

Stateless & Deported



PALESTINIAN REFUGEES FACING DEPORTATION FROM CANADA

2003-2004

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1. Introduction

This document addresses the cases and circumstances surrounding the deportation of Palestinian refugee claimants from Canada. Presented here are the backgrounds of individual cases, figures representative of the ‘facts on the ground’, decisions made by the Refugee Protection Division (RPD) of the Immigration and Refugee Board (IRB) and their consequences.

By concentrating on the extensive documentation produced by renowned International human rights organizations, the Canadian government’s acknowledgment of the realities faced by Palestinian refugees, and bringing into the fold Canadian legal doctrine and international human rights standards, the work underscores the cruel conditions existing under military occupation and in Palestinian refugee camps, and the oppressive reality as experienced by the claimants. The intention here is to clarify the misunderstandings, address the bias, and highlight the wrongful findings made by the IRB in its decision-making process. Also, we hope to clearly identify the unique situation of the stateless Palestinian refugees and the world to which they are being forced to return if their removal orders are not stayed immediately.

While reading this document, we ask that you please recognize this work focuses primarily on numbers and cases, situations and judgment orders. Each and every ‘situation’ discussed within this greater document is in fact one human being who has a personal history, family and friends, a life potentially torn from them if deported. Please bear in mind that if returned to the refugee camps, the individuals discussed hereafter will face persecution and a real threat to their lives; Canada is not returning case numbers to refugee camps, but men and women who may not survive the conditions to which they are returned.

2. General overview: Palestinian refugee claimants in Canada

2.1. Who are the Palestinian refugee claimants?

Palestinians who have claimed refugee status in Canada are stateless refugees whose parents and grandparents were expelled from their homes in Palestine in 1948 and who, for the past 56 years, have been living in extremely difficult conditions in refugee camps. These stateless Palestinian refugees fled the continued collective and individual persecution they faced, and sought the protection of Canada, in hopes of building a secure future. The Palestinian refugees in Canada are from the refugee camps in Lebanon and from the Occupied Territories. Although the refugee claimants consist of single men and women, as well as families, the great majority are young men ranging between the ages of 20-35 years of age.

2.1.1. Palestinians from the refugee camps in Lebanon

The majority of the Palestinian refugee claimants fled from different refugee camps in Lebanon. Most of them are from Ein El-Hilweh refugee camp in Saida (South of Lebanon). Others came from Bourj Al-Barajneh, Shatila, Bourj Al-Shamali, Rashidiyeh, El-Bass, Baddawi and Nahr-el-Bared refugee camps.

Most of the Palestinians coming from Lebanon carry refugee travel documents issued by the Lebanese government. These documents are often stripped from them indiscriminately and unconditionally by the Lebanese government, thereby restricting their freedom of travel.

2.1.2. Palestinians from the Occupied Territories

Some of the Palestinian refugees have fled from the Occupied West Bank and Gaza Strip. They have escaped from the atrocities committed daily by the Israeli army against them collectively and individually. The majority are from refugee camps in the West Bank and the Gaza Strip, while others come from cities such as Hebron and Nablus.

Most of the Palestinians coming from the West Bank and the Gaza Strip carry travel documents issued by the Palestinian Authority under strict inspection of the Israelis who control all border crossings into the Occupied Territories.

2.2. How many Palestinians have claimed refugee status in Canada?

2.2.1. Official statistics of Palestinian refugee claimants in 2002-2003

In 2002-2003, the Immigration and Refugee Board (IRB) received a total of 38,900 refugee claims.¹ Of these, 112 were claims filed by Palestinians from the Occupied Territories (West Bank & Gaza Strip).²

Unfortunately, it is **not possible to get definite statistics on the total number of Palestinian refugee claimants in Canada** due to the fact that official statistics are classified by country. Palestinian refugee claimants are stateless refugees and therefore hold Palestinian refugee travel

¹ Immigration & Refugee Board, *Performance Report For the period ending March 31, 2003*.

² Immigration & Refugee Board, *Rapport par pays, Année financière 2001-2002*.

documents issued by their host country. As such, Palestinian refugee claimants from Lebanon are classified as refugees coming from Lebanon alongside Lebanese nationals who claim refugee status in Canada.

In order to get a more accurate number of Palestinian refugee claimants coming from the refugee camps in Lebanon, one would have to re-open all files from Lebanon and separate Palestinian refugees from Lebanese nationals. On the 17th of April 2003, Mr. Simon Perusse, regional director of the Immigration and Refugee Board (IRB) in Montreal, informed the *Coalition Against the Deportation of Palestinian Refugees*³ that this was not possible.

2.2.2. List of Palestinian refugee claimants facing deportation in 2004

The following numbers are made up of refugee claimants in direct and regular contact with the *Coalition Against the Deportation of Palestinian Refugees* and are not official figures. The figure is surely higher than the one provided since the *Coalition* is mainly in contact with the Palestinian refugee claimants residing in Montreal and only a small number of claimants who are residing in other Canadian cities. The figure will be updated as Palestinian refugee claimants in other cities self-organize with the support of local organizations.

As of February 2004, the figures of the *Coalition Against the Deportation of Palestinian Refugees* show that:

- There are over 135 Palestinian refugee claimants, the great majority of them residing in the Montreal region.
- Approximately 90% of the refugee claimants are from the refugee camps of Lebanon.
- Approximately 10% of the claimants are from the Occupied Palestinian Territories.
- Of the over 135 Palestinian refugee claimants:
 - 66 have been accepted as “Convention refugees” by the Refugee Protection Division of the Immigration and Refugee Board;
 - **At least 40 are currently facing deportation⁴, of whom 9 have overstayed their removal orders and are living underground;**
 - At least 14 were deported from Canada in 2003-2004, and;
 - At least 15 are awaiting their respective hearings at the Refugee Protection Division of the Immigration and Refugee Board.

³ *The Coalition Against the Deportation of Palestinian Refugees* was formed on February 2003, and is composed of the Palestinian refugees facing deportation and supporters from the Montreal community.

⁴ ‘Facing deportation’ means: rejected by the IRB and applying for judicial review at the Federal Court, applying for the Pre-removal Risk Assessment (PRRA) or awaiting removal. Once a decision is rendered by the IRB the procedures that follow rarely amount to the overturning of the decision. Please see section 4.6.6. at page 34, below.

2.3. How did the Palestinian refugee claimants arrive in Canada?

Due to the difficulty stemming from geographical distance and boundaries, as well as the near impossibility for Palestinians to receive Canadian visas, it is extremely difficult for them to reach Canada and claim refugee status.

2.3.1. Most Palestinian refugees from Lebanon came in to Canada via the United States

The majority of Palestinian refugees from Lebanon went to the United States on student visas. After a few weeks, these same refugees came to Canada where they then applied for refugee status.

In 2000-2001, the United States embassy in Beirut issued Student Visas to some Palestinian refugees receiving doctored acceptances from an American University in Texas. Once uncovered and due to the strict measures imposed on visa requirements after the events of September 11th 2001, this channel was completely closed. It was during this short period that the great majority of the Palestinian refugees currently facing deportation were able to seek refuge in Canada.

Since then, it has become increasingly rare for Palestinian refugees from Lebanon to come into North America, and more specifically Canada. The Palestinian refugees came to Canada in hopes of finding a more humane refugee determination system affording them the protection they sought.

2.3.2. Other Palestinian refugees arrived directly to Canada

A smaller number of Palestinian refugees from the Occupied Territories and from Lebanon arrived in to Canada on student visas and to a much lesser extent on visitor visas in order to claim refugee status. This means of entering into Canada has become significantly more difficult due to the worsening conditions in the Occupied Territories: it is extremely difficult for Palestinians living under military occupation to travel to Canadian immigration offices. Moreover, Palestinians living under occupation or in the Palestinian refugee camps in Lebanon rarely meet the necessary visa requirements.

An even smaller number of Palestinian refugees desperately fled the persecution they faced and entered Canada with false documentation in the hopes of claiming refugee status.

2.4. Life in Canada for Palestinian refugee claimants

Of the many painful challenges Palestinian refugees face in this country, the main one is that of having their very claim for refugee status heard and accepted. This lengthy process greatly affects their stay in Canada in a myriad of ways, both negative and positive. Below, we look to the dynamics specific to the Palestinian refugees, and the ways in which their daily lives have been altered, in order to integrate within Canadian and Quebecois society.

2.4.1. Language

The mother tongue of all Palestinian refugees is Arabic. Many of the Palestinian refugees in Canada arrived with a working knowledge of the English language. Since then, they continue to work intensively in an effort to ameliorate their English language skills, in order that they may

reach a good level of fluency. Many of them have already attained such a fluency in comprehension, reading, and writing.

Further, a smaller group of the Palestinian refugees possess an excellent knowledge of the French language. Many are taking the free French classes offered by the Quebec Government, substantially improving their knowledge of the French language.

2.4.2. Education

Refugees have to obtain a Student Authorization Permit, which is rarely issued, in order to be allowed to study in Canada during the refugee determination process. Furthermore, coming to Canada with little financial assets or assistance, many of the refugee claimants are incapable of affording the rising cost of post-secondary education, and thus financially prohibited from attending either college or university. Student Financial Aid is only accessible after they have obtained Permanent Resident status.

Incapable of affording college or university tuition during the refugee determination process, many of the Palestinian refugee claimants have actively sought employment opportunities; most of the time receiving minimum wage.

Most Palestinians have proved to be motivated in their work, actively contributing to their new country and saving for the time they can pursue higher education. Being young and ambitious, they have unlimited potential to contribute to the greater Canadian picture, if given the opportunity.

2.4.3. Employment

Most of the refugees received work permits for the duration of the refugee determination process. Eager to work, many of the refugees faced setbacks in securing employment. Setting aside the current economic and political climate of Canada, many factors have affected this situation. Their ‘non-status’ results in them having a Social Insurance Number beginning with 900, making it impossible to find long term work. The results are short-term, low-wage, menial jobs. Moreover, the reluctance of fellow Canadians to recognize their educational and professional credentials has played a significant role in contributing to this glass ceiling. Nevertheless, the Palestinian refugees have attempted to secure jobs, even those for which they are over-qualified.

Additionally, many of the Palestinian refugees have degrees that are recognized in Canada by the proper accreditation board. While most of the refugees are already well established and entirely self-sufficient in Canada, if they were to receive a permanent social insurance number they would be able to secure employment in their professional field.

2.4.4. Financial Situation

Although refugees experience some initial financial difficulties, many of the barriers they face fall away once their claims for refugee status is approved. Essentially, the Palestinian refugees are motivated, dedicated, educated, and hard-working individuals interested in continuing both their education and/or professional careers here in Canada. They have come to Canada for refuge, as this is a safe country where they can improve their living environment and attain equal rights. They have and will use every opportunity available to reach their intended goal of success and security.

2.4.5. Social Situation

Palestinian refugees do not face any major problems acclimatizing to Canadian and Quebecois society. Like any person in unfamiliar surroundings, they encounter normal and almost routine challenges of adapting to a different living environment. Fleeing from violence and persecution, and leaving behind loved ones is certainly a struggle, yet the Palestinian refugees have found support from the already large numbers of Canadian Arabs in Montreal, who aid in the maintenance of the community's social fabric.

However, it is interesting to note that the refugees whose claims have not yet been studied or accepted endure a situation that is best described by the following excerpt from an article by Hamdi Mohammed:

You start trying to make a new life and "get documented." You go through the immigration process, still thinking that things should be just fine. Once you get your papers, you will start making a life for yourself and your family. You and your wife will get jobs in your professions, your children will go to school, you will be settled [...].⁵

Unfortunately, things are not so simple, and many of the refugee claimants are relegated to the defining characteristic of 'Case Number', rather than individual human beings. The frustration of this near obliteration of identity is best captured by Mohammed when he explains that:

Besides, I am a professional and have many skills that can contribute to the country. But you find out that those skills are worth nothing here. Your social and historical past is obliterated. You are now a "refugee." That is all you are allowed to be. You are lumped in with people with whom you rarely have anything in common. You are homogenized. You find that everywhere you go people analyze you through the problems you are facing, not who you really are.⁶

⁵ Mohammed, Hamdi. "Waiting to live again: the realities of refugees in limbo", *The Catalyst*, October-November 2001.

⁶ *Ibid.*

3. Are Palestinian refugee claimants facing persecution according to the *Immigration and Refugee Protection Act*?

3.1. Legal Definition of “*Refugee*” in Canada⁷

Section 3(2)(b) of the *Immigration and Refugee Protection Act*⁸ states that one objective of that Act is to “affirm Canada’s commitment to international efforts to provide assistance to those in need of resettlement.”

