83 ICESCR, art. 3.

84 In the sense of protection from state/ official actions: CEDAW arts. 2(a), 2(b), 2(c), 2(d), 2(g).

85 *Id.*, arts. 2(e), 2(f).

86 *Id.*, art. 15(2).

87 *Id.*, art. 16(1)(h).

88 *Id.*, art. 9(2), although Lebanon entered a reservation against the CEDAW in this regard and is thus not bound by this provision of law. This is discussed more fully in Section 5 *infra*.

89 This is also protected from the child's perspective by the guarantee, in Article 7 of the United Nations Convention on the Rights of the Child (UNCRC), which provides that "the child [...] shall have the right [...] to acquire a nationality", which is of particular significance in relation to the status of Palestinian refugees as stateless persons. UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3.

90 See the plethora of literature on socio-economic rights of Palestinian refugees in Lebanon, for example AUB/ UNRWA Survey, *supra* note 6; A. Khalil, "Socioeconomic Rights of Palestinian Refugees in Arab Countries" *International Journal of Refugee Law*, Vol. 23, No. 4, 2011, pp. 680-719.

human rights law guarantees the right of everyone to work,⁹¹ to a free choice of employment,⁹² to equal pay for equal work,⁹³ amongst other rights. International refugee law mandates that host states guarantee the same rights to refugees with regard to “the right to engage in wage-earning employment”⁹⁴ as enjoyed by the most favoured nationals of the host state and there are special protections for refugees who have been resident in a host state for more than three years.⁹⁵ Again, although the strict provisions of the Refugee Convention cannot be invoked in favour of Palestinian refugees in Lebanon, they provide a useful benchmark for analysis.

91 UDHR, art. 23(1).

92 *Id.*

93 *Id.*, art. 23(2).

94 Refugee Convention, art. 17(1).

95 *Id.*, art. 17(2)(a).

4



Photo by: Christian Jepsen

APPLICABLE NATIONAL LAWS AND NORMS

This section outlines the main domestic legal provisions that affect Palestinian refugee women's enjoyment of their HLP rights. A rights-based analysis and assessment of their impact are discussed more fully in the following sections.

LEBANESE CONSTITUTIONAL LAW

4.1

Constitutional guarantees of substantive rights are limited to Lebanese citizens, but two clauses of the Lebanese Constitution are relevant to the HLP rights of Palestinian refugees in Lebanon. First, Lebanon is bound by pacts and covenants of the Arab League as well as the covenants of the United Nations and, in particular, by the Universal Declaration of Human Rights (UDHR).⁹⁶ The Lebanese government is obligated to “embody these principles in all fields without exception”.⁹⁷ Second, Lebanese territory is strictly reserved for one united Lebanese people: “There shall be no segregation of people on the basis of any type of belonging, and no fragmentation, partition or settlement (tawteen) of non-Lebanese in Lebanon”⁹⁸

LEBANESE PROPERTY LAW

4.2

Transfer of Property Rights

4.2.1

According to Lebanese Presidential Decree, any person who does not hold citizenship of a recognised State, or such person whose property ownership would contravene the constitutional prohibition of tawteen, may not acquire rights in property in Lebanon, ranging from anything more than a 10-year lease to absolute ownership.⁹⁹ Further, any transfer of property rights must be registered at the Real Estate Registry within a 10-year period in order for it to be enforceable against third parties,¹⁰⁰ and only takes effect from the date of registration, not the date of acquisition.¹⁰¹ Non-registration of property may lead to loss of the rights by prescription.¹⁰²

96 Although the UDHR was adopted as a non-binding normative declaration of human rights, there is growing consensus among the international community that most, if not all, of the provisions of the UDHR have become part of customary international law, which is the general and consistent practice of states followed out of a sense of legal obligation. All States are bound by the provisions of customary international law. See for example, Antônio Augusto Cançado Trindade, *Universal Declaration of Human Rights*, Website of the United Nations, Codification Division, Office of Legal Affairs, 2008, available at: <http://untreaty.un.org/cod/avl/ha/udhr/udhr.html> (last accessed 21 May 2013); Joan Church, Christian Schulze, Hennie Strydom, *Human Rights from a Comparative and International Law Perspective*, Unisa Press, 1 January 2007, p. 166; Narendra Mohan Kommalapati, “The Universal Declaration of Human Rights”, Website of Amnesty International, 10 December 2007, available at: http://www.amnesty.org.au/china/comments/the_universal_declaration_of_human_rights/ (last accessed 21 May 2013).

97 Constitution of Lebanon, para. B, Preamble.

98 Constitution of Lebanon, para. I, Preamble; as amended by the 1989 Ta'if Accord, para. I(H).

99 Presidential Decree 11614 of 1969, as amended by Law No. 296 of 2001, art. 1.

100 N. Saghieh and R. Saghieh, *supra* note 4, p. 23.

101 R. Beer, *supra* note 23, p. 12.

102 N. Saghieh and R. Saghieh, *supra* note 4, p. 23.

A decision of refusal to register of a pre-2001 acquisition of property rights may be appealed to the civil court of first instance.¹⁰³

4.2.2

Occupation Without Title

No legal title to property in Lebanon is recognised without registration at the Real Estate Registry; occupation of land for any period, in itself, does not necessarily give rise to legal title or claim to the land.¹⁰⁴ Moreover, occupation of land without title can constitute a felony, which is punishable by imprisonment and/or a large fine.¹⁰⁵

4.2.3

Construction Permits

Any construction, rehabilitation or extension work that influences the structure of, adjusts or adds to the building requires a permit, which can only be sought by the owner of the building or land.¹⁰⁶ Non-compliance with this requirement can attract criminal sanction.¹⁰⁷

4.2.4

Noncompliance with National Property Regulations

As a result of the 2001 Law, a number of other laws with adverse consequences for Palestinian refugees, and even those who assist Palestinian refugees in acquiring property interests, come into effect. Under Lebanese law, it is a felony to sell land to a Palestinian refugee, punishable by forced labour and/or a fine.¹⁰⁸ As discussed above, it is also a felony for an individual to use or occupy land belonging to another and Lebanese law does not recognise adverse possession, save in rare and exceptional circumstances.¹⁰⁹ In the absence of legal title to land in gatherings in Lebanon,¹¹⁰ Palestinian refugees can face criminal prosecution for use and occupation of land without a legal basis. As this is a continuing offence, as long as the individual remains on the land, the statute of limitations¹¹¹ will not begin to run, as the alleged crime cannot be considered to have ended. Thus, a Palestinian refugee living in a

¹⁰³ Which is equivalent to an Administrative Court: *see* N. Saghieh and R. Saghieh, *supra* note 4, p. 73.

¹⁰⁴ *Id.*, p. 28. *See* discussion in 4.2.4, *infra*.

¹⁰⁵ Lebanese Penal Code, art. 737-738.

¹⁰⁶ Decree-Law no. 148/1983 issued on September 16, 1983, articles 1-2; *see* N. Saghieh and R. Saghieh, *supra* note 4, p. 27. Note that this does not apply to construction within Palestinian refugee camps in Lebanon. These camps, which are under the authority of the Lebanese army and are managed by UNRWA, require prior authorisation from the Intelligence Directorate section of the army for admitting building materials. However, UNRWA does not apply for official permits to build new buildings or to do rehabilitation work in camps. Instead, UNRWA submits an application to the Intelligence Directorate listing quantities of building materials needed and the camp households for which the building or rehabilitation work will be done.

¹⁰⁷ Article 23-24 of Decree-Law no. 148/1983 issued on September 16, 1983; Article 736 of the Penal Code.

¹⁰⁸ 2001 Law, art. 16.

¹⁰⁹ Lebanese law recognises adverse possession when the land is not registered within the Real Estate Registry (unregistered land which has not been surveyed). Article 257 of the Real Estate Property Law states that a person who occupies a land in a peaceful and public way for five consecutive years acquires the right to register it in his/her name in the Real Estate Registry if he/she originally has a right to that land. If he/she does not have a right to the unregistered land, he/she may acquire the right to register it in his/her name after 15 years of continuous peaceful public occupation.

¹¹⁰ Lebanese Penal Code, art. 736 and following.

¹¹¹ A period after the commission of an offence whereby a public prosecution can no longer be pursued.,

house constructed on land owned by another can face prosecution at any time.

Women and HLP in Lebanon

4.2.5 ———

There is no express discrimination against women's HLP rights in Lebanese national law but Palestinian refugee women are equally subject to the prohibitive effects of the 2001 Law.¹¹² There is, however a gender differential in Lebanon's citizenship laws, whereby a Lebanese woman may not pass her nationality to her husband upon marriage or her children as nationality in Lebanese law, as in many Arab states, is patrilineal.¹¹³ Since the registration of property rights in Lebanon is tied to nationality, this creates a gendered threat to HLP rights. A Palestinian man married to a Lebanese woman, pursuant to the 2001 Law, is generally prohibited from acquiring property rights from his wife or any other person if the property is in Lebanon. In contrast, a Palestinian woman who marries a Lebanese man does receive his nationality and is able to acquire property rights accordingly.

ISLAMIC LAW (SHARI'AH)

4.3 ———

As with all Muslims in Lebanon, the personal status of Palestinian refugees (the vast majority of whom are Sunni Muslims) falls within the jurisdiction of the Shari'ah courts, which are recognised by, and form part of, the national state legal system.¹¹⁴ They are competent to adjudicate over marriage, dissolution of marriage, succession and custody disputes. For Palestinian refugees, however, it seems that issues of real property as part of divorce settlements and success cannot be adjudicated by the Shari'ah courts, if they were not registered before 2001. For property registered before 2001, while real property might form part of a party's assets upon dissolution of marriage or part of the estate of a deceased person, there is a widespread perception amongst Assessment participants that the 2001 Law will prevent transfer or re-distribution, although there currently appears to be no precedent for this perception.

Customary Application of Shari'ah

4.3.1 ———

Shari'ah is also the basis upon which intra-familial customary practices of HLP distribution purport to operate. The rules of property ownership within marriage and inheritance upon death are numerous and pre-determined by Shari'ah, but they are often subject to various interpretation and, consequently, varying customary practices across the Muslim

¹¹² NRC interview with N. Saghih, Lebanese lawyer, Beirut, 12 December 2012.

¹¹³ See M. Mansour and Sarah Abou Aad, "Women's Citizenship Rights in Lebanon", Research, Advocacy and Public Policy-Making Working Paper Series, No. 8, Issam Fares Institute for Public Policy and International Affairs, American University of Beirut, 2012.

¹¹⁴ There are separate Shari'ah courts for Sunni and Shia Muslims in Lebanon. They share the same procedures, but they differ as to many of the laws they apply.

world.¹¹⁵ Moreover, although they offer a number of guarantees of property rights for women in general, they are not strictly and numerically equal to those of men in relation to inheritance.¹¹⁶

Although *Shari'ah* is often invoked in the abstract, its interpretation may be seen through customary practices of Palestinian refugees in Lebanon.¹¹⁷

4.4

EVOLVED PRACTICES OF DETERMINING HLP RIGHTS

Palestinian refugees living in camps and gatherings generally abide by a system of adjudication and pseudo-formalisation,¹¹⁸ operated in an ad hoc manner by the Popular Committees. The rules by which this system operates are largely based on Lebanese national law but, owing to the lack of legal rights to property for Palestinian refugees, they operate in a parallel and sometimes extra-legal manner.¹¹⁹ Drawing upon perceived ownership of houses on the basis of allocation by UNRWA¹²⁰ or by construction by a family,¹²¹ or both, this system facilitates lease, sale, purchase and other transfer of homes within camp or gathering communities, by signing and registering sale contracts with the relevant Popular Committee.¹²²

There is a clear gap between the perceived and actual validity of these practices; although it is generally believed that they provide some form of protection, they in fact are legally inconsequential and offer no formal protection. The 2001 Law has exacerbated the precarious nature of this system.¹²³

4.4.1

Popular Committees

The informal system is operated by bodies known as “Popular Committees” within a given camp or gathering, whose members are politically appointed and mainly belong to the Fatah Palestinian political party, although the Popular Committees profess to be comprised of politically representative members. The role and competence of Popular Committees can vary from location to location, but those within camps are generally more established than their gathering counterparts. In addition to acting as an informal registry body, Popular Committees can act as arbitrators between parties upon dispute or grievance.¹²⁴

115 S. Sait and H. Lim, *supra* note 131, p. 15.

116 M. Radford, *supra* note 130, p. 159

117 See section 4, *infra*, for a discussion in greater detail.

118 As distinct from “formalisation” through recognition in national law.

119 N. Saghieh and R. Saghieh, *supra* note 4, p. 5

120 In camps.

121 In gatherings.

122 N. Saghieh and R. Saghieh, *supra* note 4, p. 6.

123 *Id.*

124 R. Beer, *supra* note 23.

The nature of these disputes is largely inter-familial. To varying degrees of reliability and according to location, the Popular Committees hold records of who lives in which homes in camps and gatherings.

Membership of Popular Committees usually lasts for extended periods and, until recently, only men have been members. At present, following campaigning by women's civil society groups, including in Tyre, supported by international organisations, women are beginning to be represented on Popular Committees,¹²⁵ although their role and influence is not yet clear. Until this development, women had been involved in camp and gathering affairs through representation in Women's Committees, but their involvement was treated as separate and not mainstreamed into the powers of the Popular Committees.

UNRWA

4.4.2

UNRWA holds formal responsibility for the management of Palestinian refugee camps in Lebanon. Upon their establishment, homes were allocated to families and held by the individual head of household. Given that around 22.3 percent of Palestinian refugee households have a female head, registration is usually in the name of a man.¹²⁶ A large proportion of UNRWA's records were lost or destroyed, however, during the civil war. They are, therefore, of limited use. UNRWA plays no formal role in the adjudication of HLP rights in the manner practised by the Popular Committees. This may be in part due to the often extra-legal or parallel nature of Popular Committee dealings, and in part due to the fact that property rights protection does not currently constitute one of UNRWA Lebanon's protection priorities.¹²⁷

¹²⁵ Both Rashidieh Popular Committee and Qasmieh Popular Committee, which are included in the sites selected for this Assessment, have women representatives.

¹²⁶ AUB/UNRWA Survey, *supra* note 6, p. 51.

¹²⁷ The focus is on non-ID Palestinians, international legal protection and gender-based violence/family protection; NRC interview with UNRWA Operational Support Officer, Tyre, 5 December 2012.



Photo by: Christian Jepsen

HLP ISSUES AND CHALLENGES IN THE FORMAL CONTEXT

Palestinian refugee women's HLP rights are subject to a number of challenges. Their experiences differ from camps to gatherings and even between camps and between gatherings. This section discusses the key HLP issues that Palestinian refugee women face in Lebanon in the context of hostile Lebanese national law and politics (the formal context) with a brief look at the attitudes and aspirations of Palestinian refugees with respect to HLP.

PALESTINIAN REFUGEES AND HLP IN LEBANON: ATTITUDES AND ASPIRATIONS

5.1

“When we say housing, land and property rights, it means the government recognises our existence. It is a dream. Recognition is equal to security, is equal to having a country, is equal to having a home.”¹²⁸

The issue of property ownership is highly sensitive for Palestinian refugees; contrary to some previous reports,¹²⁹ Assessment participants generally did not consider that security of tenure over property in Lebanon compromises their right of return. That is not to say that Palestinian refugees do not keep the political context of their presence in Lebanon at the forefront of their minds;¹³⁰ there is a strong feeling of their “not belonging” in Lebanon and, often, the expressed wish to own property or to be more secure in their everyday lives in Lebanon is prefaced by the sentiment that such security would be temporary, pending their ultimate return to Palestine.

Assessment participants rarely seek legal assistance for HLP issues in Lebanon, as most see such assistance as offering them little protection. This view is vindicated to a degree in gatherings by the success of political interventions and negotiations that circumvent adverse court rulings, in which measures to seek legal protection of Palestinian refugee HLP rights have failed.

Assessment participants also frequently expressed fear that any formal legal action would attract adverse attention to the Palestinian refugees living without legal title in gatherings.

Moreover, Palestinian refugees are very sensitive to the legalised discrimination against Palestinian refugees in Lebanon, to the extent

¹²⁸ NRC focus group with men, Al Qasmieh, 19 December 2012.

¹²⁹ The literature suggests that Palestinian refugees have insisted on retaining a temporary lifestyle to protect their right of return, and viewed more permanent measures in their host states with suspicion. See J. Al-Husseini, *supra* note 29, pp. 6-26.

¹³⁰ It is significant that the Palestinian refugees in Lebanon are a heavily studied population and responses often appeared rehearsed and even rhetorical. Almost all participants displayed severe research fatigue and, in some instances, hostility and aggression: “You come to open our wounds and leave. The problem is that everyone knows but does nothing.” NRC focus group with women, Al Qasmieh, 19 December 2012.

that legal awareness can be seen as “negative” – awareness is along the lines of what Palestinian refugees *cannot* do. In this way, Lebanese law was often perceived by participants as prohibitive, with no facilitative capacity. Palestinian refugees, both men and women, exhibited an overwhelming feeling of helplessness and apathy towards finding solutions for HLP issues; many participants described this apathy as resulting in dependence upon UNRWA and humanitarian agencies. Unsurprisingly, Assessment participants also do not see the Lebanese government as a realistic source of protection for HLP rights.

In the context of assessing Palestinian refugee women’s situations, the multitude of abuses against Palestinian refugees’ HLP rights as a whole population appears to have encouraged a strong focus on the collective rights of families or communities. Many Assessment participants described a strong sense of unity with other fellow Palestinian refugees; anecdotal accounts of the experiences of other Palestinian refugee families were often reported as part of the individual’s own experiences.

5.2

POVERTY AND LACK OF ECONOMIC AND WORK RIGHTS

“ We do not even talk about owning, because we don’t have the money to buy ¹³¹ ”

Contrary to international human rights law,¹³² Palestinian refugees have long been excluded from a wide range of professions in Lebanon. The main justification offered is the principle of reciprocity: a non-citizen on Lebanese territory may only enjoy rights if the state of that non-citizen can guarantee the same on its territory; this requirement is purported to be impossible to satisfy in the absence of a fully-recognised Palestinian state.¹³³ Accordingly, the Lebanese Minister of Labour is entitled to enumerate professions from which Palestinian refugees are excluded; to date they are not admitted to more than 30 professions in Lebanon.¹³⁴ In 2005, Palestinian refugees who were born in Lebanon and duly registered were allowed to work legally in manual and clerical jobs previously unavailable to them,¹³⁵ but the ban on their seeking

131 NRC focus group with men, Qasmieh, 19 December 2012.

132 UDHR, art. 23; see Section 3, *supra*.

133 Labor Law issued on 23/9/1946 as last amended by Law n. 129 issued on 24/8/2010. The principle of reciprocity means that a foreigner may only enjoy rights in Lebanon if the state of which he/she is a national can protect the same rights for Lebanese nationals in that state. The absence of a fully recognised Palestinian state, and the subsequent impossibility of fulfilling the reciprocity requirement, supposedly legitimises discrimination against Palestinians. The upgrade of Palestine’s status to that of “non-Member Observer State” by the General Assembly of the United Nations in November 2012 may have an impact on the currency of the reciprocity argument, if Palestine can be considered as able to fulfil its side of the reciprocity exchange. For an explanation of the principle of reciprocity, see Section 5.3.1, *infra*.

134 AUB/UNRWA Survey, *supra* note 6, p. ix.

135 Ministry Decree No. 67/1 of 2005; see A. Khalil, *supra* note 103, p. 699.

professional employment remains in place.¹³⁶

The result is that the majority (56 percent) of Palestinian refugees in Lebanon are jobless; those who are employed are typically in low-income, “casual and precarious” jobs.¹³⁷ The majority of Palestinian refugees in Lebanon live on less than six USD a day – three-quarters of those living in refugee camps and more than half of those living in gatherings.¹³⁸ Only 13 percent of Palestinian refugee women are employed compared with 65 percent of their male counterparts¹³⁹

Impact

5.2.1

Assessment participants identified poverty as a major – if not the main – factor contributing to their inability to realise and protect their HLP rights. The impact of curtailed economic and work rights and high levels of poverty on Palestinian refugees’ HLP rights ranges from an inability to formalise existing property rights because of prohibitive administrative fees prior to the enactment of the 2001 Law,¹⁴⁰ inability to purchase or rent homes for better security and even inability improve the conditions of existing homes.

NO PAYMENT OF RENT TO USE LAND

5.2.1.1

In gatherings, a significant source of insecurity of tenure for Palestinian refugees is eviction, by the private landlords who own the land, or some of the land, on which gatherings have been built. Although some gathering residents do have some form of legal title, none of the Palestinian refugees who participated in the Assessment had any legal title.

Moreover, as the majority of Palestinian refugees living in the gatherings do not hold any legal title to the land or homes that they inhabit, and most do not pay any form of rent to the landowners, this absence of valuable consideration (in this instance meaning financial payment) for the use of the land by Palestinian refugee families is likely to prevent formalisation of their continued residence and contributes to their ongoing insecurity of tenure.¹⁴¹

GENDERED IMPACT

5.2.1.2

That Palestinian refugee women generally do not have an independent source of income from their male relatives is of particular significance in view of the weight attached by Assessment participants to monetary contribution, in determining an individual’s claim to a house, in the familial context.¹⁴² The majority of Assessment participants justified their opinion that divorced women should not have a share in the value of the property, upon divorce, on the basis that she would not have made a

136 A. Khalil, *supra* note 103, p. 699.

137 AUB/UNRWA Survey, *supra* note 6, p. x.

138 J. Chaaban *et al.*, *supra* note 26, p. xi.

139 *Id.*

140 See R. Beer, *supra* note 23, p.42; see further Case Study 1, Section 5.3.1.2, *infra*.

141 The impact of insecurity of tenure in gatherings is discussed as a distinct HLP issue in Section 5.6.

142 This is discussed in full in Section 6.1.3, *infra*.

5.3

financial contribution to the property. Female Assessment participants who were employed during their marriages or after divorce were more likely to have been able to assert their individual HLP rights by procuring their own accommodation.

PROHIBITION OF ACQUISITION OF PROPERTY RIGHTS: THE 2001 LAW

“ No real right of any kind may be acquired by a person who does not carry citizenship issued by a recognised state or by any person if such acquisition contradicts the provisions of the Constitution relating to the prohibition of permanent settlement (*tawteen*).¹⁴³ ”

In Lebanon, the HLP rights of all Palestinian refugees are severely limited by the 2001 Law. In contravention of the internationally-recognised rights to own property¹⁴³ and against laws of non-discrimination,¹⁴⁴ this law excludes Palestinian refugees from acquiring a range of rights in property in Lebanon.¹⁴⁵ The 2001 Law does not expressly discriminate against Palestinian refugees but refers to individuals not possessing nationality of a recognised state or to any person if such acquisition contradicts the provisions of the Constitution of Lebanon¹⁴⁶ relating to the prohibition of *tawteen*. Currently, only Palestinian refugees fall within these categories in Lebanon.

On 19 April 2001, 10 members of the Lebanese Parliament lodged an application¹⁴⁷ with the Lebanese Constitutional Council¹⁴⁸ to annul the 2001 Law on the basis that it is contrary to equality provisions of the Constitution¹⁴⁹ and that it contravenes Palestinian refugees' rights to own property¹⁵⁰ and Lebanon's obligations under international law, with regard to non-discrimination. They further argued that, although the Constitution expressly prohibits *tawteen*, this prohibition is only relevant

¹⁴³ UDHR, art. 17; see Section 4 *supra*.

¹⁴⁴ CERD, art. 1(1); ICESCR, art. 2(2); ICCPR, art. 2(1); see Section 4 *supra*. It is noted, however, that the ICESCR grants States the right to determine to what extent they will guarantee the rights stipulated in the Covenant to non-nationals. ICESCR, art. 2(3).

¹⁴⁵ This ranges from a lease of a term of more than 10 years to full ownership, and acquisition is prohibited through sale, transfer and possibly inheritance.

¹⁴⁶ Adopted on 23 May 1926, and most recently amended by the 1989 Charter of Lebanese National Reconciliation, (Ta'if Accord).

¹⁴⁷ Review No. 2/2001.

¹⁴⁸ Formed in 1990 under Article 19 of the Lebanese Constitution, and competent to supervise the constitutionality of laws and to arbitrate conflicts that arise from parliamentary and presidential elections: N. Saghieh and R. Saghieh, *supra* note 4, p. 74.

¹⁴⁹ Lebanese Constitution, para. B, which provides that, "Lebanon is Arab in its identity and in its affiliation. It is a founding and active member of the League of Arab States and abides by its pacts and covenants. Lebanon is also a founding and active member of the United Nations Organization and abides by its covenants and by the Universal Declaration of Human Rights. The Government shall embody these principles in all fields and areas without exception."

¹⁵⁰ Under UDHR, art. 17; Lebanon voted in favour of adoption of the UDHR in 1948.

to political rights arising out of citizenship and so was not a valid justification for the curtailment of other rights, including the right to own property. In 10 May 2001, the Constitutional Council rejected the application on the basis that the prevention of *tawteen* is a matter of “supreme interest” and that the Lebanese legislature is free to discriminate against some foreigners, especially when it relates to economic rights.¹⁵¹ The decision of the Constitutional Council is not subject to appeal and there is no other legal route for challenging the validity or constitutionality of legislation..¹⁵² Accordingly, further Constitution-based challenges seem unlikely to be fruitful for Palestinian refugees.

The decision of the Constitutional Council, however, does not preclude legal challenge to the 2001 Law through the national courts using international law arguments as a basis. Lebanese domestic courts are competent to **not** apply a rule of national law on the basis of noncompliance with applicable international law, which supersedes national law under the hierarchy of laws set out in Article 2 of the Lebanese Code of Civil Procedure.¹⁵³ While this avenue offers an opportunity to test the application of the 2001 Law before the domestic courts, it requires an independent cause of action.

The prevention of *tawteen* is the primary – and political – justification for the 2001 Law and its rejection is constitutionally enshrined and presents the major obstacle to Palestinian refugees’ ownership rights in Lebanon. In fact, it rests on an assumption that property rights can give rise to citizenship rights and goes against the clear categorisation of HLP rights as socio-economic rights, not civil and political ones.¹⁵⁴ This assumption has not yet been challenged or tested.

It has been argued that the connection between property rights and *tawteen* is a fallacy, as naturalisation of refugees is only possible through the granting of citizenship.¹⁵⁵ This position forms the basis of a campaign to reform the 2001 Law launched by the international organisation Norwegian People’s Aid (NPA), in collaboration with a number of civil society groups and NGOs, in December 2012.¹⁵⁶ The campaign, features the slogan, “My ownership doesn’t cancel my return”.¹⁵⁷

Additional arguments against the 2001 Law that could be introduced into the political forum, arguments which promote the individual rights of

151 Decision No. 2 of 2001 of the Lebanese Constitutional Council, 21 May 2001. See also A. Knudsen, *supra* note 35, p. 13; A. Khalil, *supra* note 103, p. 703; N. Saghieh and R. Saghieh, *supra* note 4, p. 21.

152 Property rights, amongst others, appear in the Chapter of the Constitution entitled, “The Lebanese: Their Rights and Duties”.

153 In Lebanese domestic law, upon ratification by the executive, moreover, international law automatically becomes incorporated into national law, subject to reservations where relevant and general principles of international law apply equally.