The Refugee Protection Division (RPD) of the Immigration and Refugee Board (IRB) is responsible for deciding claims for refugee protection made by persons from within Canada. Canada has an obligation to grant protection to refugees and other persons in need of protection under a number of United Nations Conventions, including:

- The 1951 Convention Relating to the Status of Refugees,
- The 1966 International Covenant on Civil and Political Rights, and;
- The 1984 Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

The Refugee Protection Division of the IRB determines whether people who appear before it are “Convention refugees”⁹ or “Persons in need of protection”¹⁰. The decisions are now usually made by a single board member – referred to in this document as an IRB member.

The *Immigration and Refugee Protection Act*¹¹, s. 96, states that:

96. A Convention refugee is a person who by reason of a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion,

(a) is outside each of their countries of nationality and is unable or, by reason of that fear, is unwilling to avail themselves of the protection of each of those countries, or

(b) not having a country of nationality, is outside their country of former habitual residence and is unable or, by reason of that fear, unwilling to return to that country.

⁷ Immigration and Refugee Board, *Refugee Protection Division*, online at <http://www.cisr.gc.ca/en/about/tribunals/rpd/index_e.htm>

⁸ *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.

⁹ *Convention Relating to the Status of Refugees*, 189 U.N.T.S. 2545, 22 April, 1954; *Protocol Relating to the Status of Refugees*, 606 U.N.T.S. 8791, 4 October, 1967.

¹⁰ *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, s. 97(1).

¹¹ *Supra* note 8.

3.2. Country of Persecution in the case of Palestinian refugee claimants

Once in Canada, the Palestinian refugee claimants are outside their *country of former habitual residence* as they are in fact stateless, be it in Lebanon or in the Occupied Territories.

According to the case law in Canada:

...former habitual residence implies a situation where a stateless person was admitted to a country with a view to enjoying a period of continuing residence of some duration. [...] The claimant must, however, have established a **significant period of de facto residence** in the country in question.¹²

Palestinian refugee claimants coming from Lebanon have clearly ‘established a significant period of de facto residence’ as they have resided in refugee camps in Lebanon since birth, camps which have existed for over 56 years.

Similarly, Palestinian refugee claimants from the Occupied Territories have resided in cities, villages and refugee camps in their homeland – which is under Israeli military occupation.

3.3. Persecution faced by Palestinian refugee claimants

As stated by the case law, “to be considered persecution, the mistreatment suffered or anticipated must be serious, i.e. it must constitute a key denial of a core human right.”¹³

In determining what is considered persecution the Supreme Court said in Ward v. Canada.¹⁴

Underlying the Convention is the international community’s **commitment to the assurance of basic human rights without discrimination**. This is indicated in the preamble to the treaty as follows:

CONSIDERING that the Charter of the United Nations and the Universal Declaration of Human Rights...have affirmed the principle that **human beings shall enjoy fundamental rights and freedoms without discrimination**.

...

Hathaway,...at p.108, thus explains the impact of this general tone on the treaty of refugee law:

The dominant view, however, is that refugee law ought to concern itself with actions which deny human dignity in any key way and that the sustained or **systemic denial of core human rights** is the appropriate standard.

Moreover, the court continues to hold that “what constitutes a basic human right is determined by the international community, not by any one country. At the same time, in determining whether anticipated actions would constitute fundamental violations of basic human rights, it is acceptable to consider Canadian law.”¹⁵

As such, the violations committed against the Palestinian refugee claimants, as will be shown in this section, undoubtedly constitute persecution.

¹² *Maarouf v. Canada (Minister of Employment and Immigration)*, [1994] 1 F.C. 723 (T.D.)

¹³ *Canada (Attorney General) v. Ward*, [1993] 2 S.C.R. 689, 103 D.L.R. (4th) 1, 20 Imm. L.R. (2d) 85; *Chan v. Canada (Minister of Employment and Immigration)*, [1995] 3 S.C.R. 593.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

Furthermore, it is well noted in the case law that “the claimant may be subject to a number of discriminatory or harassing acts. While these acts may individually not be serious enough to constitute persecution, they may cumulatively amount to persecution.”¹⁶ Many of the acts committed against the Palestinian refugee claimants, when investigated individually, amount to persecution and there is also no doubt that the totality of these violations amount to persecution.

3.3.1. Palestinian refugees in Lebanon¹⁷

Palestinian refugees in Lebanon are the descendents of Palestinian families who were expelled from their homes in Palestine in 1948. For the past 56 years, Palestinian refugees in Lebanon have continued to live in horrific conditions inside refugee camps. Their right to return to the homes they fled in 1948 continues to be completely denied by Israel, in direct violation of the following international legal instruments:

- UN General Assembly Resolution 194, re-affirmed over 110 times by the United Nations General Assembly since 1948;
- UN General Assembly Resolution 3236 and 52/62;
- The 4th Geneva Convention;
- The Universal Declaration of Human Rights;
- The International Covenant on Civil and Political Rights, and;
- The International Convention on the Elimination of All Forms of Racial Discrimination.

The denial of this individual and inalienable right has led stateless Palestinian refugees into a life of misery in refugee camps throughout neighboring host countries, and particularly in Lebanon.

It is recognized that Lebanon is in violation of a plethora of basic human rights. In 2003, Amnesty International reported that the treatment of stateless Palestinians in Lebanon is in clear violation of:¹⁸

- The International Covenant on Economic, Social, and Cultural Rights;
- The International Covenant on the Elimination of All Forms of Racial Discrimination;
- The Convention on the Rights of the Child;
- The International Covenant on Civil and Political Rights;
- The Convention on the Elimination of All Forms of Discrimination Against Women, and;
- The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Canada has either ratified or acceded to each of these instruments.

¹⁶ *Madelat, Firouzeh v. M.E.I., Mirzabeghui, Maryam v. M.E.I.* (F.C.A., nos. A-537-89 and A-538-89), MacGuigan, Mahoney, Linden, January 28, 1991.

¹⁷ See Appendix I: Persecution faced by Palestinian refugees in Lebanon, below.

¹⁸ Amnesty International, “*Lebanon: Economic and Social Rights of Palestinian Refugees*”, 2003 Report, online at <<http://web.amnesty.org/library/Index/ENGMDE180172003>>

These violations are the result of the systematic discrimination and persecution of Palestinian refugees in Lebanon, best illustrated by the following:¹⁹

- **No right to employment or social security:**

Palestinian refugees are restricted from working in over 70 professions; they are barred *de jure* from practicing several professions such as law, medicine, pharmacy, and journalism. Furthermore, only 1% of the Palestinians in Lebanon manage to secure the mandatory work permit required by the Lebanese government, in order to benefit from regular jobs. Palestinians are also prohibited from obtaining social security when they are able to secure a job. [See Appendix I, page iii]

- **No right of ownership and no right to adequate housing:**

Palestinians are restricted from rebuilding or redeveloping refugee camps and are forbidden from owning or inheriting property. [See Appendix I, page iv]

- **No freedom of expression and no political rights:**

Palestinian refugees have no political rights and, for fear of reprisal, they are often afraid to express their opinions. [See Appendix I, page v]

- **No freedom of association:**

Palestinians are not permitted to organize and form associations unless done through a Lebanese citizen. [See Appendix I, page vi]

- **Restricted freedom of movement:**

Palestinians are subjected to regular identity checks at military checkpoints at the entrance and exit of the refugee camps. [See Appendix I, page vi]

- **Restricted access to public education:**

Lebanese schools and universities operate on quota-systems that restrict access to Palestinian refugees; only 20% of the Palestinian refugees who apply are able to have access to Lebanese education. [See Appendix I, page vii]

- **Limited access to public healthcare:**

Public hospitals are largely insufficient, and the majority of the population relies on private hospitals that are too costly for most Palestinians. UNRWA has only been able to provide basic medical services as subsidies for hospitalization have declined due to UNRWA's financial constraints. [See Appendix I, page viii]

- **No legal protection & statelessness:**

Due to their particular situation as stateless people, Palestinian refugees in Lebanon have been denied virtually every available means of securing their basic rights. UNRWA's mandate does not provide protection for Palestinian refugees nor can they appeal to the assistance of UNHCR whose mandate specifically exempts Palestinians from its protection. [See Appendix I, page ix]

- **Arbitrary arrest, detention, and harassment:**

Palestinians are often victims of arbitrary arrest, detention, and harassment by the state security forces and rival militias in the refugee camps. [See Appendix I, page vi]

¹⁹ *Supra* note 17.

3.3.2. Palestinian refugees from the Occupied Territories²⁰

As for the Palestinian refugee claimants from the Occupied Territories, they continue to live under the illegal and brutal Israeli military occupation. The Israeli government, its military occupation, and all actions that derive from such an occupation, are in violation of many U.N. resolutions and International conventions such as:

- UN resolutions 194, 242, 338, 1397, 1402, and many more;
- The 4th Geneva Convention;
- The Hague Regulations (Hague II, Hague IV...);
- UN Code of Conduct for Law Enforcement Officials;
- The International Covenant on Civil and Political Rights;
- The International Covenant of Economic, Social, and Cultural Rights;
- The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- The International Covenant on the Elimination of All Forms of Racial Discrimination, and;
- The Convention on the Rights of the Child.

Canada has ratified or acceded to each of the listed international covenants and conventions.

The violations committed by the Israeli authorities have systematically discriminated against, persecuted, and shattered the lives of the Palestinians whose fundamental human rights continue to be utterly denied. These violations include.²¹

- **Injuries, killings and the use of lethal gunfire:**

Between September 2000 and November 2003, over 2,755 Palestinians were killed – of which 460 were children - and 28,000 were injured, the majority of whom are civilians. The principal reason for most deaths is the deliberate policy of allowing lethal gunfire in situations where Israeli soldiers are not in danger. [See Appendix II, page i]

- **Shelling, shooting, aerial bombardment and indiscriminate use of violence:**

Palestinian communities are frequently subjected to indiscriminate shelling and shooting in residential areas, in some places every night. The indiscriminate use of violence is also illustrated by the use of flechette shells in densely populated areas such as Gaza. [See Appendix II, page ii]

- **Extra-judicial assassinations:**

From October 2000 to April 2003, the Israeli occupation forces killed more than 230 Palestinians, including 80 children, women and innocent bystanders, in assassination actions. [See Appendix II, page ii]

- **The use of Palestinians as human shields:**

Israeli soldiers commonly use Palestinians as human shields i.e. civilians are placed in front of Israeli soldiers as they move toward a target. [See Appendix II, page ii]

²⁰ See Appendix II: Persecution faced by Palestinians in Occupied Palestine, below.

²¹ *Ibid.*

- **The demolition of hundreds of houses and the destruction of thousands of trees and thousands of acres of agricultural land:**

The Israeli army has destroyed an estimated 4000 homes over the past three years, leaving thousands of people homeless, many of whom are women, children and the elderly. Israel has also uprooted thousands of trees, and destroyed thousands of acres of land in the Gaza Strip. In almost all the cases of demolition, the houses were occupied and the residents fled when the bulldozers appeared at their doorsteps. [See Appendix II, page iii]

- **Land confiscation & the wall:**

Israel is presently building a wall that, when completed, will be over 450 kilometers in length. This is a clear act of territorial annexation which has serious implications as it violates the prohibition on the forcible acquisition of territory and the right to self-determination. [See Appendix II, page iv]

- **Checkpoints:**

There are 300 checkpoints or roadblocks in the occupied West Bank. Every day, thousands of Palestinians must pass through checkpoints in order to travel from home to work, to reach schools and hospitals and to visit friends. Accounts of rudeness, humiliation and brutality at the checkpoints are legion. When at all possible, traveling even a short distance between West Bank towns and villages usually entails a lengthy, costly and potentially dangerous journey for Palestinians. [See Appendix II, page iv]

- **Sieges, curfews and closures:**

Since September 2000, Israel has imposed a total closure on the Occupied Territories. West Bank towns and villages are placed under 24-hour curfew much too often and for prolonged periods. [See Appendix II, page v]

- **Imprisonment, administrative detentions and torture:**

28,000 Palestinians have been detained by the Israeli army since the outbreak of the Intifada. Presently, there are approximately 5700 prisoners. There are 66 women prisoners detained in Al-Ramleh prison and about 200 boys under the age of 18 who live under very difficult conditions of detention. Moreover, it is common practice for Israeli security forces to torture Palestinians during interrogation. [See Appendix II, page vi]

- **Attacks on medical personnel:**

The Israeli army often denies access to ambulances, which often come under attack, and are forced to leave the scene. Between September 2000 and June 2003, the Palestine Red Crescent Society recorded 255 Israeli attacks on ambulances. 118 ambulances have been damaged, some more than once. [See Appendix II, page viii]

- **Restricting access to food, causing malnutrition:**

The already restricted access to humanitarian aid is worsening and has caused a dramatic decline in the standard of living among Palestinians in the Occupied Territories. 60% of the Palestinian population is living below the poverty level, 22% of Palestinian children under 5 are suffering from malnutrition and 9.3% from acute malnutrition. [See Appendix II, page x]

It is important to emphasize that the conflict is not between two states or two armies but between an occupying army and an unprotected population that continues to live under this illegal occupation. Furthermore, all of these violations have been committed against a population of just over 3 million people, a size close to that of the Greater Montreal area.