154 See Section 4, *infra*.

155 N. Saghieh and R. Saghieh, *supra* note 4, p. 22.

156 See Norwegian People’s Aid, “Campaign for Real-Estate Property Ownership for Palestinian Refugees in Lebanon”, *supra* note 3.

157 The key messages are: i) the 2001 Law contravenes provisions of the Lebanese Constitution binding the State to international human rights instruments; ii) the 2001 Law contravenes Lebanon’s obligations under the Casablanca Protocol; and, iii) the constitutional prohibition of *tawteen* does not apply to ownership rights but only civil, political and citizenship rights.

Palestinian refugees, include:

- ▶ While Lebanon is free to differentiate between citizens and non-citizens, such differentiation must apply to all non-Lebanese nationalities equally.¹⁵⁸ The 2001 Law clearly does not and, as such, contravenes Lebanon's obligations under the ICERD.
- ▶ Lebanon might further be free to determine the extent to which it protects the economic rights of Palestinian refugees as non-citizens,¹⁵⁹ but this must be done with "due regard to human rights and [its] national economy".¹⁶⁰ This offers the opportunity to make the argument that property ownership by Palestinian refugees has no adverse impact on the national economy and that the 2001 Law presents a disproportionate curtailment of Palestinian refugees' right to own property.¹⁶¹ Evidence of the consequences – if any – on the national economy of Palestinian refugee property ownership may be valuable.

5.3.1

Impact

The 2001 Law particularly impacts Palestinian refugees living in gatherings or otherwise outside refugee camps.

5.3.1.1

NON-RECOGNITION OF PRE-EXISTING HLP RIGHTS

The prohibition of acquisition of property rights by Palestinian refugees contained in the 2001 Law is implemented through refusal to register interests in property by Public Notaries¹⁶² at the Real Estate Registry.¹⁶³ Although the Lebanese delegation to the UN Committee on the Elimination of Racial Discrimination stated that the 2001 Law would not have retroactive effect, Assessment participants generally believed that the 2001 Law applied to almost all property issues, including inheritance and pre-2001 purchases, which were not registered with the Real Estate Registry before enactment of the 2001 Law. This belief, combined with a general reluctance to seek legal assistance or advice, results in Palestinian refugees living without formalisation of their relationship with their home or the land on which they live, and contributes to insecurity of tenure. The true scope of the impact of the 2001 Law is, as yet, unclear.

Previous HLP assessments identified particular fact-patterns to test the bounds of the 2001 Law including cases where Palestinian refugees purchased a property but did not register the contract of sale before the enactment of the 2001 Law, and have since not been able to do so, or where a male Palestinian refugee is married to a Lebanese woman, or whose mother holds Lebanese nationality, and seeks to inherit from

¹⁵⁸ ICERD, arts. 1(3) and 1(2), read together.

¹⁵⁹ In view of ICESCR, art. 2(3). Note, however, that Lebanon is not widely considered to be a 'developing country', which is a requirement for the application of Article 2(3). It may be arguable that Lebanon as a country recovering from protracted civil war is in the position as 'developing countries' for the purposes of ICESCR, article 2(3).

¹⁶⁰ ICESCR, art. 2(3).

¹⁶¹ UDHR, art. 17; see further N. Saghieh and R. Saghieh, *supra* note 4, p. 22.

¹⁶² See Annex 1: Glossary of Terms.

¹⁶³ N. Saghieh and R. Saghieh, *supra* note 4, p. 25.

either.¹⁶⁴ The legal issues and practical consequences of each of these situations are discussed in turn.

NON-REGISTRATION OF PRE-2001 PURCHASES

Samira and her family purchased, in instalments over seven years, an apartment in Wad al-Zeineh, a gathering close to Saida. By the time they had finished paying for the apartment, the 2001 Law had come into force and they are now unable to register their contract of sale of the apartment at the Real Estate Registry.

“Everyone in the family contributed to the instalments and it took us many years to buy the property. When we finished paying for it, we thought it was ours but when we tried to register it in our mother’s name we were told that we could not. In 2001 the Parliament passed a Decree stopping the Palestinians’ from having the right to property. The Public Notary¹⁶⁵ told us that we can register it in the name of a Lebanese national but we did not want to do that. Who knows what will happen? Some people are good but some people are bad.

My brother was involved in the buying process. My father could not read or write. We didn’t get involved, because if the man is talking, why would the woman talk? In our families the men talk – these are our customs.

My sister has Jordanian nationality, but there is a dispute now. Why should we register it in her name, when my brother paid the money? He sold his car to pay for the house, he paid around 10,000 USD (about 30 percent) of the total [purchase] price, and this

was the first payment. He paid the advance. If we didn’t pay the advance, we wouldn’t have been able to own the house. We couldn’t register the apartment because we didn’t have the money. We said that once we had finished paying then we would register it, but by then there was the new law. If my mother dies now, the state will come and take the apartment. The total cost of the apartment was around 32,000 USD in 1994.

Now my mother wishes to register the property in my name and my sister’s name. My father didn’t want to register it in his name, but now my mother is saying that, with all the problems, I want you and your sisters to be secure.

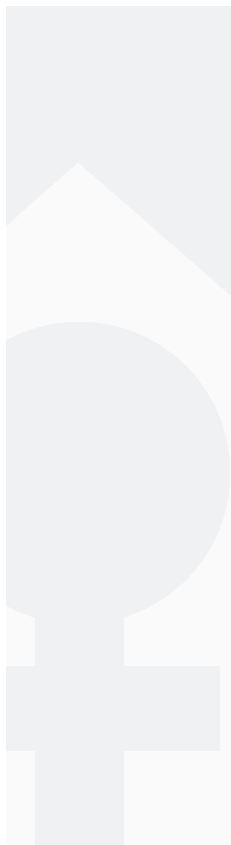
It is considered the family house. It still is but there is no way to register it now. The notary said we have no right to register, so we find some Lebanese person, they will register it and you will make a paper [contract] between you, saying this is your house. We will never do this because some people we know did do this but the Lebanese people [whose names were used as registered owners then] took the house. There are a lot of stories like this. There could be a Lebanese individual who registers a property in his name, he dies and his children do not recognise the agreement and so the children take it. Or it is registered in a Lebanese person’s name and because of inheritance rules and procedures, the house goes to his children.

CASE STUDY 1 5.3.1.2

“...it took us many years to buy the property. When we finished paying for it, we thought it was ours but when we tried to register it in our mother’s name we were told that we could not.”

¹⁶⁴ M. Wyckoff, *supra* note 17, pp. 30-31; N. Saghieh and R. Saghieh, *supra* note 4, p. 73.

¹⁶⁵ See Annex 1: Glossary of Terms.



Of course we own the apartment. We paid for it. Nothing has happened now. We have taken no legal action, we are just living there. At first the contract from the Palestinian owner of the house was in the name of my mother but if she dies, her children will get nothing.

If we cannot find another solution then maybe we will resort to registering it in my sister's name. For us there is no problem – she has two daughters, one is married, one is at home – but we don't know what will happen, maybe the son-in-law of my sister will take it. Nobody knows, I cannot trust anybody.

If an individual has a conscience, he will not take the apartment for himself, but sometimes people do not sign agreements and the

house is lost.

We have not asked for legal advice – for what? I have asked other people, but the answer is always the same – register in the name of a Lebanese person and you will own it. We have not asked any officials, just normal people. We follow the news and we know what is happening.

I do feel secure, no one can come to move me from the home. I will kill him. Why would he move me?

Now, Palestinians are selling houses in Wad el-Zeineh for peanuts just so they can live.

The property law is a problem for all the Palestinians in Lebanon, not just one or two. My mother always prays that she will still be alive when this law will be changed."

5.3.1.3

ANALYSIS

Women's Involvement

Where Palestinian refugee families have the means to purchase property, Assessment participants agreed that it is not uncommon for a family to want the property to be registered in the name of a daughter or a wife of a family.¹⁶⁶ This appears to derive from a protective attitude toward women; female family members are entitled to the protection of the family and possessing a home is a significant form of protection of this type. Although women's interests are advanced in securing a property, they play little role in the formal processes of acquiring property and generally defer in these matters to male relatives. Amongst the Assessment participants, the men demonstrated a wider legal knowledge than the women with regard to the formal legal rules relating to HLP issues.

Legal Implications and Insecurity of Tenure

Samira's case is an example of the impact of the 2001 Law on Palestinian refugee families who purchased a property prior to its enactment, but have been unable to register the sale of contract at the Real Estate Registry. There are a number of threats to Palestinian refugee families' continued enjoyment of property in these circumstances.

¹⁶⁶ This may be in part due to nationality laws and their application to Palestinian refugee women who marry non-Palestinian men. See Section 4.2.5 for more discussion.

In the absence of registration of the contract of sale at the Real Estate Registry, property rights relating to the apartment remain with the vendor of the apartment, who is still the legally recognised owner of the property. The vendor could, in theory, insist on the technicality that he continue to be the lawfully recognised owner of property. Where he does not, a Palestinian refugee family's continued enjoyment of rights to their home is subject to the conscience of the vendor.

As Samira's mother was party to the contract of sale, she does acquire some personal rights in relation to possession of the property, which will pass to her heirs.

In general, there are few options for Palestinian refugee families who did not register their property prior to the enactment of the 2001 Law, and none of these offer enduring security of tenure or control over the property which are independent of a third party.

One such option is the creation of a proxy¹⁶⁷ whereby a non-Palestinian individual (and thus someone who has the legal capacity under Lebanese law to register property rights) receives all the rights of an owner but holds it on behalf of a Palestinian refugee or family. Fear that the proxy will take advantage of the situation is common and places Palestinian refugees in the precarious position of using land without title but having paid for a property or depending entirely on the good character of a third party. Assessment participants report that proxies frequently usurp legal title, but it has not been documented how frequently this occurs.

A second option, even less secure than the first, is for Palestinian refugee families to take no formal action to register their property, and thus continue to live without any security of tenure. In view of the widely held belief that the current state of the law can offer no protection to Palestinian refugees' HLP rights, this appears to be the preferred option amongst many respondents.

Scope of the 2001 Law

The implementation of the 2001 Law through refusal by Public Notaries to register contracts of sale appears to be the result of internal instructions, as it is enshrined only in a 2009 decision from the Lebanese Court of Cassation.¹⁶⁸ The rationale of this decision, combined with a general apathy observed towards legal advice or assistance, seems to lead Assessment participants to fear the worst and assume they have no prospects of legal protection at all.

In fact, the scope and application of the 2001 Law to pre-2001 purchases is not clear and, in the absence of publicised legal rules in this

¹⁶⁷ The Court of Cassation, in its decision dated 29 January 2009, stated that as long as a sales contract is not registered with the Real Estate Registry, it does not give the buyer more than a personal right in claiming to register it. But in order to be legal, the registration act has to respect the applicable laws at the time of its achievement, especially the 1969 Presidential Decree. The Court concluded that the "...decision about the illegality of the apartment registration [after the enactment of the 2001 Law] is compatible with the 1969 Presidential Decree". More generally, the relevant legal mechanisms are discussed comprehensively by N. Saghieh and R. Saghieh, *supra* note 4.

¹⁶⁸ NRC interview with Khaldoun el-Sharif, LPDC, Beirut, 4 December 2012; NRC interview with N. Saghieh, Lebanese lawyer, Beirut, 12 December 2012; *see also* N. Saghieh and R. Saghieh, *supra* note 4., p. 25.

respect, the only apparent route to testing this is through legal argument in specific cases.¹⁶⁹ The decision of the Public Notary might be subject to appeal to the State Council.¹⁷⁰ The strongest argument to be made may be that Lebanon made a public statement to the UN Committee on the Elimination of Racial Discrimination that the 2001 Law will not have retroactive effect¹⁷¹ and that the Lebanese state and its representatives, including Public Notaries¹⁷² are bound by this statement.

Perceptions of Security

It is by now well-documented that, notwithstanding clear legal threats to their security of tenure, Palestinian refugee families often perceive their possession and use of property as legitimate.¹⁷³ Samira, like many Assessment participants, relies on the fact that she and her family have paid for their home and that this would preclude any interference with their rights.

As with a range of property-related transactions, the cost of registering the apartment upon purchase was a significant reason for non-registration. Although most Assessment participants believed that registration is important and offers the best protection of HLP rights, this does not necessitate that Palestinian refugee families were compliant with the registration requirement, even before the enactment of the 2001 Law.¹⁷⁴

Palestinian refugee families in similar circumstances to Samira live in uncertainty, fear and with no recognised or protectable form of tenure.

5.3.1.4

LACK OF CLARITY ABOUT INHERITANCE AS A FORM OF PROHIBITED ACQUISITION UNDER THE 2001 LAW

The status of Palestinian refugees as heirs to property which was registered prior to the enactment of the 2001 Law is unclear. All Assessment participants believed that inheritance from parents is prohibited by the 2001 Law, with the belief that even property rights registered before 2001 cannot be inherited by Palestinian refugees after 2001. However, inheritance rights in property may be considered to be acquired before registration of that property¹⁷⁵. This has not been tested and, to date, there is no court decision on this matter.

¹⁶⁹ An investigation amongst Public Notaries as to the basis of their refusal to register pre-2001 purchases, and the source of instructions, if possible, may be valuable in this respect. It remains unknown whether the decision of the Public Notary will be subject to legal challenge.

¹⁷⁰ See Section.5.2.1, *supra*; combined with the UDHR art. 8 right to effective remedy argument, the decisions of Public Notaries may be challengeable before the State Council.

¹⁷¹ United Nations Committee on the Elimination of all Forms of Racial Discrimination (UN CERD), *Concluding Observations of the Committee on Reports Submitted by States Parties, Lebanon*, 28 April 2004, CERD/C/64/CO/3, para. 12.

¹⁷² Public Notaries are “public officials” with designated competences: N. Saghieh and R. Saghieh, *supra* note 4., p. 75; see also C. Mallat, “The Lebanese Legal System”, *The Lebanon Report*, No. 2, Summer 1997, p. 32.

¹⁷³ See N. Saghieh and R. Saghieh, *supra* note 4, Chapters III-V.

¹⁷⁴ N. Saghieh and R. Saghieh, *supra* note 4, p. 65; see, for examples, R. Beer, *supra* note 23, p. 42.

¹⁷⁵ Article 204 of Real Estate Property Law No. 3339.

CROSS-NATIONALITY INHERITANCE

CASE STUDY 2

5.3.15

Ahmed¹⁷⁷ is a Palestinian refugee. He has studied law, but because of the restrictions on Palestinian refugees' entry into professional jobs, he cannot officially practise law in Lebanon. He married his Lebanese wife in 2002 and they have two children but both he and his children are Palestinian, according to Lebanese citizenship law. His mother is also Lebanese and his father was Palestinian but is now deceased. The house that his mother lives in was registered in his mother's name before the 2001 Law and she still lives there. Ahmed's sister is married to a Lebanese man and has accordingly acquired Lebanese nationality along with her children.

"My father could have registered the house in his name, but my parents chose to register it in my mother's name. They owned another house but my father was concerned about what would

happen to it after they died, when the law changed, because of the inheritance issues, so he sold it at a very low price. He sold a house with 175m² surface area for 175 million LBP, but now it is worth 500 million LBP. This was because of the worry.

My mother is very worried about the house she lives in. No one can remove her as she is the owner but she knows that I cannot inherit the apartment. She wishes to sell the apartment. She says that at least we can enjoy what is ours that way and live off the money.

You can see there is no justice or equity. In the Lebanese constitution, equality is only for Lebanese citizens. We are deprived from the real estate court. In law there is freedom, but in reality we cannot access our rights."

"My mother is very worried about the house she lives in. No one can remove her as she is the owner but she knows that I cannot inherit the apartment."

ANALYSIS

5.3.16

Women's Nationality Rights

The inability of Lebanese women to confer their nationality upon their husbands and children has been staunchly criticised, but largely on the basis of equality between men and women.¹⁷⁷ This practice is in clear contravention of international law on non-discrimination on the basis of gender, but when Lebanon ratified the 1979 Convention on the Elimination of all forms of Discrimination against Women (CEDAW), it entered a reservation against the provisions guaranteeing equal nationality rights (including the right to pass nationality to children and spouses). Consequently this rule of international law cannot be invoked against Lebanon.

Compromising Economic Freedom and Control of Property

The 2001 Law and its perceived application to acquisition by inheritance compelled Ahmed's father to sell one of his properties below its

¹⁷⁶ Pseudonym; NRC interview with "Ahmed", Beirut, 14 December 2012.

¹⁷⁷ See Amnesty International Submission to the Universal Periodic Review, Ninth Session of the UPR Working Group, November-December 2010.

market value and his mother may do the same. The impact is the deprivation of economic freedom; sale of properties can be a forced choice and severely disadvantage Palestinian refugees who sell at low prices for fear of greater interference with the property.

Side-Stepping the 2001 Law

There are a number of options open to the family for side-stepping the 2001 Law, none of which fully satisfy the individual right to own property.¹⁷⁸ Because the shares of inheritance for Muslims in Lebanon are predetermined,¹⁷⁹ Ahmad's mother cannot bequeath these shares in contravention of such predetermination. If she has moveable property, such as assets in bank accounts or a car, then she might be able to take her estate as a whole, giving the apartment to her daughter,¹⁸⁰ and the rest to her son, as long as it is twice the daughter's share. Another option is that Ahmad's mother appoints her daughter as a proxy, holding the property in trust for her brother and promising to transfer it to him if the law changes and otherwise transfer the monetary value of the apartment to him. Further options are ways in which the law can be side-stepped, and how the property can, in the eyes of law, pass to Ahmad's sister, but not to him while he can continue to enjoy the property but without real rights. In Ahmad's family this is not a significant problem, but disputes over control of inherited property is not uncommon and the use of proxies – even within families – is viewed with great apprehension. This is especially considering the sometimes illegal nature of the use of proxies, following the 2001 Law.¹⁸¹

Litigation on Inheritance as a Form of Acquisition

As mentioned above, it has not yet been determined whether inheritance is a prohibited form of acquisition under the 2001 Law; this will only be tested through practice and possibly litigation. It may be arguable that an individual's interest in real property arises at the time of the creation of a will, if a will exists, thus not an "acquisition" of real property. The impact of non-registration by Public Notaries would need to be tested in this regard.

178 UDHR, art. 17.

179 See Section 5.3.

180 Who is married to a Lebanese man and therefore has Lebanese nationality

181 N. Saghieh and R. Saghieh, *supra* note 4, p. 6; see also M. Wyckoff, *supra* note 17, p. 25.

NON-LEGAL RESPONSES

5.4

While it has been suggested that the impact of the 2001 Law has increased the role and functions of Popular Committees,¹⁸² the extent and veracity of this causal relationship is not clear. Certainly, in the absence of recourse to formal legal protection of their HLP rights, which Assessment participants generally believed was the most effective form of protection, although largely unavailable to them, Palestinian refugees resort to circumvention tactics to try to mitigate against the impact of the 2001 Law. Aside from the legal mechanisms discussed in the preceding sections, the role of political interventions and informal agreements between Palestinian refugee residents and landowners is significant to their enjoyment of HLP rights.

In gatherings, most Palestinian refugee families live in legally precarious circumstances,¹⁸³ where they continue to live without attempting to challenge the legal threats formally through the courts or complying with the law.¹⁸⁴ Instead, Palestinian refugee communities and their Popular Committees focus on collaborative dispute resolution mechanisms to mitigate against the threat of eviction, insecurity of tenure or criminal sanction, which are all *outside* the scope of the formal legal system. The belief reported by all Assessment participants that the law in its current state can offer no protection to their HLP rights (with little hope of any change) is bolstered by the success with which political interventions and informal agreements or landowners' acquiescence to their continuing residence on their land enable Palestinian refugees to continue as they always have done. Notwithstanding this widespread reliance on non-legal measures, it cannot be said that Palestinian refugees are complacent with regard to their living arrangements. It was often stated by Assessment participants that their rights are subject to the political landscape of Lebanon, which can change at any time. This view spanned not only those residing in gatherings but also those in the somewhat more stable camps.¹⁸⁵

Significantly, strong sentiments of unity amongst Palestinian refugee communities punctuate these efforts and yield surprisingly advantageous outcomes for Palestinian refugee families.

¹⁸² N. Saghieh and R. Saghieh, *supra* note 17, p. 14.

¹⁸³ *See generally*, R. Beer, *supra* note 23.

¹⁸⁴ *See generally*, M. Wyckoff, *supra* note 17, p. 27.

¹⁸⁵ NRC focus group with men, Rashidieh camp, 19 December 2012.

5.4.1

CASE STUDY 3

SIDESTEPPING THE LAW

“We protested even under heavy rain and we contacted the media and journalists. I organised this with other women – other organisations helped.”

Huda lives in a large house on the border of El Buss camp, in the Tyre region, with her son and daughter. Huda is a widow. The family moved to El Buss from Jal al Baher gathering in 2010 after a long legal battle with the Jal al Baher landowner and a finding by the Tyre Civil Court against her, ordering the family to vacate the house.

“When my husband died, we just carried on living there [in Jal al Baher] – no one could move us. UNRWA gave me financial aid and we opened a grocery store. We were very happy there and had a high income from the store but then we had to move.

In 2009, someone bought the land that our house was on, in Jal al Baher. The land was valuable to him because it was directly facing his house but he didn't want us there. He sent a representative to offer us 20,000 USD to move out of the house so he could use it. We refused the offer and we were summoned to the civil court in Tyre. My son dealt with the court – I was not involved in it at all. The court decided that we must leave because we are not the owners.

They thought we would accept, but the landowner saw that he would have problems. I thought of the others: if I accepted 20,000 USD, then other people living in Jal al Baher would have to. Twenty-thousand USD would not even cover the kitchen!

I went to PARD¹⁸⁷ and we organised protests. We blocked the road and were on the internet.

We protested even under heavy rain and we contacted the media and journalists. I organised this with other women – other organisations helped.

When the landowner's representative came again, I said, ‘We will do whatever the Popular Committee says’. I went to the Popular Committee, and they said, ‘We will support you, don't change your position. Everyone and we are with you’.

It was very easy to approach the Popular Committee. They know us and they are sympathetic with us.

In the end, the landowner was shamed because of the protests. We protested for two months. They wanted to give us money but we wanted a house so he took us to see some houses and none of them was good enough. We saw three houses and then we saw this one, which cost 85,000 USD. He bought it from a Palestinian and signed a contract with the Popular Committee in El Buss. We moved into this house one year after the landowner's representative first came to see us.

Now we feel very secure and we like this house. But even when we left our house in Jal al Baher, we cut down the trees in the garden and sold the timber. We told the landowner's representative, ‘We raised these trees like our children. We will not leave them to you!’ I am sure, if we were men, he would have fought us.”

186 Popular Aid for Relief and Development; see Section 8.2.



Photo by: Majida Rasul

Analysis

Huda's case is a good example of how an adversarial relationship has developed between Lebanese landowners and Palestinian refugees, and how collective protest against the family's forced eviction allowed the gathering community as a whole to exert pressure on behalf of its members. It is unlikely that Huda's case is replicable from a programmatic standpoint, but it nonetheless offers valuable insight into the way in which a gathering community might attempt to meet threats to the HLP rights of its members.

Women's Involvement

Huda, like many of the Assessment's male and female participants, was confident that, as women, she and her daughter were able to negotiate and assert their will against the landowner, whereas her son would probably have been vulnerable to police coercion/arrest. It seems, therefore, that "protective" cultural attitudes toward Palestinian refugee women in Lebanon (at least in the Tyre region) can offer at least some immediate leverage in negotiating with male landowners. In the longer term, however, and in the interests of gender equality and equal participation in public life, this could be detrimental if it further encourages women's rejection of pursuing formal legal protection of their HLP rights.

Although at the time of the eviction of Huda's family from their home in Jal al-Baher there were no women in the gathering's Popular Committee, Huda had little difficulty in approaching the Committee for assistance. Their supportive response was typical of the Palestinian refugee community in Lebanon at present, as identified by most Assessment participants. This collective supportive approach often has a clear impact on the leverage that Palestinian refugee families can enjoy in seeking alternative or collaborative dispute resolutions for their HLP legal issues in Lebanon.¹⁸⁷

A Continuing Adversarial Relationship

Almost all Assessment participants expressed great distrust of the Lebanese state and the host population, but recognised and acknowledged that the Lebanese have a right to their own territory. While in Huda's individual case an adversarial approach, through which the landowner was exposed to exposure, censure and popular pressure, was ultimately successful, this may not be the best way for others to advance in the future. The majority of Palestinian refugees living in gatherings have no legal title to the land on which they live. Instead, apart from those cases in which landowners have instituted criminal proceedings against gathering residents, Palestinian refugees are *allowed* to live on land owned by the State or private landowners and the reasons for this vary from gathering to gathering. Measures which play on the adversarial relationship between Palestinian refugees and landowners could be damaging to the latter's common practice of turning a blind eye and could further exacerbate tensions leading to displacement of Palestinian refugees.

Reliance on Collaborative Dispute Resolution Mechanisms

The success of collaborative, informal dispute resolution responses to HLP issues faced by Palestinian refugees in Lebanon can in some cases offer immediate relief to affected families, but these measures ultimately do not fulfil the international human rights obligations of the Lebanese State or the rights of Palestinian refugees to an effective legal remedy or adequate housing, comprising legal guarantees of security of tenure. It was further reported in previous assessments that Palestinian refugees in Lebanon appear to rely upon extra-legal agreements, relying upon social customs, to secure continued enjoyment of HLP rights.¹⁸⁸ The consequent instability and unenforceability of these agreements before the law is clear.

¹⁸⁷ For a comparison to individual leverage *within* Palestinian refugee families, see Section .7 *infra*.

¹⁸⁸ R. Beer, *supra* note 23, p. 42; N. Saghieh and R. Saghieh, *supra* note 4, p. 61.

OBSTACLES TO HOME IMPROVEMENTS

5.5

“

*Even if we put a stone on our houses, we are not allowed.*¹⁹⁰

”

For Palestinian refugees, the right to continuous improvement of their living conditions is of particular significance, owing to the extended length of their displacement. The families of most Assessment participants have lived in the same house for generations, over the years adding additional floors or rooms to it as resources permit.

Palestinian refugees who have no legal title to their homes in gatherings are generally unable to expand, rehabilitate or carry out other construction work on the structures without a permit, which can only be granted to the landowner or someone duly authorised. To do so may constitute a crime under Lebanese law and can attract fines, terms of imprisonment and/or an order to destroy the structure.¹⁹⁰ Houses in gatherings are not permitted to have concrete roofing, in order to prevent families from building upward.¹⁹¹ This obstructs the traditional Palestinian family household structure.¹⁹²

For Palestinian refugees living in camps, there is no requirement to obtain a permit to carry out construction work, but they must acquire a permit to bring building materials into the camps, which are difficult to obtain on an individual basis. As with many services and goods in Lebanon, Assessment participants almost unanimously reported that the need for special favours (or *wasta*¹⁹³) is prevalent; only those individuals who have connections in the Lebanese army or the local municipality are in practice able to obtain permits to bring construction materials into the camps. These individuals often then sell these materials for an inflated price to camp residents, who have little choice but to pay these prices (up to double or triple the price payable outside camps) if they are unable to obtain their own permits. It is not clear how frequently this occurs but Assessment participants living in both camps and gatherings were aware of the practice.