3.3.3. Repetitive and Persistent persecution

In order to assess that the mistreatment is actually persecutory for the purposes of refugee determination, “the second criterion is that, generally, the mistreatment must be repetitive and persistent.”²²

In the case of the Palestinian refugees in Lebanon, the persecution is clearly repetitive and persistent and has been for many years. The denial of the fundamental human rights of the Palestinian refugees in Lebanon is not only a result of the actions of state authorities but has been an inherent part of the country’s legislation. “The harsh discriminatory practices by the Lebanese government and the incapacity of UNRWA to fulfill its mandate have driven Palestinian refugees into a situation characterized by abject poverty, isolation, and persecution”.²³ As it is a basic element of Lebanese state policy, the persecution is repetitive and persistent.

The persecution of the Palestinian refugee claimants is clearly recurring and persistent in the Occupied Territories. Palestinians have lived under Israeli military occupation in the West Bank and the Gaza Strip for over 36 years and, as such, have been subjected to many atrocities and human rights violations at the hands of the Israeli military forces. These violations have reached an alarming level since the outbreak of the second Intifada on September 28th 2000. As noted by the latest reports of renowned international human rights organizations, the situation continues to worsen.²⁴

3.3.4. Canadian acknowledgment of danger & persecution

There is clear Canadian acknowledgement of the danger and persecution faced by Palestinians in the areas they fled. This acknowledgment is outlined by the travel advisory issued by the Department of Foreign Affairs and International Trade:

Canadians should not travel to the West Bank or Gaza Strip, which continue to be affected by serious violence. **Canadians in the West Bank and Gaza Strip should leave as they are at high risk.** They may, however, encounter difficulties departing these territories during times of Israeli closures or curfew, which are frequent. Crossing points into the West Bank and Gaza and other checkpoints generally remain open, although frequent and unannounced closures and other restrictions are being imposed.²⁵

Canadians should not visit **Palestinian refugee camps** (in Lebanon), **where the security situation is often tense.**²⁶

²² *Rajudeen, Zahirdeen v. M.E.I.* (F.C.A., no. A-1779-83), Heald, Hugessen, Stone, July 4 1984.

²³ Sherifa Shafie, “*Palestinian Refugees in Lebanon*”, Forced Migration Online Research Guide (2003), online at <<http://www.forcedmigration.org/guides/fmo018/fmo018.pdf>>.

²⁴ *Supra* note 20.

²⁵ Department of Foreign Affairs and International Trade, Travel report - Israel, the West Bank and Gaza – valid as of March 4, 2004. online at <<http://www.voyage.gc.ca/dest/report-en.asp?country=135000>>.

²⁶ Department of Foreign Affairs and International Trade, Travel report – Lebanon – valid as of March 4, 2004. online at <<http://www.voyage.gc.ca/dest/report-en.asp?country=159000>>.

Moreover, this acknowledgment is confirmed by the following Canadian statements at the United Nations:

The humanitarian situation in the Palestinian territories continues to deteriorate... We have raised **serious concerns regarding the humanitarian situation in the Palestinian Territories** with the Israeli authorities, and have consistently called on Israel to honour its obligations under international law, including those set out in the Fourth Geneva Convention.²⁷

...the dire humanitarian and economic situation in the Palestinian territories must be meaningfully addressed. Deepening poverty and malnutrition, particularly among Palestinian women and children, are chilling indications of the seriousness of the current situation. Besides becoming a grinding, daily routine for millions of Palestinians, **widespread curfews and closures have impeded humanitarian access to those in need.** In accordance with its obligations under international law, Israel must facilitate the delivery of humanitarian aid and ensure that Palestinians have full and unhindered access to basic needs including food, water and medical supplies.²⁸

Furthermore, Canada chairs the Refugee Working Group of the Multilateral Peace Process on the question of the Palestinian refugees. In May 1997, Canada led a mission to report on the situation of Palestinian refugees in Lebanon. In its final report, the mission concluded:

...the **Palestinian refugees in Lebanon have the most serious problems**... They face problems related to obtaining education beyond the primary level, inadequate access to hospitalization, difficulties in respect of shelter improvement, serious limitations on their access to employment in Lebanon, and restrictions on their ability to return to Lebanon if they travel abroad.²⁹

Since 1997, according to extensive documentation, the conditions of the Palestinian refugees in Lebanon continued to deteriorate dramatically.³⁰

3.4. Grounds of Persecution of Palestinian refugee claimants

“For the claim to succeed, the persecution must be linked to a Convention ground, in other words, there must be a nexus.”³¹ More precisely:

... a claimant's fear of persecution must be by reason of one of the five grounds enumerated in the definition of Convention refugee - race, religion, **nationality, membership in a particular social group** and political opinion. There must be a link between the fear of persecution and one of the five grounds.³²

²⁷ Department of Foreign Affairs and International Trade, Statement by the Representative of Canada to the United Nations to the Special Political and Decolonization Committee (Fourth Committee) Item 83: United Nations relief and works agency for Palestine refugees in the near east – November 3rd 2003. online at < http://www.dfait-maeci.gc.ca/Peaceprocess/Canadian_Statement_4th_Committee_Nov3-en.asp>

²⁸ Department of Foreign Affairs and International Trade, Canadian statement on the Middle East to the 59th Session of the United Nations Commission on Human Rights – 2003. online at < http://www.dfait-maeci.gc.ca/Peaceprocess/canada_statements_Middle_East_59th_Session-en.asp>.

²⁹ Department of Foreign Affairs and International Trade, Palestinian refugees: Report of the international mission to Lebanon – May 20-23, 1997- <http://www.dfait-maeci.gc.ca/Peaceprocess/lib_rap-en.asp#5>

³⁰ *Supra* note 17.

³¹ Immigration and Refugee Board, *Interpretation of the Convention Refugee definition in the case law* (Legal Services, December 31, 2002), at page 3-1.

³² Ward, *supra* note 13.

The Palestinian refugee claimants are persecuted due to their nationality and their particular social group. As stated by the Supreme Court of Canada in Ward,³³ one of the categories that defines ‘particular social groups’ is the existence of an “innate or unchangeable characteristic”. In Lebanon and in the Occupied Territories, the **Palestinian refugee claimants are persecuted solely because they are Palestinian.**

In fact, “Palestinians in Lebanon are *de jure* and *de facto* discriminated against in relation to other non-citizens with regards to the right to work and the right to social security (and) with regards to the rights to own and inherit property”.³⁴

3.5. Palestinian refugee claimants have a well-founded fear of persecution

The next criterion for refugee determination is the existence of a well-founded fear of persecution. “The claimant must establish, on a balance of probabilities, that there are “good grounds” for fearing persecution. This may also be stated as a “reasonable” or even a “serious possibility” as opposed to a mere possibility that the claimant would be persecuted if returned to the country of origin.”³⁵ Furthermore, “[a] claimant may have a subjective fear that he or she will be persecuted if returned to his or her country, but **the fear must be assessed objectively in light of the situation in the country** to determine whether it is well founded.”³⁶

Extensive documentation on the persecution faced by Palestinian refugee claimants in Lebanon and the Occupied Territories clearly proves that their subjective fear is well founded and justified considering the objective situation on the ground.³⁷

Additionally, “the availability of national protection forms part of the analysis of whether the claimant's fear is well founded.”³⁸ In the case of the Palestinian refugee claimants, the complete absence of state protection - as shown in the next section - contributes to establishing that their fear is well founded.

3.6. State Protection absent in the case of Palestinian refugee claimants

Although, “according to paragraph 101 of the UNHCR Handbook, stateless claimants need not avail themselves of state protection since there is no duty on the state to provide protection,”³⁹ it is nevertheless clear in the case of stateless Palestinian refugee claimants that state protection is completely absent.

In Lebanon, because of their unique situation, Palestinian refugees have been denied virtually every available means of securing their basic rights:

The exceptional condition of Palestinian statelessness and Palestinian dispersal extends itself to all political, economic, social and humanitarian spheres. UNRWA's mandate does not provide protection for Palestinian refugees nor can they appeal to the assistance of UNHCR whose mandate specifically exempts them from its protection. This aberration is particularly significant,

³³ *Ibid.*

³⁴ *Supra* note 18.

³⁵ *Adjei v. Canada (Minister of Employment and Immigration)*, [1989] 2 F.C. 680 (C.A.).

³⁶ *Supra* note 22.

³⁷ *Supra* note 17; see also *supra* note 20.

³⁸ *Supra* note 31 at page 6-2; *Ward*, *supra* note 13.

³⁹ *El Khatib, Naif v. M.C.I.* (F.C.T.D., no. IMM-5182-93), McKeown, September 27, 1994.

not only for refugees living under Israeli occupation in the West Bank and Gaza, but also for those Palestinian refugees who are temporary residents in various countries, mainly Lebanon, Syria and Jordan (1). Thus, UNRWA's operations in these countries, **the refugees' legal status and their rights are subject to host government policies without recourse to international agreements delineating refugee rights.**⁴⁰

Furthermore, Palestinian refugee claimants from the West Bank and the Gaza Strip continue to live under Israeli military occupation and are therefore denied any form of legal protection. The international community, including Canada, recognizes the illegality of the continued occupation of Palestinian territories.⁴¹

In both cases, there is “clear and convincing” evidence of the state’s inability to protect the claimants.⁴² In fact, the state is not only unwilling to provide protection but is an agent of persecution against the Palestinians. Thus, the absence of protection from the state is not a contentious issue in the case of Palestinian refugee claimants as they are deprived of all their fundamental rights by the state in question, and have no state of their own providing protection.

3.7. Palestinian refugee claimants do not have an Internal Flight Alternative (IFA)

As indicated by the Federal Court in Rasaratnam⁴³ and Thirunavukkarasu⁴⁴, the test to be applied in determining whether there is an IFA is two-fold:

- (1) ...the Board must be satisfied on a balance of probabilities that there is no serious possibility of the claimant being persecuted in the part of the country to which it finds an IFA exists.
- (2) Moreover, conditions in the part of the country considered to be an IFA must be such that it would not be unreasonable, in all the circumstances, including those particular to the claimant, for him to seek refuge there.

Both of these conditions must be satisfied for a finding that the claimant has an IFA.⁴⁵

As such, Palestinian refugee claimants do not have an internal flight alternative as they are persecuted by the persecuting states in all parts of their territory. In the West Bank and the Gaza Strip, the claimants are under military occupation and are persecuted on the entire Territory. Similarly in Lebanon, the claimants face systematic discrimination on all the territory. In fact, Amnesty International has made the following unequivocal observations:

Palestinians in Lebanon are *de jure* and *de facto* discriminated against as compared with other non-citizens with regards to the rights to own and inherit property, as well as to the right to work and the right to social security...Discrimination levied against Palestinians in relation to the rights to own and inherit property and the right to work, creates conditions where **Palestinians refugees cannot enjoy an adequate standard of living.**⁴⁶

⁴⁰ Zakharia, L. “Poverty Intensification Strategies: The Case of Palestinian Refugees”, *FOFOGNET, Digest*, 3 March 1997.

⁴¹ Department of Foreign Affairs and International Trade, Canada and the Middle East Peace Process, Canadian Policy (Key Issues). online at <<http://www.dfait-maeci.gc.ca/Peaceprocess/keyissue-en.asp#occupied>>.

⁴² Ward, *supra* note 13.

⁴³ *Rasaratnam v. Canada (Minister of Employment and Immigration)*, [1992] 1 F.C. 706 (C.A.)

⁴⁴ *Thirunavukkarasu v. Canada (Minister of Employment and Immigration)*, [1994] 1 F.C. 589 (C.A.)

⁴⁵ *Supra* note 31 at page 8-1.

⁴⁶ *Supra* note 18.

4. Why have many Palestinian refugee claims been rejected?

4.1. IRB members did not adhere to declared objectives

“To be determined a Convention refugee, a claimant must establish that he or she meets all the elements of the definition. Where several interpretations are possible, in choosing the most appropriate one, the Refugee Protection Division should take into account section 3(2) of the Immigration and Refugee Protection Act, which lists the objectives of the Act with respect to refugees and section 3(3) which sets out how the Act is to be construed and applied.”⁴⁷

According to section 3(2) of the *Immigration and Refugee Protection Act*⁴⁸, the objectives of this Act with respect to refugees are:

- (a) to recognize the refugee program is first and foremost **about saving lives and offering protection** to the displaced and persecuted;
- (b) to **fulfill Canada’s international legal obligations with respect to refugees** and affirm Canada’s commitment to international efforts to provide assistance to those in need of resettlement;
- (c) to grant, as a **fundamental expression of Canada’s humanitarian ideals**, fair consideration to those who come to Canada claiming persecution;
- (d) **to offer safe haven to persons with a well-founded fear of persecution** based on race, religion, nationality, political opinion or membership in a particular social group, as well as those at risk of torture or cruel and unusual treatment or punishment;
- (e) to **establish fair and efficient procedures** that will maintain the integrity of the Canadian refugee protection system, while **upholding Canada’s respect for the human rights and fundamental freedoms of all human beings**, and;
- (f) to support the self-sufficiency and the social and economic well-being of refugees by facilitating **reunification with their family** members in Canada.