¹⁸⁹ NRC focus group with men, Qasmieh, 19 December 2012.

¹⁹⁰ In reality, Assessment participants report that if they offer a bribe the authorities will turn a blind eye, but the ability to do this depends on the household's resources.

¹⁹¹ NRC interview, NRC Tyre Shelter Officer, Tyre, 12 December 2012.

¹⁹² The building restrictions might have an impact on the structure of Palestinian refugee families, but this was not specifically examined for this Assessment. Certainly, many Assessment participants described a combination of low employment prospects and lack of space to build homes leading to the new generation of Palestinian refugees migrating abroad.

¹⁹³ This is a common term denoting, loosely, the invocation of personal contacts to influence decisions in one's favour. See A.Al-Rahami, "Wasta in Jordan: A Distinct Feature of (and Benefit for) Middle Eastern Society" Arab Law Quarterly, 2008, pp. 35 – 62, cf. R. Cunningham and Y. Sarayrah, "Taming wasta to achieve development", Arab Studies Quarterly, Summer 1994.

5.5.1.

Humanitarian Assistance

UNRWA's shelter work is generally limited to refugee camps because of their officially-recognised status. The NRC Tyre Shelter team works in both camps and gatherings, with the majority of its project beneficiaries in the gatherings. NGOs carrying out shelter repair work must also acquire permits from the relevant municipality.

5.5.1.1

CASE STUDY 4

LIVING IN HOMES IN POOR CONDITION

“If I hear them at night I sit up and watch that they are sleeping. If they don't sleep, I don't sleep.”

Munira and her husband built their house on land in front of her parents' home in Al Qasmieh. Although they do not own the land, her parents said Munira and her husband could build a home for themselves on it. Munira's husband began building in 2001 after their wedding. Almost half of the construction was completed before the local police came and asked who was building the house. The police asked if it was a new building and Munira's husband told them that it was not. The police then told Munira's husband to destroy the whole building or they would open a file against him. Her husband destroyed part of the structure in front of them but left some of it standing. A month later, Munira's husband resumed building, finished the house and was in the process of painting it. The policemen returned and arrested him for building without the landowner's knowledge and held him in prison for eight days. The police said they would release Munira's husband if he self-demolished the structure.

“While my husband was in prison, I didn't do anything. I stayed at my parent's house with my daughter. I visited him in prison in Saida and someone introduced me to

someone who would take a bribe.” Munira does not work outside the home and her husband is a daily worker. During the time that her husband was in prison Munira had no income and had to borrow money. “Without the help of good people I would not have survived,” she says of this time. Munira paid the bribe and her husband was released. They live now with their three children in the house but the conditions are poor.

The family's house in Al Qasmieh has a zinc roof. The family sleeps together in an area in the middle of the home because the structure's roof leaks in the corners. The three children sleep together in bed, but the cold and humidity in the house affect them. Says Munira “If I hear them at night I sit up and watch that they are sleeping. If they don't sleep, I don't sleep.”

Munira and her husband cannot afford to fix the house's leaky roof, and fear further attention from the authorities if they were to attempt to do so. At present, humanitarian organisations are the only actors providing assistance in improving the habitability of Palestinian refugee homes in gatherings in the south of Lebanon.



Photo by: Majida Rasul

ANALYSIS

5.5.1.2

Impact on Women

Poor housing conditions were reported by all Assessment participants as having a particular impact on women. This is in part because of their traditional role in the home as primary caregivers to children (and so as the parent who often feels ultimately responsible for their children's health) and in part because the majority of Palestinian refugee women do not work and, consequently, spend most of their day at home.

NGOs carrying out Shelter work for Palestinian refugees in Lebanon face a difficult challenge of navigating the cultural sensitivities of project beneficiaries, while ensuring equity. These NGOs are often the only actors providing renovation assistance to Palestinian refugee structures in Lebanon.¹⁹⁴

Financial Aspect

In both camps and gatherings alike, home improvements are an expensive undertaking and can expose Palestinian refugees to financial exploitation. Wealth differentials not only impact on the type of improvements possible, but even whether improvements can be made at all. Although corruption poses a real challenge, the fact that Assessment participants

¹⁹⁴ NRC interview, NRC Tyre Shelter Officer, Tyre, 12 December 2012.

described overcoming those challenges suggests the importance of home improvements to Palestinian refugee families.

Assessment participants offered anecdotal evidence of Palestinian refugee men building homes without the permits required under Lebanese law, and being stopped by the police or getting arrested. None reported legal assistance or advice being sought in these circumstances; instead, families typically paid substantial bribes (ranging from 1,000-2,000 USD)¹⁹⁵ or the accused person signed an undertaking to destroy the construction to secure his release from imprisonment. Considering that employment is uncommon amongst Palestinian refugee women¹⁹⁶ and the employment for Palestinian refugee men is insecure or irregular, such terms of imprisonment impact the detainee and their whole family.

Domestic Violence

Women's organisations, such as the Najdeh Association and the Women's Coordinators of PARD, who offer counselling and support to women, report that the poor housing conditions in camps and gatherings, combined with men's frustration about lack of economic rights,¹⁹⁷ have an impact on the rates of domestic abuse amongst Palestinian refugee populations, although specific statistics and analysis of the causes of domestic violence in Palestinian refugee camps and gatherings in Lebanon are not available. Assessment participants felt, too, that overcrowding contributed to the causes of domestic violence in camps and gatherings.¹⁹⁸

5.6

UNCERTAINTY AND INSECURITY OF TENURE IN GATHERINGS

In the absence of legal title to land in gatherings, Palestinian refugee families can be forced to leave their homes. In reality, few cases of enforced evictions have occurred and only the threat of eviction remains. Nonetheless, many Palestinian refugee families residing in gatherings live at present in absolute uncertainty; many Assessment participants reported that they fear forcible eviction could occur at any time.

¹⁹⁵ NRC PRA, Rashidieh camp, December 2012.

¹⁹⁶ Only 13 percent of Palestinian refugee women in Lebanon are employed. AUB/UNRWA Survey, *supra* note 6, p. x.

¹⁹⁷ NRC interview, Buthaina Saad, Association Najdeh, Beirut, 10 December 2012; NRC focus group with Women's Coordinators, PARD, Saida, 11 December 2012.

¹⁹⁸ Women's housing options in cases of domestic abuse are discussed further in Section 7.3.

UNCERTAINTY AMIDST ONGOING EVICTION PROCEEDINGS

CASE STUDY 5 5.6.1

Safia lives in one of the larger houses in Al Qasmieh gathering. Both she and her husband are members of the Popular Committee in Al Qasmieh. Their house, along with 75 others in Al Qasmieh, is subject to an unenforced eviction order. The head of each of the households was prosecuted for using and occupying the land for residential purposes without a legal basis.²⁰⁰

"We don't own this land. The region was abandoned and the landowner brought people here. There was poverty in Palestine when our families came here and he [the landowner] told them to work and live here.

In 1997, the heirs of that original landowner decided they wanted the land back and started a criminal case against us. At first, the landowners said there would be a settlement but we could not buy [the home in which we lived]. Maybe if they lowered the prices and the government gave us the right to own, we would register the house but wherever we go we do not have the right to build. We were very worried so we joined together and appointed a lawyer to represent all of us.

In the end, the law is against us. The court ordered us to pay a fine of 500,000 LBP per house. It decided that we must leave the houses and pay the cost of destroying our own homes. If we did not pay the fine, the head of the house would be put in jail for one day for every 10,000 LBP we did not pay.

Finally, the political parties intervened: the speaker of the Parliament, the PLO. The court made an eviction order, but it was not enforced. The political interventions postponed the orders. I was not satisfied but I was relieved that they will not evict us.

In Lebanon, there are so many political factions. One day the political situation will change. They will tell us to leave. From one moment to another the political situation changes.

We were not satisfied because one day it will happen again. There is nothing we can do. There would be negative consequences if we took legal action because the law is with [the landowners]. There is no agreement that proves that this house belongs to us. There is no contract of registration with a lawyer. When the government allows ownership then we will have papers and proof.

Of course renting would give us relief but we prefer not to rent. UNRWA is renting the land for the camps but maybe the landowners will not renew a contract with us, especially because the price of land has gone up. Maybe they want to sell now and we will have to leave.

Eight people live in this house. As a mother, I am always afraid for my children's future. Where will they go? That's why I make sure they have an education. My daughter is studying at the university. At least if something happens to us she will not be waiting for someone to help her."

"One day the political situation will change. They will tell us to leave. From one moment to another the political situation changes."

199 See Section 6 *supra*.

5.6.2

Analysis

Uncertainty

Safia's situation is not uncommon. 75 other houses in Al Qasmieh have eviction orders issued against them that have also not yet been enforced. The first eviction case in Al Qasmieh started over 20 years ago, and the police told some families who were targeted for eviction to leave their homes. While some family members did leave, and others still live in their homes, there is great uncertainty about what the landowners will do. Assessment participants from Al Qasmieh felt that further legal action would be of no use as there are many cases where legal findings have been made against Palestinian refugee families and almost all Assessment participants invoked anecdotal evidence to support their opinions that legal action will be unfruitful. They preferred to remain quiet as they felt that any legal action at present would attract adverse attention and possibly expose them to further threats to their residency from landowners.

Currency of Eviction Orders

Although Assessment participants would prefer not to attract further attention to their situation, there may be arguments in Lebanese law for challenging the enduring validity of eviction orders issued more than 20 years ago. The specific rules relating to limitation of penalties in Lebanese law depend upon the circumstances of the case, but could offer a route to removing the continuing possibility of eviction perceived by gathering residents. It is likely that, after a significant lapse of time and in the absence of continuous efforts by the landowner or the local authorities to remove residents, the eviction orders cannot lawfully be enforced against gathering residents. However, as the authorities could then re-issue the eviction orders, the viability of this option needs to be carefully considered. Moreover, Assessment participants, in line with their dismissal of the viability of legal action generally, did not consider the use of criminal defence legal assistance as particularly useful.

Extra-Legal Resolution

Interference by politicians in judicial affairs is not uncommon in Lebanon,²⁰⁰ and the judiciary has been criticised for being too easily “manipulated by political patrons and too weak to intervene in politically charged issues or, indeed, provide a legal opinion not supported by patrons or public opinion”.²⁰¹ Surprisingly, this openness to influences outside the law has worked in some instances to the advantage of Palestinian refugees, who are able as a collective to create enough political pressure to postpone displacement. As Safia says, however, the protection offered through this type of intervention is precarious and might be best seen as a method for buying time. As one grassroots organisation worker said, “the refugees in gatherings are just waiting”.²⁰²

200 S. Takieddine, “An Independent Judiciary for a Better Justice”, in *Options for Lebanon*, N. Salam (ed), I B Tauris, 2004, pp. 23-49.

201 A. Knudsen, *supra* note 35, p. 11.

202 NRC interview with Assessment participant near to Al Rashdieh camp on 19 December 2012.

No Viable Alternatives

Like Safia, most Assessment participants who live in gatherings feel that there are no viable alternatives to the current circumstances in which they live. Aside from the impact of poverty,²⁰³ Assessment participants who live in gatherings displayed a level of complacency with regard to extra-legal agreements or landowner acquiescence of their use of the land, which appears to prevent them from considering options to better secure themselves. The possibility of renting was put to Assessment participants who live in gatherings but they responded negatively citing fear that they would not be adequately protected and that they could not afford to do so.

5.7

UNAVAILABILITY OF SERVICES IN GATHERINGS

Gatherings generally have limited sanitation and hygiene services, which fall under the authority of the local municipality. By comparison, Palestinian refugees living in camps fare relatively better; UNRWA provides all services in the camps and a comparison of conditions in camps and gatherings was consistently made by Assessment participants who live in gatherings. Still, service provision in the camps is dependent upon the dwindling resources of UNRWA and Palestinian refugees, regardless of location, look to UNRWA as the ultimate service provider. In Al Rashidieh camp, there appears to be a poorly functioning sewage system. In Al Qasmieh, PARD and the Popular Committee negotiated a contract for rubbish collection and shared the cost but residents are dissatisfied as this only occurs twice a week and rubbish builds up. Assessment participants expressed serious concern that the physical environment in Al Qasmieh and Jal al Baher alike is detrimental to the health of residents.

Medical services, too, are difficult to access for those living in gatherings far from camps, where UNRWA medical services and clinics are available. Although UNRWA provides mobile health clinics, gathering residents are dissatisfied with this as it only operates two days a week and, in emergencies, health care is not readily available.

²⁰³ See discussion in Section 5.2, *supra*.

6



Photo by: Christian Jepsen

HLP ISSUES AND CHALLENGES IN THE FAMILIAL CONTEXT

“ من بيت أبوها لبيت زوجها ”

From the house of her father, to the house of her husband

The majority of gender-specific HLP issues faced by Palestinian refugee women in Lebanon arise in the context of the familial customs of property distribution when a woman moves from the home of her family (usually her parents) to her husband's home. In general in the familial context, at no time would a Palestinian refugee woman have an independent claim to a home. Female Assessment participants identified dismissive attitudes towards women's HLP rights and specific practices in relation to divorce and inheritance as particularly problematic.

6.1

PALESTINIAN REFUGEE WOMEN AND HLP: ATTITUDES AND ASPIRATIONS

Perhaps in light of the collective insecurity experienced by Palestinian refugee communities at large, Assessment participants from this community generally expressed doubt as to the relevance of women's individual and specific HLP rights. Participants who had experienced the adverse consequences of the patrilineal practices of property distribution within Palestinian refugee families were more likely to believe that they should have individual property rights that do not depend upon their husbands or male relatives. In general, consistent patterns or attitudes towards women's individual HLP rights were difficult to determine as female Assessment participants often conflated normative property rights under *Shari'ah*, with personal opinion and expected outcomes of customary practices.

6.1.1

Age and Gender Differentials in Attitudes Toward Women's HLP Rights

Young women and girls were found to be more likely to expect complete dependence upon their future husbands for the provision of a home, compared with, for example, their mothers' generation. This is notwithstanding awareness that a Palestinian refugee woman is not held to have entitlements in the property or occupation of the matrimonial home independent of her children. Young women and girls placed strong reliance upon the protection offered by a woman's family.

6.1.2

Impact of Gender Equity Training

Of the Assessment participants, women who had undergone gender equity training by NGOs were more likely to feel that women should enjoy individual HLP rights so that they can be protected if their marriages end in divorce. Those women who either worked with women's groups in the camps or gatherings or had undergone gender equity training were vocal about the importance of women's HLP rights, even in mixed groups. Amongst male and young female Assessment participants, however, this view was generally not shared.

6.1.3

The Role of Monetary Contribution to Property

Attitudes toward Palestinian refugee women's entitlements over homes amongst Assessment participants were in some respects confused. A combination of financial contribution and the gender of the claimant were cited as determining factors as to who may exercise control over a house, but financial contribution was not necessarily seen to affect who was entitled to live in a house. While the value of the contribution to the matrimonial home was considered significant by Assessment participants in explaining why a husband's claim is prioritised over that of a wife's, the converse was not necessarily true where a woman has made a financial contribution.

6.1.4

The Role of Shari'ah

Shari'ah was seen by both male and female Assessment participants to be the most legitimate framework for property determination. However, Assessment participants – especially the men – did not feel that formalisation of Islamic rules of property distribution is necessary, such as through making a will, as they believed people are largely aware of the rules.

Attitudes from male participants regarding women's HLP rights that could be viewed as dismissive were often based on or accompanied by explanations based on *Shari'ah*. By contrast, female participants feel that their rights under *Shari'ah* are not realised because traditional practices, which run contrary to Islamic law, are preferred.

There is little in the way of adjudication on women's rights to a house carried out at the community level; women often reported being resigned to what they perceived as their rights and ability to access their rights through informal or community-based procedures. Female Assessment participants also generally reported that *wasta*²⁰⁴ and gender bias operate in the *Shari'ah* courts against women, and that women who do pursue property rights through these courts often grow weary of delays and practices therein and waive their rights to property, especially in the case of divorce.

During the Assessment, a defensive stance was observed amongst Assessment participants with regard to the legitimacy of *Shari'ah* and traditional practices alike.

6.2

INCONSISTENT HLP DETERMINATIONS IN FAMILIES EXPERIENCED IN PRACTICE

Assessment participants generally gave consistent answers to hypothetical scenarios regarding HLP-related situations. For example:

- ▶ All Assessment participants stated that a divorced woman should not stay in her matrimonial home, unless she has children.

²⁰⁴ See Annex 1: Glossary of Terms. This is a common term denoting the invocation of personal contacts to influence – usually official – decisions in one's favour.

- ▶ All Assessment participants stated that a victim of domestic abuse should return to her family home.
- ▶ All Assessment participants agreed that a widowed woman should be able to stay in the home of her deceased husband, especially if she had children.²⁰⁵
- ▶ There were consistent answers regarding designated shares of inheritance under *Shari'ah*.

These consistent answers, however, did not correspond with the individual experiences of women examined through the case studies, where there appears to be no systematised, predictable form of the determination of HLP rights upon which women can rely. Assessment participants did not feel able to generalise about how HLP-related determinations are actually made; it was often stated that resolution “varies from family to family” and a woman's rights are often arbitrarily decided and can be dependent on the goodwill of male relatives. This makes offering HLP-related advice and assistance to women difficult. Popular Committees, too, expressed reluctance to intervene in the domestic affairs of families in camps and gatherings. The result is that there is no clear mechanism for securing Palestinian refugee women's HLP rights within the family.

An *ad hoc* approach was described – especially by female Assessment participants – whereby determinations depend upon the individual circumstances of women within families and the attitudes of their families. Although female Assessment participants appeared resigned to the idea that there was little they could do to affect the outcome of an HLP disputes, they generally felt that a woman's involvement in these disputes was valuable as she might be able to negotiate more successfully than a man.

NON-INDIVIDUATED HLP RIGHTS

6.3 ———

Access to HLP Through Male Relatives or Children

6.3.1 ———



*Women sacrifice personal freedom for the community.*²⁰⁷



Assessment participants described property as a collective commodity; homes “belong”²⁰⁷ to the family with all members entitled to return to live there if need be, but a woman will generally not have the exclusive right to occupy or exclude others from her home.

Instead, a woman or girl's access to housing is obtained first through her parents, second through her husband and third through her children. This is largely an *ad hoc* process, varying from family to family. In this way it is difficult for women to predict their entitlements over a home,

²⁰⁵ See Annex 3: Quantitative Data Table.

²⁰⁶ NRC focus group with women, Qasmieh, 19 December 2012.

²⁰⁷ With the caveat that none of the Assessment participants held recognised legal title over their homes.

6.3.1.1

CASE STUDY 6

“A WOMAN SHOULDN'T LIVE ON HER OWN”²⁰⁹

Samar has two daughters. When she got divorced, she returned to her parents' home, where there were two bedrooms and seven people. She had to move out. “I could not stand it there,” she said.

“During my marriage, I lived with my husband and my daughters in our own home in Nahr el-Bared camp.²¹⁰ I considered it my own – we built a floor on top of my husband's family's home. I helped pay for the construction and, toward the end of the marriage, I paid around 70 percent of the house costs because my husband was not working. But in the end, it is my husband's.

I didn't work when I was married but I sold my gold to share in the costs of building. I don't know how much of the building I paid for. There was trust. But he betrayed that by falling in love with another woman. He remarried and moved to Beirut with his second wife. They were in Beirut during the “War of the Camps”,²¹¹ and I was living with my daughters in the house in Nahr el-Bared. Everything was destroyed.

I went to stay with my husband and his second wife in Beirut hoping to go back to Nahr el-Bared. My husband received around two or three million LBP because the house was destroyed during the War of the Camps and this was to pay rent while it was rebuilt. I asked him for rent for his daughters and he refused. He gave me nothing.

He received the money very easily because the house was registered in his name with UNRWA. I was not registered in that house – it is not possible if the husband and wife do not agree to do this.

I couldn't stand living with him and his new wife and so we came to Rashidieh, to my parents' house. It was very difficult. I said I wanted to rent my own house and my mother was very upset – she thinks I will do something bad. In the end, UNRWA is helping me with the rent for this apartment. I am renting it from a Palestinian owner in Rashidieh. In the camps you can get your rights.

I wish to return to my house in Nahr el-Bared. UNRWA will not give me the right to go and live there. They say that it is registered in my husband's name and I must get his authorisation. I know he will not give it to me. Everyone says that if I get him to agree, then the house can go to me, no problem. Really, my daughters must get something from their father. He must pay me maintenance for them both but he does not. Maybe UNRWA thinks that we can have an amicable agreement. I have not spoken to my husband yet, but I will. UNRWA knows that we are divorced but I do not know why they do not accept it. It's true I do feel secure in the apartment here in Rashidieh, but it is not about safety or security, it is because the house would be mine.



Photo by: Majida Rasul

²⁰⁸ NRC interview with Samar, Rashidieh camp, 13 December 2012

²⁰⁹ A Palestinian refugee camp in the north of Lebanon, where the famous “War of the Camps” took place. See N. Saghieh and R. Saghieh., *supra* note 4

²¹⁰ See Annex 1: Glossary of Terms.

within the family, at any stage of their lives. Perhaps deriving from the significance of the threats to Palestinian refugees' HLP rights, collectively, women's specific HLP rights are not subject to the same, unity of protection from campaigning and actions of civil society. It may further be explained by the attitude that a woman is usually comprehensively protected by her family, that familial disputes are a private matter and that, therefore, the community ought not to interfere.

Analysis

6.3.1.2

Child-Centred Claims

A number of older female Assessment participants suggested that having children offers a woman security, as it is through them that she is able to stay in a home. Samar, like many female Assessment participants, framed her claim to the apartment in Nahr el-Bared in terms of her daughters' right to maintenance from their father. In this way, claims for the benefit of children can offer a form of leverage to Palestinian refugee women.

Reluctance to Negotiate

Although Samar said she would talk to her ex-husband, she was reluctant to do so and was hoping for external assistance. There is little support for women to enter into negotiations with family members who are obstructing their claims to housing, and even the *ad hoc* HLP practices of Popular Committee are not accessible; issues within the home were described – especially by male participants – as being private matters. This appears to be exacerbated by many female Assessment participants' resignation to the male-centric system of HLP rights distribution within families.

Impact in Domestic Violence Situations

6.3.2

Assessment participants were reluctant to discuss domestic violence, generally, although female participants were more willing to express concern that it is common. Women's groups reported that abused women often stayed with the perpetrator of the abuse because they had nowhere else to go. Previous attempts to establish a shelter for abused women were unsuccessful as it was seen to be shameful for a woman to go outside the protection of her family in these instances, or to live alone.²¹¹

Assessment participants generally agreed that the best form of protection for a woman subjected to domestic violence by her spouse is to return to her original family home; an ability to exclude the perpetrator of the abuse would not be possible within the cultural norms of Palestinian society at present.

²¹¹ NRC interview with Buthaina Saad, Najdeh Association, Beirut, 10 December 2012.

6.4

NO PROPERTY CLAIM ON DISSOLUTION OF MARRIAGE

A woman's claim to property upon divorce presents a particular problem for Palestinian refugee women, as they balance what they know or believe to be their rights under *Shari'ah* with the customary practices of Palestinian society, which is centred on the natal family home. Male Assessment participants were typically certain that the rights of a divorced woman are clearly designated in *Shari'ah*, which, they believed, does not include any rights over the marital property.

6.4.1

CASE STUDY 7

“Court is for the man because the judges do not support women. I blame the judge because he did not help.”

NON-ENFORCEMENT OF DIVORCE RIGHTS IN SHARI'AH

Aziza²¹³ was born in 1953 in Jal al Baher in her parents' home, where she lived until she was 18. She moved to Beirut when she got married and lived there for 23 years with her husband and his children from a previous marriage. In around 2007, Aziza fell sick and had to undergo surgery on her stomach. Her husband told her that she was no longer useful for the house or for a husband's needs and told her to leave. That same day, Aziza left. Aziza's husband wanted to get married a third time and he had only one house. “I was happy with the children but why should I stay with him and his new wife?” Because the house was her husband's, he could tell her to leave at any time.

Aziza was divorced before the Sunni Shari'ah court in Saida. She went to the court every month for seven months and asked for her mahr²¹⁴ payment, which amounted to five million LBP. Her husband refused to pay and the judge ruled that he could pay half. “Now the courts are giving nothing to women”, Aziza said. Aziza did not have a copy of the marriage contract in which her entitlements would be set out. She did not have a lawyer because she did not have money to pay the fees.

“Court is for the man because the judges do not support women. I blame the judge because he did not

help”.

The judge's final decision in granting her husband the divorce was that Aziza would receive one million LBP. In the end, Aziza accepted the decision and waived her right to full payment. The court had delayed the divorce proceedings and the question of *mahr* payment often and she was tired of pursuing the challenge. “What can I do? This was against my will. I preferred to stay. I was happy with the children but he was bad”.

Aziza asked only her sister and her husband for help when she returned to their parents' house in Jal al Baher. She now lives with her widowed mother.

“I feel this is not my house – it is my mother's house. She worked hard on it”. Aziza believes that if a woman pays for the construction or buys furniture for a house then she will have her own house. “I would be very happy if I owned a property or had my own house. I would be very happy and glad”.

Aziza believes that it is important for women to own their own houses or at least part of it. “They should have a part of it to ensure their future”.

“I don't have my own house. I wish to have my own place, for me. There's no way to do that, no money, nothing. I just wish”.

212 Pseudonym.

213 'Dowry'. See Annex 1: Glossary of Terms.

In view of the absence of legal title to homes in camps and, generally, in gatherings, the *Shari'ah* courts cannot adjudicate on the rights to the property of these homes.²¹⁴ Thus, entitlements to unregistered or illegal properties are determined at the community or familial level and are usually based on custom, which is largely in favour of men.

Analysis

6.4.2

Property Rights as Part of Marriage Bargain

It was suggested by female Assessment participants that, if a woman were able to make a claim on the property of a husband upon divorce, he might think more carefully about giving her a unilateral divorce, which, currently is a common practice. Like Aziza, however, some women, (usually older women) were willing to accept that a house belongs to her husband and he can freely exclude her from it.

Waiver of Rights

Female Assessment participants reported that, despite having normative rights under *Shari'ah* that should be respected, divorced women, like Aziza, will often waive their rights – especially to the mahr, or dowry payment. Delays and distrust in *Shari'ah* court proceedings and obstructions by husbands in divorce proceedings were cited as the main reasons. It appears that a lack of professional support and assistance also contributes to women's waiver of rights as in Aziza's case, which forces them to accept returning to their parents' home.

Female Assessment participants – both young and old – displayed a good level of awareness of their rights under *Shari'ah*, including rights to maintenance by husbands, payment of dowry and inheritance. They had limited specific knowledge, however, of how they might protect or enforce these rights. The attitudes of female Assessment participants appeared to mirror closely the practices of Palestinian women prior to displacement. Whereas prior to displacement, women may have waived their technical rights over homes in favour of community cohesion,²¹⁵ female Assessment participants who discussed waiver of rights now described this waiver process as a result of resignation or helplessness rather than a strategic decision.

²¹⁴ It may be arguable that a woman's interest in real property arises from the beginning of the marriage if such an agreement exists between the husband and wife and if it took place before 2001, and so a *Shari'ah* court ruling on shares would only be declaratory, thus property settlement may not be an 'acquisition' for the purposes of the 2001 Law. This line of argument requires further legal research and may face an obstacle in the absence of recognition of equitable interests in land under Lebanese law.