Furthermore, according to section 3(3), this Act is to be construed and applied in a manner that:

... (d) ensures that decisions taken under this Act are consistent with the *Canadian Charter of Rights and Freedoms*, including its **principles of equality and freedom from discrimination** and of the equality of English and French as the official languages of Canada, and;

... (f) **complies with international human rights instruments to which Canada is signatory**.

In light of these objectives and the fact that the Palestinian refugee claimants from Lebanon and the Occupied Territories are persecuted according to the refugee determination process definition of “Convention refugee”, why is it that a significant number of Palestinian refugee claimants currently face deportation?

⁴⁷ Supra note 31 at page 1-9.

⁴⁸ Supra note 8.

General factors, perfectly illustrated by the Canadian Council for Refugees⁴⁹, as well as more specific factors relating to the experience of the Palestinian refugee claimants at the Refugee Protection Division of the IRB clearly explain the process that has led to the imminent deportation of the Palestinian refugees back to the life of persecution they fled.

4.2. Bias and sweeping generalizations

Some IRB members have taken clearly biased and politically motivated decisions while completely ignoring the lived reality of Palestinians.

IRB member Jeannine Beaubien-Duque perfectly illustrates such bias in the following four statements. Notably, **nearly all** of the negative decisions rendered for Palestinian refugees from the illegally occupied West Bank resulted from her bias:

...“The panel believes that, on a whole, documentary evidence indicates that **the violence in the Middle East is part of Israel’s attempts at establishing secure political frontiers and preventing terrorist attacks on its territory**. Documentary evidence does not reveal that there exists a systematic will on the part of the Israeli military authorities to systematically persecute and exterminate the Palestinian population while doing so, despite the horrors caused in the war-torn areas.”⁵⁰

...“**It is not the panels duty to conclude as to the rightfulness or the wrongfulness of the military activities of the Israeli authorities in the war stricken area**, which is that of the claimant’s, nor to carry out judgment on the politically delicate and explosive situation between Palestinians and Israelis. The current situation in the Middle East is indeed complex and difficult and does not allow for a clear assessment of the prejudice each faction may suffer. The tribunal must, however, establish a link with the convention, political instability on its own is not sufficient to establish the existence of a well founded fear of persecution.”⁵¹

...“A political instability, in itself, is not a sufficient reason to conclude on the existence of a well-founded reason of persecution. Despite the violence caused by the political instability in the West Bank, **documentary evidence does not reveal that there exists a systematic will on the part of the Israeli military authorities to systematically persecute and exterminate the Palestinian population** while doing so, despite the horrors caused in the war-torn areas.”⁵²

...“The deplorable living conditions of the camp, the high rate of unemployment and religious fanaticism mean that **many young men in their [sic] thousands volunteer to take part in martyr operations**.”⁵³

Reviewing the facts on the ground, which are attested to by the abundant documentation produced by *Amnesty International* and the *United Nations Commission on Human Rights*, amongst a multitude of other well-respected human rights organizations,⁵⁴ it is clear that these statements are inaccurate and based on the IRB member’s personal and ill-informed opinion.

⁴⁹ Canadian Council for Refugees, “*Protecting refugees: where Canada’s refugee system falls down*” online at <<http://www.web.net/~ccr/flaws.html>>; see also section 4.6 at page 33, below.

⁵⁰ Immigration and Refugee Board, RPD File No. MA2-03712; and Immigration and Refugee Board, RPD File No. MA2-00250.

⁵¹ *Ibid.*

⁵² *Ibid.*

⁵³ Immigration and Refugee Board, RPD File No. MA2-04230.

⁵⁴ *Supra* note 20.

Moreover, such statements run contrary to the position of both Canada and the International Community, both of whom recognize the West Bank and the Gaza Strip to be illegally occupied.⁵⁵

As such, IRB member Beaubien-Duque is allowing her own appreciation of Israel's allegedly benign motivation to colour her assessment of whether the treatment faced by the claimants objectively meet the legal definition of "persecution" according to Canadian jurisprudence. Regardless of Israel's ultimate intentions or objectives, the methods employed: targeted assassinations, collective punishment through town closures, checkpoints and administrative detentions, indiscriminate use of force against civilians and torture all constitute "persecution" according to Canadian refugee law jurisprudence.

Invoking Israel's allegedly benign motivation is, at least, improperly giving weight to an irrelevant consideration, and quite possibly a sign of actual bias on the part of the IRB member. It raises at least a reasonable apprehension of bias, which is inconsistent with principles of fundamental justice and the claimant's right to a fair hearing before an impartial tribunal. It thus taints all of the decisions rendered by the IRB member in question, concerning Palestinian refugee claimants.

In addition, Jeannine Beaubien-Duque states that, as an IRB member who will decide the fate of the refugee claimant, it is not her "duty to conclude as to the rightfulness or the wrongfulness of the military activities of the Israeli authorities in the war stricken area."⁵⁶

Despite this statement, she did precisely what she purports to exclude and allowed her perception of the political situation to influence her decision: she based her decision on personal perspective and denied well-documented facts, ultimately undermining the persecution faced by the refugee claimant and disregarding international human rights instruments which are at the very core of the refugee determination process.

Furthermore, the above-mentioned statements show how **IRB members often distort individual persecution by making sweeping statements**. Jeannine Beaubien-Duque suggested that some of the Palestinian refugee claimants "would be exposed to the same dangers faced by all inhabitants who live and fight in this region of great political instability"⁵⁷ and that they are simply "part of the unstable political situation."⁵⁸

Such re-occurring statements have served to undermine both the individual and collective persecution faced by the claimants. It is only expected that such persecution faced by refugee claimants would be more prevalent within a greater socio-political context plagued with instability and armed conflict. This logic defiles both the reality on the ground and the individual human directly affected.⁵⁹ In fact, "the current trend of the case law [in determining the well-foundedness of the fear of persecution] is to look past the characterization of the activity per se and to examine its intent and effect on the person concerned."⁶⁰

⁵⁵ *Supra* note 41.

⁵⁶ *Supra* note 50.

⁵⁷ Immigration and Refugee Board, RPD File No. MA1-00713.

⁵⁸ *Supra* note 50.

⁵⁹ *Supra* note 17; see also *supra* note 20.

⁶⁰ Berman, S. & McChesney, C., *Refugee Determination Proceedings*, Carswell, 1995 at page 8.

The IRB member erred by failing to take a non-comparative approach, as set by the current trend in case law:

In Salibian v. Canada⁶¹ the Court states that:

... modern refugee law is concerned to recognize the protection needs of particular claimants, **the best evidence** that an individual faces a serious chance of persecution is **usually the treatment afforded similarly situated persons** in the country of origin.

...In the context of claims derived from situations of generalized oppression, therefore, **the issue is not whether the claimant is more at risk than anyone else** in her country, but rather whether the broadly based harassment or abuse is sufficiently serious to substantiate a claim to refugee status.

...**If persons like the applicant may face serious harm** for which the state is accountable, and if that risk is grounded in their civil or political status, then **she is properly considered to be a Convention refugee**.

...the **claimant does not have to establish personal targeting or persecution**.

In the Rizkallah⁶² case the Court confirms that:

The **refugee claimants must establish a link** between themselves and persecution for a Convention reason; they must be targeted for persecution in some way, **either personally or collectively**.

Finally, the Ali, Shaysta-Ameer⁶³ case and the Chairperson's Guidelines⁶⁴ re-affirm that:

...a claim which arises **in a context of widespread violence** must meet the same conditions as any other claim. The content of those conditions is no different for such a claim, **nor is the claim subject to extra requirements or disqualifications**.

... instead of an emphasis on comparing the level of risk of persecution between the claimant and other individuals (including individuals in the claimant's own group) or other groups, the Court **examines the claimant's particular situation, and that of her group**, in a manner similar to any other claim for Convention refugee status.

Clearly, the Palestinian refugee claimants have not only been collectively persecuted but have also been personally targeted. They have been directly affected by persecutory actions at reoccurring instances in their lives. This persecution has led to a systematic denial of their fundamental rights and has put their lives directly at risk.⁶⁵ The Convention grounds upon which they are persecuted are their national origin and social group.⁶⁶

⁶¹ *Salibian v. Canada* (Minister of Employment and Immigration), [1990] 3 F.C. 250 (C.A.) at 258.

⁶² *Rizkallah, Bader Fouad v. M.E.I.* (F.C.A., no. A-606-90), Marceau, MacGuigan, Desjardins, May 6, 1992.

⁶³ *Ali, Shaysta-Ameer v. M.C.I.* (F.C.A., no. A-772-96), Décary, Stone, Strayer, January 12, 1999.

⁶⁴ Guidelines on *Civilian Non-Combatants Fearing Persecution in Civil War Situations*, issued by the IRB Chairperson pursuant to section 65(3) of the *Immigration Act*, on March 7, 1996, as continued in effect by the Chairperson on June 28, 2002 under the authority found in section 159(1)(h) of the *Immigration and Refugee Protection Act*.

⁶⁵ *Supra* note 17; see also *supra* note 20 and section 3.3 at page 8, above.

⁶⁶ See section 3.4 at page 14, above.

4.3. Ignorance of the realities faced by stateless Palestinian refugees

In many cases, the IRB members neither understood nor paid sufficient attention to the very particular situation of stateless Palestinian refugees.

4.3.1. Systematic discrimination & persecution of Palestinians in Lebanon ignored

The major reason for which the Palestinian refugee claimants have been denied refugee status in Canada is based on the fact that IRB members completely ignored, many times even questioning the documented discrimination and persecutory measures imposed on the Palestinian refugees in Lebanon, although the case law clearly states that assessing a refugee claim “would include a consideration of the conditions in the claimant's country or origin, as well as the experiences of similarly situated persons”⁶⁷ and that “it is appropriate to consider both the actions of the government against the individual claimant and the overall atmosphere created by the state’s intolerance.”⁶⁸

Moreover, in questioning the credibility of the Palestinian refugee claimants, the IRB members often failed to draw a complete picture of the persecution they faced in Lebanon. They selected certain realities while completely ignoring others and, as such, have directly contravened case law that confirms:

...where a claimant is found not credible [...] the Board must still **objectively assess the rest of the evidence** and determine if the claimant has a well-founded fear of persecution.⁶⁹

...where the claimant has experienced more than one incident of mistreatment, the Refugee Protection Division **may err if it only looks at each incident separately.**⁷⁰

... when assessing the credibility of a claimant or other witness, it is important to remember that **all of the evidence, both oral and documentary, must be considered and assessed**, not just selected portions of the evidence.⁷¹

...the Refugee Protection Division **should not selectively refer to evidence that supports its conclusions** without also referring to evidence to the contrary.⁷²

By not taking into account the particular situation of Palestinian refugees in Lebanon, by selecting certain realities while ignoring others and by ignoring the persecutory nature of measures imposed on them, the IRB members also erred in not considering the cumulative effect of these discriminatory measures which clearly amount to persecution. The case law has indicated that “the claimant may be subject to a number of discriminatory or harassing acts. While these

⁶⁷ *Bains v. Canada (Minister of Employment and Immigration)* (1993), 20 Imm. L.R. (2d) 296 (F.C.T.D.); and *Chaudri v. Canada (Minister of Employment and Immigration)* (1986), 69 N.R. 114 (F.C.A.).

⁶⁸ *Rodriguez-Hernandez, Severino Carlos v. S.S.C.* (F.C.T.D., no. A-19-93), Wetson, January 10, 1994, at 3; see also *supra* note 31 at page 3-9.

⁶⁹ *Seevaratnam, Sukunamari v. M.C.I.* (F.C.T.D., no. IMM-3728-98), Tremblay-Lamer, May 11, 1999.

⁷⁰ *El Khatib*, *supra* note 39; *Nina, Razvan v. M.C.I.* (F.C.T.D., no. A-725-92), Cullen, November 24, 1992, at 9; see also *supra* note 31 at page 3-9.

⁷¹ *Owusu, Kweku v. M.E.I.* (F.C.A., no. A-1146-87), Heald, Hugessen, Desjardins, January 31, 1989; *Mensah, George Akohene v. M.E.I.* (F.C.A., no. A-1173-88), Pratte, Hugessen, Desjardins, November 23, 1989; *Hilo v. Canada (Minister of Employment and Immigration)* (1991), 15 Imm. L.R. (2d) 199 (F.C.A.); *Tung v. Canada (Minister of Employment and Immigration)* (1991), 124 N.R. 388 (F.C.A.).

⁷² *Polgari, Imre v. M.C.I.* (F.C.T.D., no. IMM-502-00), Hansen, June 8, 2001; *Orgona, Eva v. M.C.I.* (F.C.T.D., no. IMM-4517-99), MacKay, April 18, 2001

acts may individually not be serious enough to constitute persecution, they may cumulatively amount to persecution.⁷³

In fact, the reality of the lives of the Palestinian refugees was at the very heart of each decision in where a refugee claimant was accepted as a Convention refugee. As attested to by IRB member Bana Barazi:

Indeed, the documentary evidence ... indicates that following an agreement between the Palestinian authorities and the Lebanese authorities, Lebanon's armed forces do not enter the Palestinian refugee camps, and Lebanon is not unhappy about Palestinians killing each other inside the camps.

The same documentary evidence confirms that the 400 000 Palestinian refugees in Lebanon live in a **precarious situation inside the camps**, be it the economic situation, the sanitary conditions or the scarcity of medical services.

When a Palestinian youth is lucky enough to finish high school education in U.N.R.W.A.-run schools inside the camps and tried to enroll in Lebanese public universities, there is a strict **quota on the number of Palestinian admissions**. However, even if that youth was fortunate enough to obtain admission into a private university, he will be unable to find a job upon graduation.

According to the documentary evidence, the Lebanese government has drawn a list of some 70 jobs prohibited to Palestinians, thus restricting them to menial or underpaid jobs. Because **they have no work permits, they have no right to public health institutions and no medical insurance**.

At this stage, the panel would like to point out that the **claimant was born in Lebanon, yet he enjoys hardly any civil rights**, enjoyed by Lebanese citizens. The documentary evidence also states that Palestinians do not enjoy the right to have a political life in Lebanon or to hold any labour union activities.⁷⁴

Clearly, these documented facts are accessible to the IRB.

What follows are illustrations of the above-mentioned points and of **false and erroneous statements of IRB members** who rendered negative refugee decisions.

In one such example, a claimant was questioned as to why he studied industrial engineering if he could not, as a Palestinian, practice the profession under Lebanese Law; implying that he should merely accept his persecution and his place as a lesser human being in society. IRB member Madeleine Dupont-Levesque states:

... if Palestinians are not allowed to work in certain professions, it is simply because they are considered by the Lebanese state as foreigners and this applies to all other foreigners⁷⁵.

Her statement unconsciously recognizes the fact that Palestinian refugees in Lebanon are treated as foreigners while ignoring that these Palestinian refugees, born and raised in Lebanon, are

⁷³ *Supra* note 16.

⁷⁴ Immigration and Refugee Board, RPD File No. MA0-08431; see also Immigration and Refugee Board, RPD File No. MA1-03477; Immigration and Refugee Board, RPD File No. MA0-04493 and MA0-04494; Immigration and Refugee Board, RPD File No. M99-09876 and M99-09877.

⁷⁵ Immigration and Refugee Board, RPD File No. MA0-08842.

denied such a fundamental right not because they are foreigners but because they are Palestinian, and that, unlike other foreigners they are stateless and thus condemned to endure this second-class treatment in perpetuity.

In another case, IRB member Denis Arvantakis rejected a claimant based on lack of credibility stating that the refugee claimant was not the subject of targeted discrimination because he was “not diligent in finding a job in Lebanon” and that “it seems that the Lebanese Parliament adopted a law of general application that affects all non-Lebanese residents in Lebanon.”⁷⁶

This IRB member clearly erred in stating that this law is of general application because:

...the term is not properly employed if the law in question **targets only some subset of the population**;⁷⁷

The statutory definition of Convention refugee makes the intent (or any principal effect)⁷⁸ of an ordinary law of general application (...) relevant to the existence of persecution,⁷⁹ and

... (the refugee claimant should show) that the law in question is persecutory in relation to a Convention ground.⁸⁰

Amnesty International has made the following unequivocal observations, concluding that **Palestinians in Lebanon are discriminated against vis-à-vis other non-citizens**:

Palestinians in Lebanon are de jure and de facto discriminated against in relation to other non-citizens with regards to the right to work and the right to social security.

Palestinians face severe restrictions in their access to work and to opportunities to gain their living by work. Palestinian refugees are barred de jure from practicing several professions such as law, medicine, pharmacy, and journalism due to a requirement of possessing Lebanese citizenship or to having reciprocal treatment in the country of the foreign national wishing to practice this profession.

Discrimination levied against Palestinians in relation to the rights to own and inherit property and the right to work, creates conditions where Palestinian refugees cannot enjoy an adequate standard of living.

A Ministerial Decree issued on 15 December 1995 lists trades and vocations that are restricted to Lebanese nationals; this includes a non-exhaustive listing of dozens of trades and vocations restricted to Lebanese employees or employers.⁸¹

⁷⁶ Immigration and Refugee Board, RPD File No. MA1-08002.

⁷⁷ *Fathi-Rad, Farideh v. S.S.C.* (F.C.T.D., no. IMM-2438-93), McGillis, April 13, 1994, at 4; *Namitabar v. Canada (Minister of Employment and Immigration)*, [1994] 2 F.C. 42 (T.D.), at 46.

⁷⁸ In *Cheung v. Canada (Minister of Employment and Immigration)*, [1993] 2 F.C. 314 (C.A.), at 319, Linden J.A. said that the Refugee Division “wrongly required that a ‘persecutory intent’ be present, whereas a ‘persecutory effect’ suffices.”

⁷⁹ *Zolfagharkhani v. Canada (Minister of Employment and Immigration)*, [1993] 3 F.C. 540 (C.A.).

⁸⁰ *Ibid.*

⁸¹ *Supra* note 18.

Furthermore, these IRB members ignored the case law which stipulates that:

...where the state interferes substantially with the claimant's ability to find work, the **possibility of finding illegal employment is not an acceptable remedy**,⁸²

Economic penalties may be an acceptable means of enforcing a state policy, where the claimant is **not deprived of his or her right to earn a livelihood**,⁸³ and

Permanently depriving an educated professional of his or her accustomed occupation and limiting the person to farm and factory work constituted persecution.⁸⁴

In yet another example, Madeleine Dupont-Lévesque mentions the “existence of a fund that assists Palestinian students that excel, to pursue their studies at the Arab University of Beirut,” in order to conclude that she “does not believe that the claimant applied for postsecondary studies and was rejected, for the mere fact he was Palestinian.”⁸⁵

This statement completely ignores the fact that Lebanese Universities operate on quota-systems, thus restricting access to higher education for Palestinian refugees - a widely acknowledged fact in documentation⁸⁶ and positive IRB decisions.⁸⁷

4.3.2. The unique hardship Palestinians face as Stateless refugees is ignored

Section 3(2)(b) of the *IRPA* states that an objective of the Act is to “affirm Canada’s commitment to international efforts to provide assistance to those in need of resettlement.” Stateless Palestinian refugees, who have not been accorded legal status by their host countries and are therefore extremely vulnerable, are clearly in need of resettlement.

The IRB members fail to recognize that Palestinian refugees will continue to be stateless as their right of return to the homes from which they were expelled in 1948 has been utterly denied by Israel. As such, they are left without any form of protection in refugee camps throughout the Arab world, particularly in Lebanon. The denial of the right of return of Palestinian refugees is in violation of customary international human rights norms and of international conventions such as U.N. Resolution 194 and the *Universal Declaration of Human Rights*. Therefore, the denial of this fundamental right is another independent element of persecution against the Palestinian refugees in Lebanon, one which has gone unacknowledged.

Moreover, given that the Lebanese constitution expressly prohibits the permanent resettlement of Palestinian refugees on its soil, all Palestinian refugees without status in Lebanon face eventual transfer. There has been no significant discussion of the fate of Palestinian refugees in Lebanon in any of the peace process negotiations.⁸⁸

⁸² *Xie, Sheng v. M.E.I.* (F.C.T.D., no. A-1573-92), Rothstein, March 3, 1994, at 5-6.

⁸³ *Lin, Qu Liang v. M.E.I.* (F.C.A., no. 93-A-142), Rouleau, July 20, 1993; see also *supra* note 31 at page 3-11.

⁸⁴ *He, Shao Mei v. M.E.I.* (F.C.T.D., no. IMM-3024-93), Simpson, June 1, 1994; see also *supra* note 31 at page 3-12.

⁸⁵ Immigration and Refugee Board, RPD File No. MA1-02940.

⁸⁶ *Supra* note 17.

⁸⁷ *Supra* note 74.

⁸⁸ Sayigh, R. “*Palestinian Refugees in Lebanon*”. *FOFOGNET Digest*, 28 June – 3 July 1996.

Although, “statelessness per se does not give rise to a claim to refugee status,”⁸⁹ in the case of the Palestinian refugees it is a very important factor that has led to the persecution they face. None of the IRB members accounted for this important factor in considering the persecution faced or the clear absence of state protection, both of which had often been questioned.

Furthermore, Canada acceded to the *United Nations Convention on the Reduction of Statelessness* on July 17th, 1978. The central organizing norm of that convention is the desirability of reducing statelessness.⁹⁰ Deporting these Palestinian refugees would not only perpetuate their statelessness, but would also subject them to undeserved and unusual treatment. What must be noted most is that the vulnerability engendered by the Palestinian refugees’ statelessness is extreme.

In Baker, Madame Justice L’Heureux-Dubé made it clear that the “values reflected in international human rights law may help inform the contextual approach to statutory interpretation” and that the principles embodied in international instruments help show the values that are central in determining whether a decision was reasonable.⁹¹

Accordingly, Palestinian refugee claims should be considered in light of international human rights instruments including the *United Nations Convention on the Reduction of Statelessness* and other international conventions that Lebanon continues to violate.⁹² This is particularly relevant for, as addressed earlier, Palestinians in Lebanon have no protection or representation.

4.3.3. IRB members wrongly stated that Palestinian refugees are protected by the United Nations

In one case, IRB member Michel Jobin concluded that “since Palestinians are under United Nations protection whether in Lebanon or in Israel, they already have international protection.”⁹³

This was repeated in many decisions rendered by IRB member Madeleine Dupont-Lévesque.⁹⁴ But, on the contrary, it is a widely acknowledged fact that “UNRWA's mandate does not provide protection for Palestinian refugees nor can they appeal to the assistance of UNHCR whose mandate specifically exempts them from its protection”.⁹⁵

This piece of misinformation demonstrates the negligence of uninformed IRB decision makers.

4.3.4. IRB members wrongly stated that claimants failed to access possible protection elsewhere:

In several decisions, IRB members suggested that the refugee claimant should have applied for refugee status in other countries. IRB member Madeleine Dupont-Lévesque suggested that the

⁸⁹ *Arafa, Mohammed v. M.E.I.* (F.C.T.D., no. A-663-92), Gibson, November 3, 1993, at 4; *Lenyk, Ostap v. M.C.I.* (F.C.T.D., no. IMM-7098-93), Tremblay-Lamer, October 14, 1994.

⁹⁰ *United Nations Convention on the Reduction of Statelessness*, 13 August 1961, United Nations, *Treaty Series*, vol. 989, p. 175, entered into force 13 December 1975.

⁹¹ *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817.

⁹² *Supra* note 17.

⁹³ Immigration and Refugee Board, RPD File No.MA2-07700.

⁹⁴ *Supra* note 85.

⁹⁵ *Supra* note 32; see also *supra* note 17.

claimant should have applied for immigration in Turkey where he had studied.⁹⁶ A similar recommendation was made regarding Syria by IRB member Stéphane Handfield.⁹⁷

Two other Palestinian refugee claimants were told by IRB members Stéphane Handfield and Marie Chevrier that they could return to Saudi Arabia, because they worked and lived there in the past. In fact, this is not possible, as Saudi Arabia does not grant permanent residency to foreigners.⁹⁸

These countries not only have large numbers of nationals seeking refuge elsewhere, but clearly do not afford Palestinian refugees any recognized status. Since the Palestinian refugee claimants cannot return to these countries, in which they had resided for only a short period, due to the non-existence of a valid residency permit, the IRB members erred in not considering their fear of persecution or in using this misinformation in attacking their credibility.⁹⁹

It has been noted in the case law that the claimants are not required to seek protection in a third country if it was not as of right and if the claimant did not wish to do so before applying for Convention refugee status in Canada.¹⁰⁰ Moreover, where another country has been considered a former habitual residence, if the claimant is unable to return to it then there is no requirement of seeking refuge in that country or proving a fear of persecution.¹⁰¹

4.3.5. IRB members wrongly stated that claimants had an Internal Flight Alternative (IFA)

Several IRB members erred in concluding that the Palestinian refugee claimants had an Internal Flight Alternative. In one example, IRB member Denis Arvantakis stated:

In any event, asked if he considered moving to Beirut or Tripoli to avoid the alleged problems, the claimant did not give a satisfactory explanation when he stated that it was not possible to live in another city, because he did not have money.¹⁰²

Similarly, IRB member Madeleine Dupont-Lévesque states that “according to the documentary evidence, the Palestinians in Lebanon are not obliged to stay in the camps.”¹⁰³

In the same way, in the case of three elderly Palestinian refugee claimants - currently in sanctuary in the Notre-Dame-de-Grâce church in Montreal (see Appendix IV for full details) - IRB member Michel Venne suggested that they seek refuge internally by moving outside the refugee camp of Ein El Helweh, where clashes between rival militias is more frequent, to another refugee camp.¹⁰⁴

⁹⁶ *Supra* note 75.