²¹⁵ Before 1948, Palestinian society was 'overwhelmingly agrarian', and social and gender relations were organised around a system based on production and reproduction or village system, which was considered the basic unit of society. Property distribution, inheritance and disputes were dealt with according to a shared understanding that property is collective, and to be administered by the head of the village. The benefit of this system was hierarchical, dependent upon age, gender and class and, although there was a popular notion that the practices of the village system were based on Islamic law (*Shari'ah*), both gender and class discrimination were a reality. Common practices were all geared toward keeping land within the patrilineal family structure; this had a particular impact on women, who often waived their individual rights for the benefit of the family as well as to ensure continuing protection for themselves if their personal circumstances changed. N. Abdo, *Engendering Compensation: Making Women Count!*, International Development Research Centre, 2000, p. 7.

Men's Reservations

A prominent concern amongst male Assessment participants was that if a woman is given enforceable rights over the matrimonial home, she would be able to expel him from the home. This suggests an adversarial aspect to the husband-wife relationship (at least in the abstract). According to customary practices, women must return to their family home if so directed by her husband, sometimes even when she has children from the marriage.

Assessment participants also described a stigma singularly attached to divorced women, which can prevent them from finding a place of their own to live.

Familial Protection as an Obstacle to Women's HLP Rights Upon Divorce

Almost all female Assessment participants felt that it was not necessary to insist upon rights to the marital home as, if something went wrong, she could always return to her parents' home. In this way, reliance upon familial protection prevents women from seeking to secure their HLP rights prior to, during and after marriage (i.e., upon divorce). In view of the unpredictable nature of intra-familial property distribution and patrilineal customs of inheritance, however, this reliance might contribute in some cases to vulnerability.

6.5

PATRILINEAL CUSTOMS OF INHERITANCE



Photo by: Majida Rasul from Case Study 8: Rihab and her daughter

DESCENDENT INHERITANCE

Rihab lives in a house that she and her family built in Al Qasmieh. Her father died in 1975 when she was eight months old. In 1987, the family was displaced by the civil war. The land they lived on was not theirs and the owners, members of an active political faction, wanted them to leave.

"I don't like to remember those days," Rihab says. Rihab and her sisters were alone with their mother one day when people from the political faction came to their home where they used to live and threatened her and told her to take her family and leave. Their mother told the faction representatives that she was raising her family alone and asked where she and her children were supposed to go, but she received no reply. The following day the faction representatives returned, saying that they would come and destroy the house over the family's heads if they did not leave. The home was destroyed a week later, after Rihab had fled with her mother, brother and sisters.

Rihab's family went first to Al Qasmieh and stayed with a woman in her house for two years until they started working and were able to build the first few rooms of their own home in 1989. "I have worked since I was young – even when I was at school. I trained as a nurse and enjoy that very much."

In 1991 her sisters got married and would send money for the improvement of the family's home. Rihab's mother also received maintenance from the PLO, following her husband's death. All members of the family contributed to the cost of building the house in Al Qasmieh, but Rihab does not know the exact proportions. She

has a brother who also contributed to the cost of construction but now lives abroad.

In 1999, Rihab moved to Syria after she got married, but in 2002, her mother became very unwell and she asked Rihab to move back to Lebanon. Rihab and her eldest son and husband came back to Al Qasmieh and lived with her mother until she died in July 2003. After her death, Rihab continued to live in the house in Al Qasmieh with her husband and children. However, Rihab's brother now claims that the property is his, though he has not visited Al Qasmieh for 22 years. Rihab and her brother have not spoken for the past three years as a result of this rift.

"I am very sensitive. He is our only brother and I don't want him to get upset. I always think where I can go. I have asked a lot of people about my brother and everyone says he is a kind man. He is not the problem, it is his wife".

Rihab does not think that her brother would return to Lebanon if she moved out of the house – he wants a place of his own when he comes to visit.

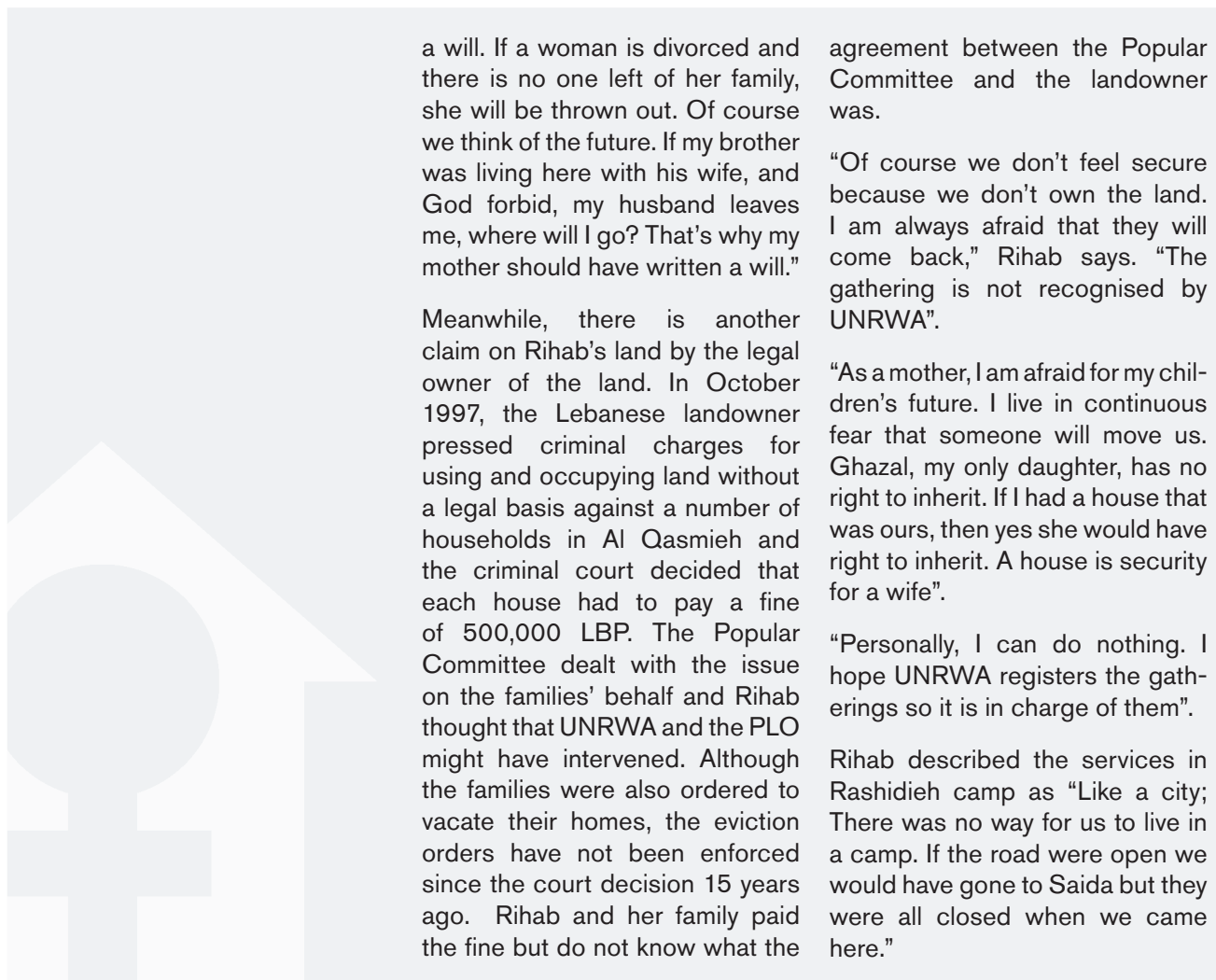
"We built this house, we put these columns on our shoulders – my mother and I. My brother paid for part of it just like me and my sisters but this is his house because he is the man. I don't want to take the house. As long as my brother is abroad I can take care of it. I don't want this house as mine – my sisters also paid. If my sisters were divorced they can come back here.

Nobody has a will. This is our only fault. I wish my mother had written

CASE STUDY 8

6.5.1

“ As a mother, I am afraid for my children's future. I live in continuous fear that someone will move us. ”



a will. If a woman is divorced and there is no one left of her family, she will be thrown out. Of course we think of the future. If my brother was living here with his wife, and God forbid, my husband leaves me, where will I go? That's why my mother should have written a will."

Meanwhile, there is another claim on Rihab's land by the legal owner of the land. In October 1997, the Lebanese landowner pressed criminal charges for using and occupying land without a legal basis against a number of households in Al Qasmieh and the criminal court decided that each house had to pay a fine of 500,000 LBP. The Popular Committee dealt with the issue on the families' behalf and Rihab thought that UNRWA and the PLO might have intervened. Although the families were also ordered to vacate their homes, the eviction orders have not been enforced since the court decision 15 years ago. Rihab and her family paid the fine but do not know what the

agreement between the Popular Committee and the landowner was.

"Of course we don't feel secure because we don't own the land. I am always afraid that they will come back," Rihab says. "The gathering is not recognised by UNRWA".

"As a mother, I am afraid for my children's future. I live in continuous fear that someone will move us. Ghazal, my only daughter, has no right to inherit. If I had a house that was ours, then yes she would have right to inherit. A house is security for a wife".

"Personally, I can do nothing. I hope UNRWA registers the gatherings so it is in charge of them".

Rihab described the services in Rashidieh camp as "Like a city; There was no way for us to live in a camp. If the road were open we would have gone to Saida but they were all closed when we came here."

6.5.2

Analysis: Case study 8

Rihab's case is a typical experience of Palestinian refugee women living in gatherings, with a combination of multiple displacements and several layers of threats to their right to continue to live in their home, resulting in grave insecurity of tenure

Resignation to Patrilineal Customs

Again, part of the difficulty in securing access to HLP rights for Palestinian refugee women at present is the widespread resignation of many of these women to the male-dominion over housing issues, relationship status and property ownership. Rihab works for the General Women's Union and delivers trainings for PARD to women. She is, therefore, highly sensitised to a women's rights discourse, but nonetheless displays clear divergence of opinion – while she will argue that women's rights are important, she is also loyal to the tradition in which she grew up. This shows that awareness-raising cannot be a means unto itself: it is vital that follow-up tools are offered to women in realising their HLP rights. Female participants conveyed that they generally felt that, although human rights awareness was valued and yielded strong,

independent thinking about women's rights, women rarely felt able to insist on these within their families.

Absence of Basis for Justification for Derogating from Patrilineal Customs

Part of Rihab's reason for not asserting her claim over the home against her brother is that she feels she does not have evidence of her entitlement, in the form of a will. It seemed that female Assessment participants felt that they required a clear justification for derogating from patrilineal customs prevalent amongst the Palestinian refugee community. The use of wills was described as uncommon by most Assessment participants, but may be growing.

Role of Popular Committees

The Popular Committees interviewed for the Assessment said that inheritance was a common issue upon which their assistance was sought – usually by men trying to resist women's claims. They reported that they did not have adequate training in dealing with these issues and often took a conciliatory approach, favouring reconciliation rather than promoting the realisation of individual rights; the collective nature of familial homes was prioritised.

Shari'ah Claims

Female Assessment participants were generally content with the rules of property inheritance under *Shari'ah* upon death of a parent,²¹⁶ but these rules are rarely followed in practice amongst Palestinian refugee communities in Lebanon. Instead, family homes pass generally to the youngest male. On occasion, a family will consider a daughter most vulnerable amongst their children and will decide to grant her certain limited rights to the family home, namely continued possession. This contravenes the strictly pre-determined ownership shares of family members in *Shari'ah*, which, if implemented, would typically afford daughters at least a small share instead of bypassing them entirely. For Palestinian refugee families in Lebanon, inheritance is usually determined based on a verbal agreement within the family, which is believed by some to offer adequate protection to the designated "heir", typically a male child or relative. However, even in these cases, after the death of the property owner, Assessment participants described how disputes often arise.

Inheritance from Husbands

It was generally agreed amongst Assessment participants that a widow should be allowed to stay living in the home of her late husband, especially if she has children and if she is elderly. This process is automated and without formality; a widow will simply continue living in her home. Widows appear to be the most secure category of women who are outside the framework of the natal family.

²¹⁶ Generally speaking, a son's share is twice that of a daughter's.

6.5.3

CASE STUDY 9

INHERITANCE

“ There are no disputes, the house will be for my daughter ”

Alia is a widow and lives with her daughter in her home in Jal al Baher. When her husband died 21 years ago, she continued to live in the home she had shared with him. “I have good children. They are good to me,” she says. Ownership of the house in which Alia lives rests with Alia’s sons. Alia has one daughter who is 30 years old and still single who continues to live with Alia in the home. “There are no disputes the house will be for my daughter”.

Alia is sure that she will keep it. “I hope that she will get married and have a good husband. She has had some proposals but I have refused because they are married and have children”. If Alia’s daughter gets married, her brothers will come and live in her house. There is no will but the children will reach an agreement amongst themselves. Alia does not believe that her daughter can or will be removed from her home.

6.5.4

Analysis

According to *Shari’ah*, a widow receives only a portion of the estate of her husband. The customary emphasis on protectionism actually benefits a widow by giving her the full home. In part, this is because the house was considered by Assessment participants to be the most valuable possession to a family and, in real terms, the simple right to use and remain in occupation is of the greatest immediate concern.

7. CONCLUSIONS

Palestinian refugee women's HLP rights are subject to multiple threats both in the formal context and the familial context. In the formal context, there is little option to offer sustainable security of tenure for Palestinian refugee families in camps and gatherings; although it will not significantly affect HLP rights in the camps, reform of the 2001 Law is crucial, particularly for the situation in the gatherings. A lack of legal awareness on HLP issues amongst the Palestinian refugee women community is detrimental to even the limited formal protection that might be pursued under the current law.