⁹⁷ Immigration and Refugee Board, RPD File No. MA0-08432.

⁹⁸ Immigration and Refugee Board, RPD File No. MA1-10004; and Immigration and Refugee Board, RPD File No. MA2-10964.

⁹⁹ *Elbarbari, Sohavel Farouk S. v. M.C.I.* (F.C.T.D., no. IMM-4444-97), Rothstein, September 9, 1998; *Thabet v. Canada (Minister of Employment and Immigration)* (1994), 28 Imm. L.R. (2d) 41 (F.C.T.D.).

¹⁰⁰ *Pavlov, Igor v. M.C.I.* (F.C.T.D., no. IMM-4401-00), Heneghan, June 7, 2001; 2001 FCT 602; *Basmenji, Aiyoub Choubdari v. M.C.I.* (F.C.T.D., no. IMM-4811-96), Wetston, January 16, 1998; *Priadkina, Yioubov. V. M.C.I.* (F.C.T.D., no. IMM-2034-96), Nadon, December 16, 1997.

¹⁰¹ Ward, *supra* note 13; Thabet, *supra* note 99.

¹⁰² *Supra* note 76.

¹⁰³ Immigration and Refugee Board, RPD File No. MA1-11200.

¹⁰⁴ Immigration and Refugee Board, RPD File No. MA1-03654/MA1-03652/MA1-03655

The IRB members ignored the facts on the ground and did not apply the jurisprudential principles with regards to state protection and Internal Flight Alternative. It has been clearly shown in section 3.7 of this document that Palestinian refugee claimants do not have an Internal Flight Alternative as they are persecuted on the entire territory.¹⁰⁵

By faulting claimants for not seeking internal refuge by moving to another refugee camp or outside the refugee camp, IRB members wrongfully determined that the claimants were protected in their country of last habitual residence, when in fact they were not. Although, “according to paragraph 101 of the UNHCR Handbook, stateless claimants need not avail themselves of state protection since there is no duty on the state to provide protection”¹⁰⁶, it is clear in the case of stateless Palestinian refugee claimants from Lebanon that state protection is completely absent.

In fact, Palestinian refugees are not allowed, by law, to own or inherit property in Lebanon. Therefore, even in supposing, *contrary to the facts*, that Palestinians are only persecuted in the refugee camps, it is absurd and unreasonable to conclude that they can move about freely and live where they choose.¹⁰⁷ In this regard, it is confirmed by the case law that in considering an Internal Flight Alternative:

...it is appropriate ... to consider, in various ways, factors such as: ... race or ethnicity of the claimant¹⁰⁸ ..., **ability to move from one residence to another (e.g. legal restrictions)**¹⁰⁹, and the health and financial situation of the claimant.¹¹⁰

...in relation to state inability or refusal to provide protection, **if state policy restricts a claimant's access to the whole of the state's territory**, then the failure to provide local protection can be seen as **state failure to provide protection** and not mere local failure.¹¹¹

Again, in her informed decision, IRB member Bana Barazi explicitly acknowledges these facts.¹¹²

4.4. Insensitivity of some IRB members

Often, the IRB members seemed to simply search through the evidence looking for inconsistencies, or for evidence that lacks credibility, thereby “building a case” against the claimant, while ignoring the other aspects of the claim.¹¹³ In fact, the Palestinian refugee claimants often felt they were on criminal trial rather than being questioned about the persecution they were fleeing. The methods of interrogation employed by some IRB members left the claimants feeling frustrated and confused.

¹⁰⁵ See section 3.7 at page 16, above.

¹⁰⁶ *Supra* note 39.

¹⁰⁷ *Supra* note 17.

¹⁰⁸ *Hasnain, Khaled v. M.C.I.* (F.C.T.D., no. A-962-92), McKeown, December 14, 1995; see also *supra* 31 at page 8-2 and 8-8.

¹⁰⁹ *Chkiaou, Dimitri v. M.C.I.* (F.C.T.D., no. IMM-266-94), Cullen, March 7, 1995

¹¹⁰ *Periyathamby, Thangamma v. M.C.I.* (F.C.T.D., no. IMM-6846-93), Rouleau, January 6, 1995; see also *supra* 31 at page 8-9.

¹¹¹ *Zhuravlev, Anatoliy v. M.C.I.* (F.C.T.D., no. IMM-3603-99), Pelletier, April 14, 2000; see also *supra* 31 at page 6-10.

¹¹² *Supra* note 74.

¹¹³ Immigration & Refugee Board, *Assessment of Credibility in Claims for Refugee Protection*, (Legal services, June 2002) at page 11.

During the hearings, more weight was placed on questioning the claimants' character, rather than examining the persecution they suffered. There appears to be a general insensitivity to the realities faced by the Palestinian refugee claimants. Moreover, the cultural and linguistic barriers, the unfamiliarity with the regulations and procedures, and psychological factors emanating from trauma and horrifying experiences were not adequately taken into consideration during the IRB hearings.

The following are illustrations of such insensitivity.

4.4.1. Irrelevant & insensitive questions

IRB members often questioned claimants about their personal opinions and politics. During the hearings, IRB members suggested mockingly that the claimants were supportive of certain political opinions and groups and asked the claimants why they would not want to join such groups.

Some IRB members have taken a hostile attitude towards several of the Palestinian refugees, as exemplified by a decision rendered by IRB member Jeannine Beaubien-Duque, who concludes in one case that "the deplorable living conditions of the camp, the high rate of unemployment and religious fanaticism mean that **many young men in their [sic] thousands** volunteer to take part in martyr operations."¹¹⁴

In another case, while discussing the persecution suffered by a Palestinian refugee from the West Bank, IRB member Jeaninne Beaubien-Duque asked the claimant about his opinion of the Oslo Accords;¹¹⁵ a rather irrelevant question two years after their failure, and one clearly irrelevant to the refugee claim itself.

The sweepingly biased perspectives held by some members of the IRB led to irrelevant and highly prejudicial lines of questioning. Ultimately, the claimant is left feeling vulnerable and *guilty* until proven innocent.

Such attitudes and statements held by some IRB members are not representative of the objective reality that relates directly to the persecution claimed by the individual Palestinian refugees. These sweeping and clearly biased statements and attitudes further belittle the persecution faced by the individual claimants and contradict the supposed case-by-case nature of the decision-making process, which is based on the notion that the claimant has the right to be heard by an independent and impartial tribunal.

4.4.2. Identity of refugee claimants questioned while sufficient documents were available

On several occasions, the IRB members questioned the claimant's identity, even when acceptable and sufficient documents were provided.

It is common practice in the Arab world for one to have on their identification documents the name of the father and grandfather prior to the family name. At times, this can lead to confusion between the family name and those of the father or grandfather. In a particular case, the refugee

¹¹⁴ *Supra* note 53.

¹¹⁵ Immigration and Refugee Board, RPD File No. MA2-03712 (Testimony of refugee claimant).

claimant's family name was on his Palestinian Authority travel document, Palestinian I.D. card, UNRWA registration card and in his Canadian immigration documents, including his Canadian-issued visa. However, on other Jordanian-issued documents his grandfather's name was present in the place of his family name.

Although the claimant had significant proof of identification, IRB member Jeannine Beaubien-Duque was not satisfied that she had established the claimant's identity, stating that "the panel can only conclude it does not know who the claimant truly is and find that this ambiguity sheds doubt on his story as on the fact that he would be a West bank Palestinian and worker there,"¹¹⁶ and concluding that there was "not a reasonable chance he would be persecuted should he return to his country since it does not believe that he lived and worked there as he had stated."¹¹⁷

In another example, IRB member Jeannine Beaubien-Duque was again not satisfied of the identity of the claimant, stating that "the panel had serious doubts the claimant was in fact living in Palestine."¹¹⁸

The claimant was a Palestinian from the town of Jenin who had worked in Ramallah, in the West Bank. He had a Palestinian Authority travel document and other documents clearly indicating his identity. Unfortunately, Beaubien-Duque was not satisfied and currently, this Palestinian refugee is awaiting deportation to the West Bank. Although the IRB member seemed to question his identity, Immigration officials are currently trying to obtain the approval of Jordanian or Israeli officials in order to deport him back to the West Bank and are relying on the same documentation submitted to the IRB, his Palestinian Authority travel document, to do so.

In yet another example, board member Guy Lebel relied on spurious grounds to reject the claimant for failure to establish his identity. He faulted the claimant's identity documents because they were easy to obtain. To M. Lebel, that there was no difficulty in receiving the documentation meant the documents were inherently unreliable. He faulted the claimant's UNRWA registration card because it was obtained while he was not living in Lebanon, despite the fact that such cards are issued to heads of families, and the claimant's father was in Lebanon at the time. Moreover, the Immigration officers in Toronto had already been satisfied with the establishment of the claimant's identity and there is a great deal of circumstantial evidence supporting this, namely the well-established identity of all of his family members in Canada.¹¹⁹

In these above-mentioned cases, there was no sufficient evidentiary basis for doubting the authenticity of the documents in question.¹²⁰

4.4.3. Claimants not given reasonable chance to explain inconsistencies

"The Board should afford the claimant (and any other witness) an opportunity to clarify the evidence and to explain apparent contradictions or inconsistencies within that person's testimony."¹²¹

¹¹⁶ Immigration and Refugee Board, RPD File No. MA1-07855.

¹¹⁷ *Ibid.*

¹¹⁸ Immigration and Refugee Board, RPD File No. MA2-03712

¹¹⁹ Immigration and Refugee Board, RPD File No. MA1-05301

¹²⁰ *Adar, Mohamoud Omar v. M.C.I.* (F.C.T.D., no. IMM-3623-96), Cullen, May 26, 1997 (passports and other identity documents); *Islam, Arif v. M.C.I.* (F.C.T.D., no. IMM-5745-99)

¹²¹ *Gracielome v. Canada (Minister of Employment and Immigration)* (1989), 9 Imm. L.R. (2d) 237 (F.C.A.); supra note 115 at page 63.

However, IRB members often censured some of the Palestinian refugee claimants when there were questions regarding inconsistencies between their Personal Information Form (PIF) and their oral testimony. In one particular case, IRB member Roger Houde did not allow the claimant to explain that the contradiction in his testimony came only from a mistranslation of his Arabic PIF into French.¹²² Offering the claimant ample opportunity to communicate and address issues under question is an integral part of the process; several cases illustrate this was not happening on a regular basis.

4.4.4. Credibility questioned due to inconsistencies in recalling specific dates

The credibility of the refugee claimant was often questioned on the basis of mistakes in remembering specific dates at which a certain event had occurred.

IRB member Stéphane Handfield concluded that, contrary to the claimant's testimony, he had returned to Syria at a date after he fled. This conclusion was based on a document translated in Syria and mailed to the claimant. Rather than accepting the claimant's clear explanation, Handfield rejected his claim on lack of credibility. Additionally, the 62 year-old Palestinian refugee claimant had trouble recalling specific dates. When he did so, he looked to his wife for confirmation, but Handfield did not allow her to respond. The lack of recollection of these dates was additional motive for rejecting the refugee claim.¹²³

In another example, a refugee claimant had medical certificates proving he had been badly beaten by Israeli soldiers. However, his PIF indicated the month and not the day of this event. Even though his medical statement established the date, Jeannine Beaubien-Duque found the claimant lacked credibility largely on his inability to remember the exact date upon which he was beaten unconscious and woke up in the hospital. Beaubien-Duque concluded "the claimant's omission to specify the date of the major event that led to his allegations of persecution and torture by the Israeli soldiers discredited his story of past persecution and seriously undermine his credibility."¹²⁴

From this, she deduced that "the panel does not believe the claimant was targeted as a young Palestinian by the Israeli army any more than it believed he suffered persecution at their hands as alleged in his story."¹²⁵

To expect a refugee claimant to remember the exact date upon which he was beaten unconscious, especially in light of a medical report confirming the incident, is clearly insensitive and unfounded as it ignores the trauma caused by such an event, and the essence of the claim itself. It is well established that "the claimant's psychological condition arising out of traumatic past experiences may have an impact on his or her ability to testify. Accordingly, failure to address this factor in its reasons could be a reviewable error where the IRB member has found the claimant not to be credible."¹²⁶

¹²² Immigration and Refugee Board, RPD File No. MA1-05857.

¹²³ *Supra* note 98.

¹²⁴ *Supra* note 116.

¹²⁵ *Ibid.*

¹²⁶ *Khawaja, Mohammad Rehan v. M.C.I.(F.C.T.D., no. IMM-5385-98)*, Denault, July 28, 1999.

4.4.5. Credibility questioned due to delay in applying for refugee status

“Delay in making a claim to refugee status or in leaving the country of persecution is not in itself a decisive factor, however it is a relevant and potentially important consideration”.¹²⁷ In some decisions of the IRB members in the case of Palestinian refugee claimants, the delay played a decisive role.

A refugee claimant from Bourj el-Barajneh refugee camp in Lebanon was turned down based on the *timing* of his refugee claim, not the claim itself. Because the claimant applied for refugee status after his student visa renewal was rejected, IRB member Michele Jobin concluded that he did not fear persecution.¹²⁸ The means by which the refugee claimant came to Canada does not, in and of itself, negate his fear of persecution.

Jobin rejected that the refugee claimant did not know about the refugee claims process, and said he ought to have sought legal counsel.¹²⁹ This conclusion ignores that the claimant was in Canada legally and during this time felt safe. The category of his visa is not relevant to the protection he felt. Moreover, the assumption that a persecuted person, fleeing lack of protection (because he is stateless and has no governmental recourse in Lebanon) would naturally feel the state would be welcoming and helpful in guiding him toward the refugee application procedure is unfounded. Naturally, as soon as the claimant faced threat of returning to Lebanon, he searched for means to stay in Canada.

In another case, a Palestinian refugee claimant from the West Bank had his credibility questioned by IRB member Jeannine Beaubien-Duque based on the timing of his refugee claim:

The panel asked the claimant why he did not claim immediately upon his arrival. He answered that he was not able to immediately have a meeting with his lawyer, then he added he did not know.[...] The panel believes that **if the claimant had the intention of claiming asylum in Canada** before leaving his country, **he should have done so at the first opportunity**. The fact that he did not, as well as his contradicting answers on this point discredit his subjective fear.¹³⁰

As stated previously, this delay is not fatal to the claim and the credibility of the refugee claimant. Such exaggerated and arbitrary uses of this general jurisprudential principle of law - which can vary immensely from one case to another – undermined the persecution on which the claim is based.

Finally, it is important to note that it is common for refugee claimants fleeing persecution to be afraid of following any given governmental process. Some refugees try to find ways in which to stay in Canada outside the realm of the refugee process, later deciding to apply for refugee status based on the advice of lawyers or newly acquired friends who explain that they ought not to fear that such an action would come to the notice of the authorities of their country of former habitual residence.

¹²⁷ *Huerta, Martha Laura Sanchez v. M.E.I.* (F.C.A., no. A-448-91), Hugessen, Desjardins, Létourneau, March 17, 1993 at 227.

¹²⁸ *Supra* note 93.

¹²⁹ *Ibid.*

¹³⁰ *Supra* note 116.

4.5. Inconsistent Decision Making

In the case of the Palestinian refugee claimants, it is necessary to note that many individual refugees – who have strikingly similar case files – have received different outcomes in their refugee claims.

Moreover, it is clear that certain IRB members are much more politically and socially aware than others. As illustrated in the previous section, some IRB members have focused primarily on the character of the individual rather than the persecution they suffered. Whereas, presented with similar cases, other Board members have demonstrated comprehensive awareness of and compassion toward the Palestinian situation. In these cases the IRB focused their questions on the persecution faced on the ground, illustrating all the pertinent facts that other IRB members omitted in their assessment and rendering positive decisions accordingly.¹³¹

Clear inconsistency in decision making is best noted in multiple cases of family members -who grew up in the same neighborhood, and sometimes home- having one member refused while another is accepted. There are cases of a sister being accepted and the brother refused, one brother being accepted and not the other, as well as with cousins who grew up in the same neighborhood.

As an example, two brothers from Ein el-Hilweh refugee camp in south Lebanon were heard by two separate members of the IRB, who ruled differently. The first brother was rejected, with Madeleine Dupont-Levesque ruling that he was not a persecuted person, but an economic refugee.¹³² Whereas the other brother, coming from the same refugee camp and circumstances, was accepted in Canada as a “Convention refugee”, by Stéphane Hébert.¹³³ Their cases were heard only weeks apart.

According to the figures of the *Coalition Against The Deportation of Palestinian Refugees*, **60% of the Palestinian refugee claimants currently facing deportation were rejected** by the following two IRB members:

- **Jeannine Beaubien-Duque**, who according to the numbers compiled by the Coalition, only rendered one positive decision in the case of the Palestinian refugee claimants in over 10 cases she heard.
- **Madeleine Dupont-Lévesque**, who according to the numbers compiled by the Coalition, never rendered any positive decisions in the case of the Palestinian refugee claimants in over 12 cases she had heard.

The other failed refugee claimants were rejected by other IRB members including Roger Houde and Stéphane Handfield.

These statistics are a further indication of what the Canadian Council for Refugees had rightfully stated: “The **refugee process can resemble a lottery** for refugee claimants: whether you are accepted or rejected may depend on which board member you appear before.”¹³⁴

¹³¹ *Supra* note 74.

¹³² *Supra* note 103.

¹³³ Immigration and Refugee Board, RPD File No. MA1-08535.

¹³⁴ Canadian Council for Refugees, “Protecting refugees: where Canada’s refugee system falls down” <<http://www.web.net/~ccr/flaws.html>>

4.6. General factors in the refugee determination process

4.6.1. Bad representation, cultural barriers, trauma and unfamiliarity with the system

In some cases, the legal representatives of the Palestinian refugee claimants have neither the knowledge nor level of sensitivity needed to properly represent them. Moreover, the cultural and linguistic barriers, the ignorance of the law and regulations, and psychological problems emanating from trauma and horrifying experiences greatly affect the refugee claimants' decisions. These factors cannot be remedied if not taken well into consideration by the legal representatives and the IRB members.

As noted by the Canadian Council for Refugees:

...refugee claimants, unfamiliar with negotiating Canadian systems, are particularly vulnerable to exploitation by incompetent and unscrupulous consultants or lawyers. At present consultants, unlike lawyers, are not held accountable for their actions by a professional body. Bad representation means that many refugee claimants' cases are not only poorly presented but are actually completely undermined. In addition, the inadequacy of legal aid coverage in most parts of Canada may seriously limit claimants' access to competent lawyers.¹³⁵

It must be noted that IRB members found that some refugee claimants lacked credibility, largely because they lacked documentation for some of the events and because their Personal Information Form (PIF) did not contain certain facts that were later expressed by the applicant during oral testimony. Unfortunately, all these Palestinian refugee claimants who had very recently arrived in Canada and who were unfamiliar with the refugee determination process, had relied on the poor advice of former counsel and friends, who advised against introducing certain details and supporting documentation into the refugee claim.

4.6.2. Language barriers and poor interpretation

The language barrier was an important factor that led to the IRB members questioning the credibility of the stories told by the Palestinian refugees.

For example, during a detention hearing, an interpreter of Algerian origin was brought in order to translate from French into Arabic. The Algerian Arabic accent is very different from that of the Palestinian Arabic accent; both the interpreter and the claimant had difficulty fully understanding one another.¹³⁶

Where these language issues have not been resolved, often times they have an extremely detrimental effect on the cases in question. A refugee claimant's right to be heard is greatly affected by such omissions before the IRB. Communication between the refugee claimant and the IRB member presiding over the hearing is at the very essence of such hearings; it is not enough to let the claimant speak, it must be acknowledged that the claimant must be heard. Since IRB members draw their conclusions based on the pieces of information which are verbally communicated by the claimants, a breakdown in this process directly affects the claimant's right to be heard in front of the quasi-judicial tribunal.

¹³⁵ *Ibid.*

¹³⁶ Immigration and Refugee Board, Immigration Division (Detention hearing), file #. 0018-A4-0104.

4.6.3. Single decision-maker: A “Panel” of one person

“Decisions on refugee claims are made by the Immigration and Refugee Board. In the past, refugee claimants were heard by two Board members and received a positive decision if at least one board member decided that the claimant was a refugee. Since 28 June 2002, decisions are heard by only one board member. The reduction in board members hearing a refugee claimant was supposed to be a trade-off in return for the introduction of an appeal on the merits. But the government failed to implement the appeal, while still reducing board member panels to one. As a result, a refugee claimant’s fate now lies in the hands of a single person.”¹³⁷

4.6.4. Political appointments of board members

“Members are appointed to the Immigration and Refugee Board through a political process that takes account of candidates’ political connections, and not just their ability to make good refugee determinations. As a result, levels of competence vary widely. Many board members are highly qualified while others are of questionable competence. As a result, the refugee process can resemble a lottery for refugee claimants: whether you are accepted or rejected may depend on which board member you appear before.”¹³⁸

4.6.5. Failure to implement the appeal on the merits

“The Immigration and Refugee Protection Act provides for a Refugee Appeal Division to which a refugee claimant could appeal a negative decision. However, the government implemented the Act (in June 2002) without implementing those sections of the Act that gave refugee claimants the right of appeal. In May 2002, the Minister of Citizenship and Immigration promised the Canadian Council for Refugees that the appeal would be implemented within a year. Over a year later, the appeal has still not been implemented, nor has the Minister made any new commitments about when it will be in place.”¹³⁹

“I have already made a commitment to the Canadian Council for Refugees that we will have an appeal system in place in one year’s time.” Denis Coderre, Minister of Citizenship and Immigration, House of Commons, June 6, 2002. Over a year later, no appeal system is in place.

4.6.6. Inadequacy of other recourses

“In the absence of an appeal on the merits, there is no other mechanism that can ensure that errors are corrected. A refused refugee claimant can apply to the Federal Court, but only with leave (or permission) from the Court and only on technical legal matters. Less than 1% of decisions of the Immigration and Refugee Board are overturned by the Federal Court.

A refused claimant can also apply for a Pre-Removal Risk Assessment but can only raise new evidence, not argue that the initial decision by the Immigration and Refugee Board was wrong. Only 3% of decisions at the Pre-Removal Risk Assessment are positive.

¹³⁷ *Supra* note 134.

¹³⁸ *Ibid.*

¹³⁹ *Ibid.*

At the end of the day, the Minister of Citizenship and Immigration always has the discretion to intervene in individual cases, where circumstances warrant. However, the Minister has chosen not to make regular use of (her) power to correct errors.”¹⁴⁰

Most of the Palestinian refugees have gone through or will be applying for judicial review at the Federal Court followed by the Pre-Removal Risk Assessment (PRRA). In the case of the Palestinian refugees, both procedures have appeared to be nothing more than bureaucratic red tape, rarely amounting to the overturning of any decisions. As attested to by Sharryn Aiken, past president of the Canadian Council for Refugees: “In some ways, a Canadian has more rights to appeal a parking ticket right now, than a refugee has with regard to their refugee claim.”

Following the PRRA application, a removal order is in place and the refugees have to return to a life of persecution in the refugee camps of Lebanon, or the Occupied Territories. An arrest warrant is put out by Canadian Immigration authorities in order to locate and deport the refugee claimants who have overstayed their removal order. As a result of the refused refugee claims, some Palestinian refugees have been forced to live underground, without access to basic services such as healthcare and education. They base making this difficult decision on well-founded fears of returning to what they initially fled: a life under military occupation, one of statelessness without any basic civil and human rights.

What has been most disturbing for the Palestinian refugee claimants who have gone through this process is the apparent lack of humanity and consideration with which their lives have been assessed. The Palestinian refugee claimants are sidelined to being cases and nothing more. What *must* be recognized is the complete unwillingness of these men and women to return to the refugee camps, because of the dire conditions they will be facing. There is a real and palpable fear possessed by them – the ‘process’ they are facing here did not understand that there is absolutely no life to be had within the refugee camps and that the lives of many are directly threatened.

¹⁴⁰ *Ibid.*

5. What would Palestinian refugees face if deported?

In the case of Palestinian refugee claimants, the waiting period for an IRB hearing ranges from 6 months to two years. Some claimants go through more than one session of these hearings. Following a negative IRB decision, the refugee claimants applied for judicial review of the decision and then for a Pre-removal Risk Assessment (PRRA) which also took a significant period of time.

Therefore, most **Palestinian refugee claimants have been in Canada for over three years**. Since their arrival in Canada, they have worked hard to establish themselves in Canadian and Quebecois society. They **have established extensive ties to the Canadian and Quebecois community**, making close friends, becoming involved in volunteer work, and maintaining steady employment. Many also have family members who have been accepted as refugee claimants in Canada.

If deported, not only will they be **stripped away** from the life they have built for over three years in this society and **from the community they have become a part of**, they will be forced to **return to discrimination and persecution** as well as endemic hardship and poverty.¹⁴¹

Palestinian refugees are **the only refugees in the world to exist** solely under the mandate of the United Nations Relief and Works Agency (UNRWA) and therefore **outside the realm of the** United Nations Higher Commission for Refugees (UNHCR) in their host countries. The consequence of this *fact* is one many do not comprehend. The Palestinian refugees become sidelined and marginalized, without hope for any form of protection.