In the familial context, Palestinian refugee women are generally disempowered with regard to their HLP rights. The absence of support, encouragement and HLP advice for women exacerbates this disempowerment. The HLP rights of Palestinian refugee women are heavily intertwined with patrilineal customary practices and the perceived application of *Shari'ah*. While unmarried daughters and widows appear to enjoy the most security within their homes, divorced women and those seeking to inherit from deceased parents are the most insecure. In all circumstances, there is no predictable or regularised procedure for the determination of Palestinian refugee women's HLP rights within the family and they are often forced to rely on informal agreements within families.

Promoting an empowerment strategy for Palestinian refugee women, through the pursuit of increased access to and enjoyment of HLP rights, is a valuable way in which to encourage pro-active rights protection which is so crucial in the Lebanese context.

RECOMMENDATIONS

Formal Context

- ▶ Further understanding of the impact of the 2001 Law – Despite being enacted over ten years ago, the impact and consequences of the 2001 Law remain relatively unknown and untested. Further research is required into the actual consequences of the 2001 Law, the effects on Palestinian refugees and the identification of any obstacles to obtaining HLP rights. Such research, including a detailed review of more jurisprudence and legal opinions, would be useful to add to the conclusions of this Assessment and identify ways to challenge the 2001 Law.
- ▶ More efforts to advocate for reform of the 2001 Law – There are already efforts in Lebanon to advocate for reform of the 2001 Law, which is important recognition of the need to change the 2001 Law. Also necessary are more support and coordination for these efforts and more recognition from the domestic and international community about the need to reform the 2001 Law.
- ▶ Use of international law to challenge the consequences of the 2001 Law – Lebanon is a signatory to most human rights treaties and, with the direct effect of international law in Lebanese national courts, there is room to emphasise Lebanon's legal obligations according to these treaties, especially when there is a contradiction with domestic law. Strategies should be developed in order to determine how international law could be used to challenge the consequences of the 2001 Law.
- ▶ Improved recognition of importance of HLP rights for Palestinian refugees in Lebanon – There remains limited understanding by numerous stakeholders, including the international community, of the restricted HLP rights for Palestinian refugees in Lebanon. The effects of these restricted rights, particularly for Palestinian refugee women, have repercussions for generations of Palestinian refugees, many of whose families have been refugees in Lebanon since 1948 but who have seen their HLP rights limited or eroded over the years. It is crucial that there is an improved recognition of the lack of HLP rights for Palestinian refugees in order to address these restrictions.

Familial Context

- ▶ Further understanding of the informal and customary mechanisms for HLP rights – Access to HLP rights for Palestinian refugee women is subject to the customary practices of Palestinian society within camps and gatherings in Lebanon. Greater and more detailed understanding of the customary mechanisms in each camp and gathering is required to add to the findings of this Assessment and identify ways to improve access to rights for refugee women.
- ▶ Awareness-raising of access to HLP rights within the customary mechanisms – With a greater understanding of the informal and customary mechanisms for HLP rights, more awareness-raising amongst Palestinian refugees would provide information about the mechanisms in place and how to access rights within those mechanisms, including emphasising the importance of a woman's claim to a home as an individuated right.
- ▶ Identifying ways to strengthen access to HLP rights through customary mechanisms – Working with local stakeholders within camps and gatherings is important to identify methods to strengthen the understanding, by refugees, of the customary mechanisms and the individual security offered by HLP rights which is particularly required by Palestinian refugee women who may be less aware of their rights. A discourse that incorporates both Islamic principles and an international HLP rights framework would be most suitable when identifying relevant ways to strengthen access to HLP rights.
- ▶ Legal empowerment of Palestinian refugee women - A legal empowerment approach is important and would help mitigate against the enforced dependence on assistance experienced by Palestinian refugees and, in particular, Palestinian refugee women. This requires an approach that promotes the action of individuals in the determination and protection of their own rights.

ANNEX 1: GLOSSARY OF TERMS

Gathering Open areas of land defined by their lack of official refugee camp status or legal authority identified with responsibility for camp management but with a population of Palestinian refugees, who have a sense of being a distinct group in a geographically identifiable area and clearly defined humanitarian and protection needs.

Mahr Dowry in the form of money or possessions paid by the groom to the bride at the time of the marriage.

Nushuz Marital discord, disobedience/misconduct by the husband or the wife.

Prescription A prescription period is a pre-determined period, during which rights and obligations are legally enforceable. The period of prescription of contracts according to the Lebanese Code of Obligations and Contracts is of ten years. The period may be suspended in case of force majeure, whilst interrupted by filing a lawsuit against the debtor, by sending a notification to the debtor, or by getting the recognition of the debt from the debtor.²¹⁸

Public Notary A public notary is a public official who, depending on the Ministry of Justice, is empowered to attest deeds, agreements and other instruments, in order to give them authenticity, and to certify copies of agreements and other instruments.

Real Estate Registry The Real Estate Registry is the repository of all the recorded information about property. It was established in 1926. For a nominal fee, anyone can obtain a copy of the record of a piece of real estate.

There are two options to register a transaction. The buyer and seller can go to a public notary and sign a sale contract. Or, the parties can go directly to the Real Estate Registry office and register the sale. Similar to registering open plots, proof of ownership and municipal authorization is needed for registration of buildings.

²¹⁷ Text from N. Saghieh and R. Saghieh, *supra* note 4, p. 76.

²¹⁸ *Id.*

Real Rights The Lebanese Property Law allows the creation of certain real rights or interests in the properties, such ownership, superficies (the right to construct and own buildings on the land, without owning the land), usufruct (the right to use and enjoy the fruits or profits of another's property, without fundamentally changing its substance), mortgage (a temporary, conditional pledge of real property to a creditor as security for performance of an obligation or repayment of a debt), long-term lease (bail emphytéotique).²¹⁹

Refugee Camp Discrete, enclosed areas of land, recognised by the Lebanese government as holding official camp status and falling under UNRWA management.

Shari'ah The moral code and religious law of Islam.

Talaq Divorce initiated by the husband

Tanazul Renunciation of a legal claim.

Tawteen Permanent settlement/naturalisation.

Wasta This is a common term denoting the invocation of personal contacts to influence – usually official - decisions in one's favour.²²⁰ The term loosely translates to favouritism, patronage, nepotism (although wasta is not limited to familial connections).

²¹⁹ See A. Al-Rahami, "Wasta in Jordan: A Distinct Feature of (and Benefit for) Middle Eastern Society", *Arab Law Quarterly*, 2008, pp. 35 – 62, cf. R. Cunningham and Y. Sarayrah, "Taming Wasta to Achieve Development", *Arab Studies Quarterly*, Summer 1994.

ANNEX 2: TABLE OF PARTICIPANTS

GROUPING	PLACE OF INTERVIEW	NAME/ DESIGNATION	DATE	TYPE OF PARTICIPANT	TYPE OF METHOD
QASMIEH	Home Upper Qasmieh	Rihab al-Hussein	20.12.12 MR	B	Case study interview
		Safiah Mohammed al-Qasim	17.12.12 MR	B KI	Case study interview
		Munira al-Qasim	17.12.12 MR	B	Case study interview
	PARD Activities Centre Lower Qasmieh	Men's focus group (6)	19.12.12 LAD	B	FGD
		Women's focus group (6)	19.12.12 MR	B	FGD
	Beit Abu Mazin, Qasmieh	Popular committee (5=2W, 3M); (4 = 1W, 3M)	12.12.12 MR 20.12.12 MR	CS KI	FGD/SSI
JAL AL BAHR	Home of mother Jal al Bahr	Huda1	17.12.12 MR	B	Case study interview
	Community centre Jal al Bahr	Marwa Darwish	21.12.12 MR	B	Case study interview
		Alia Haweli	21.12.12 MR	B	Case study interview
		Men's focus group (4)	21.12.12 LAD	B	FGD
		Women's focus group (3)	21.12.12 MR	B	FGD
	Home El-Buss camp	Huda Ali Khalil Isa	18.12.12 MR	B	Case study interview
	Home of Hoda Ali Khalil Isa	Women's focus group (5)	18.12.12 MR	B	FGD
Ministry of Social Affairs	Ministry of Social Affairs Tyre Office	Wassam Abou Jahja, Ministry of Social Affairs	5.12.12	GoL	SSI
Centre for Early Intervention	Early Intervention Centre, El Buss camp	Hisham el-Ali, Soumaya Abdel Hamid	5.12.12	CS	SSI

B = Beneficiary KI = Key Informant CS = Case Study

GROUPING	PLACE OF INTERVIEW	NAME/ DESIGNATION	DATE	TYPE OF PARTICIPANT	TYPE OF METHOD
RASHADIEH	Women's Activities Centre Rashidieh camp	Samira Rafiq al-Sayed	13.12.12 MR	B	Case study interview
		Samar Salah Abou-Shammar	13.12.12 MR	B	Case study interview
		A	19.12.12	B	Case study interview
		B	19.12.12	B	Case study interview
		Men's focus group (6)	19.12.12	B	FGD
		Women's focus group (7-9)	19.12.12	B	FGD
RASHADIEH	Women's Activities Centre, Rashidieh camp	Civil society actors	7.12.12	CS KI	FGD PRA
	Agricultural plot, boundary of al Rashidieh camp	Rabia Hammad Ayub	18.12.12	B	Case study interview
RASHADIEH	Popular Committee Office	Popular Committee (5-6)	18.12.12	CS KI	FGD/SSI
Itaniyeh	Home, Itaniyeh gathering	Rahab and Hala	11.12.12	B	Case study interview
Misc.	Beirut	Ahmed2	14.12.12	N/A	Case study interview
PARD	PARD regional office, Sidon	Women's coordinators	11.12.12	CS	FGD
PWHO	PWHO Office, El Buss camp	Hisham el-Ali and Sana	6.12.12	CS	SSI
UNRWA	UNRWA Tyre Field Office	UNRWA Operations Support Officer	6.12.12	KI	SSI
	UNRWA Lebanon Field Office, Beirut	Carole Mansour; Legal department	12.12.12 14.12.12	KI	SSI
NRC Shelter Team	NRC Tyre Field Office	Hassan Mantash	12.12.12	KI	SSI
Norwegian People's Aid	NPA Office, Beirut MR	Haifa Jammal Aida Shahabi	10.12.12	CS KI	SSI
Association Najdeh	Najdeh Office, Beirut	Buthaina Saad	10.12.12	CS KI	SSI
Lawyer	Saghieh Law Offices, Beirut	Nizar Saghieh	12.12.12; 21.12.12	KI	SSI
Lebanese Palestinian Dialogue Committee	Government offices, Beirut	Khaldoun el-Sharif	4.12.12	GoL	SSI

ANNEX 3: QUANTITATIVE DATA TABLE

	AL QASMIEH		JAL AL BAHER		AL RASHIDIEH	
	MEN	WOMEN	MEN	WOMEN	MEN	WOMEN
AGE						
Up to 16						3
17-25	1	1		1		4
26-40	3	3	1	1	2	1
41+	2	2	3	1	4	
MARITAL STATUS						
Married	4	4				
Single	2	1		1		4
Divorced			4	2	6	1
Widowed						
Engaged		1				3
NRC						
No. heard of NRC	2	5	4	0	5	1
No. who report owning homes/ homes belong to them	2	3 (JOINTLY WITH HUSBAND)	4	1	5	
No. whose parents own homes	2	1		2		5
No. who rent	2				1	2
No. who built own home	2	5		3	5	
No. who believe this is registered with UNRWA	0	0	4	0	3	(CONFUSION)
No. who believe this is registered with the PC	0	0	4	0	0	7
HLP ISSUES						
No. who believe Pals should be able to own the land they live on	5 (1 NO)	6	2 (2 NO)	3	6	5 (4 NO)
No. who believe men and women face the same problems	6	6	4	3 (WORSE FOR MEN)	0	7 (BUT WOMEN WORRY MORE)
No. who have sought assistance with HLP issues	0	6 (BUT NO WASTA)	0	0	1-UNRWA 3-NGOS 2-NRC	0

	AL QASMIEH		JAL AL BAHER		AL RASHIDIEH	
	MEN	WOMEN	MEN	WOMEN	MEN	WOMEN
No. who do not feel safe, as a family	6	6	4	3	1 (RENTING) (5 - YES, BUT NOT IF THINGS GET WORSE)	3 (RENTING)
No. who do not feel safe as individuals	6	6	4	3	1 (RENTING)	3 (RENTING)
No. who feel able to make improvements/repairs	0	0	0	0	0	7
WOMEN'S RIGHTS						
No. who think it is important for women to own their homes	6 (IF HUSBAND AGREES)	5	4	3	6	7
No. who think women should have their homes registered in their names	0 (NOT POSSIBLE)	6	2	3	6 (MAYBE)	7
SCENARIOS						
Divorced women should be able to stay in their matrimonial homes	0	1 (WITH CHILDREN 4)	0	1 (WITH CHILDREN)	0	9 (IF SHE HAS CHILDREN)
Divorced women should get a share of the value of the property	0	5	0	0	0	7 (2 IF CHILDREN)
Daughters should inherit	NOT RELEVANT	6	0 (NOTHING TO INHERIT)	1	6	9
Should be able to specify how much		0		3	0	9
GBV victim should go back to her parents home	6	0 (SHOULD ALWAYS STAY IN HER HOME)	4	3	6	9
GBV victim should be able to exclude the perpetrator of violence	0	6	0	0	0	9
Widowed women should be able to stay in her home	6	6 (WITH CHILDREN)	4	3 (WITH CHILDREN)	6 (WITH CHILDREN BUT MOVE OUT IF REMARRIED)	9
Women should be involved in the handling of HLP disputes	6	6	4	0 (DIDN'T PAY)	6	9
Know about the 2001 law	6	0	4	2	6	7

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(Footnotes)

1 Pseudonym.

2 Pseudonym



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