Thus, to deport them would not be to place them in the circumstance of returning citizens to their home States, but rather to **return stateless peoples to refugee camps in host nations and/or Occupied Territories** where there is flagrant disregard of international human rights standards. Within the confines of this reality, the Palestinian refugees have no form of humanitarian-based security or protection, least of all the civil rights and liberties which they seek in Canada. **Deporting these men and women means revoking their rights to homes, livelihoods, security, consistency, promise, hope and future, in return for complete and total destitution.**

Finally, there is clear Canadian acknowledgement that there exists real danger in the areas to which the Palestinian refugees would be deported,¹⁴² as outlined by the travel advisory issued by the Department of Foreign Affairs and International Trade, by Canadian statements made at the United Nations and by the report of a Canadian-led mission to the refugee camps in Lebanon.¹⁴³ To have one arm of the Canadian Government acknowledge and warn against the ever-present dangers in these areas, and have another arm of the Government forcefully deport refugees back to these same areas is, to say the least, inconsistent and disturbing.

¹⁴¹ *Supra* note 17; and *supra* note 20.

¹⁴² *Supra* note 25; and *supra* note 26.

¹⁴³ See section 3.3.4 at page 13, above.

6. Conclusion

The above analysis and in-depth review of existing cases and regulating laws illustrates how some IRB members' lack of understanding and bias led to wrongful findings, often inconsistent with identical and accepted claims. Moreover, the unique situation of statelessness, the lack of protection provided, combined with the oppressive reality in which the Palestinian refugee claimants initially fled commands a just solution.

At the outset of this process, it was asked that the humanity of these claimants be recognized. They are more than case numbers and refugee claims, they are humans struggling to survive and make a life in a country where they can experience equality, peace and look toward a future of possibility and prosperity.

The evidence overwhelmingly amounts to legitimate grounds for the intervention of the Minister of Public Security and Emergency Preparedness, the Honorable Anne McLellan and the Minister of Citizenship and Immigration, the Honorable Judy Sgro, to make use of their discretionary powers to immediately stay the deportation of the Palestinian refugees and to grant them permanent residency under Humanitarian and Compassionate grounds.

Appendix I

Persecution faced by Palestinian refugees in Lebanon

After 56 years of exile, Palestinians living in Lebanon continue to be explicitly and systematically deprived of their civil, political, economic, social and cultural rights and liberties.

Right of Return

Palestinians were forced to flee or were expelled from their homes and lands at the time of the establishment of the State of Israel in 1948 and again when Israel occupied the West Bank and Gaza Strip in 1967. Many of them took refuge in Lebanon, where they remain today, together with their descendents. There are today about 400,000 Palestinian refugees in Lebanon and the majority of them live in refugee camps run by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).¹

The Palestinians' right to return is clearly recognized and upheld in international law. However, over 50 years have already elapsed since the start of the Palestinian refugee problem and the right to return has yet to be realized.²

For the past 56 years, Palestinian refugees in Lebanon continue to live in horrific conditions inside refugee camps. Their right to return to the homes they fled in 1948 continues to be completely denied by Israel, in direct violation of the following international legal instruments:

- UN General Assembly Resolution 194, re-affirmed over 110 times by the United Nations General Assembly since 1948;
- UN General Assembly Resolution 3236 and 52/62;
- The Universal Declaration of Human Rights;
- The International Covenant on Civil and Political Rights;
- The International Convention on the Elimination of All Forms of Racial Discrimination, and;
- The 4th Geneva Convention.

The denial of this individual and inalienable right has led stateless Palestinian refugees into a life of misery in refugee camps throughout neighboring host countries.

¹ Amnesty International, "Refugees feature: Palestinian refugees - a legacy of shame", online at <<http://news.amnesty.org/mav/index/ENGMDE183032004>>.

² *Ibid.*

Violations of International Human Rights Conventions

The treatment of Palestinian refugees in Lebanon has been recognized to constitute a violation of a plethora of basic human rights. Amnesty International³ reported in 2003 that the Lebanese treatment of stateless Palestinians is in violation of:

- The International Covenant on Economic, Social, and Cultural Rights;
- The International Covenant on the Elimination of All Forms of Racial Discrimination;
- The Convention on the Rights of the Child;
- The International Covenant on Civil and Political Rights;
- The Convention on the Elimination of All Forms of Discrimination Against Women, and;
- The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Canada has either ratified or acceded to each of these instruments.

Systematic discrimination

- Palestinians in Lebanon face systematic discrimination that jeopardizes their capacity to attain the essentials of a safe and healthy existence. Amnesty International has made the following unequivocal observations:

Discrimination levied against Palestinians in relation to the rights to own and inherit property and the right to work, creates conditions where Palestinian refugees cannot enjoy an adequate standard of living. [...] The conditions that Palestinian refugees live in, including their lack of access to adequate housing, food and clothing, lead to a situation where Palestinian refugees do not enjoy the right to an adequate standard of living.⁴

- Jordan, Lebanon, and Syria have the largest Palestinian refugee populations. Those in Lebanon probably suffer the most out of these three communities. For them, the pain associated with the loss of their homes, the decades of exile in foreign countries is aggravated by a policy of systematic discrimination against them.⁵
- Lebanon is a country with a small population and very diverse ethnic and religious communities. It has suffered through a long civil war and severe sectarian tensions, to which the Palestinians were inextricably linked. The involvement of Palestinian factions in the civil war is cited as one of the main reasons why Palestinians are the victims of discrimination in Lebanon. This does not excuse the systematic discrimination against them or the violation of their fundamental human rights.⁶

³ Amnesty International, “*Lebanon: Economic and Social Rights of Palestinian Refugees*”, 2003 Report, online at <<http://web.amnesty.org/library/Index/ENGMDE180172003>>

⁴ *Ibid.*

⁵ *Supra* note 1.

⁶ *Ibid.*

Right to Employment & Abject Poverty

- Palestinians in Lebanon are *de jure* and *de facto* discriminated against in relation to other non-citizens with regards to the right to work and the right to social security.⁷
- The Lebanese government applies a policy of reciprocity of treatment when it comes to granting work permits; it will grant the right to work to foreign nationals to the extent that their state grants the right to Lebanese nationals. Palestinians are at a particular disadvantage in relation to other foreign nationals as they do not have a state that could provide reciprocal treatment to Lebanese nationals.⁸
- Palestinians face severe restrictions in their access to work and to opportunities to gain their living by work. Palestinian refugees are barred *de jure* from practicing several professions such as law, medicine, pharmacy, and journalism due to a requirement of possessing Lebanese citizenship or to having reciprocal treatment in the country of the foreign national wishing to practice this profession.⁹
- A Ministerial Decree issued on 15 December 1995 lists trades and vocations that are restricted to Lebanese nationals; this includes a non-exhaustive listing of dozens of trades and vocations restricted to Lebanese employees or employers.¹⁰
- Lebanese laws (resolution 621/1, decree 6812 of 1995, and decree 17561 of 1964) clearly restrict foreigners from working in over **70 professions** in Lebanon. Only 1% of the Palestinians in Lebanon manage to secure the mandatory work permit required by the Lebanese government, in order to benefit from regular jobs.¹¹
- The majority of Palestinians are forced to work illegally, and in unskilled labor, mostly in manual, irregular and daily – either paid, or in petty commerce in the camps. The average individual income (44\$) is a quarter of the Lebanese minimum wage (161\$).¹²
- UNRWA has estimated that 60% of Palestinians in Lebanon live below the poverty line. Other studies have indicated that proportions have risen to 80%, with 56% living in extreme poverty.¹³
- Very few Palestinians received work permits, and those who found work usually were directed into unskilled occupations. Palestinian incomes continued to decline. The law prohibits Palestinian refugees from working in 72 professions.¹⁴

⁷ *Supra* note 3.

⁸ *Supra* note 1.

⁹ *Supra* note 3.

¹⁰ *Ibid.*

¹¹ Tahri, M. and De Donato, M. “*Refugees also Have Rights!*”, Euro-Mediterranean Human Rights Network (Sept. 2000).

¹² Zakharia, L. “*Poverty Intensification Strategies: The Case of Palestinian Refugees*”, *FOFOGNET, Digest*, 3 March 1997.

¹³ *Ibid.*

¹⁴ U.S. Department of State, *Lebanon Report on Human Rights Practices for 2003*, released by the Bureau of Democracy, Human Rights, and Labor (February 25 2004) online at <<http://www.state.gov/g/drl/rls/hrrpt/2003/27932.htm>>

- According to UNRWA, the hundreds of thousands of Palestinian refugees in Lebanon have the highest rate of people living in "abject poverty" of all the Palestinian refugee communities they serve.¹⁵
- The Popular Committee, an administrative committee representing different political factions in the 'Ayn al-Hilwah' camp, Lebanon's largest Palestinian refugee camp, says that the rate of unemployment is 80%. It mainly attributes this to laws discriminating against Palestinian refugees in their ability to seek work.¹⁶

Right to Adequate Housing & Property

- Palestinians in Lebanon are *de jure* and *de facto* discriminated against as compared with other non-citizens with regards to the rights to own and inherit property.¹⁷
- Palestinians in Lebanon are restricted from rebuilding or redeveloping refugee camps due to government-imposed restrictions.¹⁸
- Recent passing by Parliament of revisions to the law concerning ownership of property by foreigners, a new level of exclusion has been reached by forbidding "anyone who does not have citizenship in a recognized state" from owning property. Though not named explicitly, Palestinians are clearly meant by this roundabout phrasing. Those Palestinians who already own property, moreover, will not be able to pass on their homes to their children.¹⁹
- Palestinian refugees do not have the right to own property in the country. Palestinians no longer may purchase property and those who owned property prior to 2001 will be prohibited from passing it on to their children.²⁰
- The law does not explicitly target Palestinian refugees, but bars those who are not "bearer[s] of nationality of a recognized state" from owning property; in practice, this means only the Palestinians.²¹
- The number of Palestinians in Lebanon has tripled due to demographic growth and Palestinians returning from the Gulf States (especially Kuwait, during the Gulf War). Because of unemployment and restricted access to work, most Palestinians have no choice but to live in concentrated areas such as the refugee camps.²²
- No new camps have been allowed since the war of 1975/76 when three camps in Lebanese Forces-dominated areas were overrun; existing camp boundaries are non-expandable; building inside most camps is restricted; and repairs as well as building new structures have been forbidden in all the Southern camps since 1991.²³

¹⁵ Supra note 1.

¹⁶ *Ibid.*

¹⁷ *Supra* note 3.

¹⁸ *Ibid.*

¹⁹ Sayigh, R. "Palestinians In Lebanon: Pawns on a Tilted Chessboard", *Between the Lines*, June 2001.

²⁰ *Supra* note 14.

²¹ *Supra* note 1.

²² *Supra* note 11.

²³ Sayigh, R. "Palestinian Refugees in Lebanon", *FOFOGNET, Digest*, 28 June - 3 July 1996.

- Most Palestinian refugees lived in overpopulated camps that suffered repeated heavy damage as a result of fighting during the civil war, during the Israeli invasion of the country, and during on-going camp feuds. The Government generally prohibited the construction of permanent structures in the camps on the grounds that such construction encouraged the notion of permanent refugee settlement in the country.²⁴

“Khaled Abu Hamid, a seventeen-year-old youth suffered a bullet injury in his lower extremity when he was standing on the mounds that surround Buss camp (Tyre Area) on 1st of July 2002. Fire was opened on him by Lebanese security that were in "hot pursuit" of some Palestinian Refugee youth trying to "smuggle" some building material on a motorcycle into the Buss camp. A motorcycle load of building material becomes a target for security men and its driver becomes a smuggler prone either to legal action (including being sued in military courts) or -worse still- to becoming a target to official firearms if he tries to evade the Lebanese checkpoints.”²⁵

- Camp space is insufficient, and environmental conditions – lack of electricity, overcrowding, polluted water, sewage-seepage – are hazardous to the health of its inhabitants.²⁶
- Public construction schemes threaten several camps with complete or partial demolition.²⁷
- The department for Palestinian Affairs in Lebanon acknowledges that some 200,000 Palestinian refugees live in camps that are capable of holding up to 50,000.²⁸

Freedom of Expression & Political Rights

- Freedom of expression is conditioned on the presence of Lebanese security forces and the Syrian army, who **control exits and entrances of most camps**. Many Palestinians have been arrested and transferred to either prisons in Lebanon or Syria.
- For fear of reprisals, Palestinians are afraid to express their opinions, not only due to the controls of Syrian and Lebanese security, but also due to the different rivaling political factions within the same camps.²⁹
- Palestinian refugees have no political rights. An estimated 17 Palestinian factions operate in Lebanon, generally organized around prominent individuals. Most Palestinians live in refugee camps controlled by one or more factions. The leaders of the refugees are not elected, nor are there any democratically organized institutions in the camps.³⁰
- Palestinian refugees were subject to arrest, detention, and harassment by state security forces, Syrian forces, and rival Palestinians. For example, Palestinian refugees living in

²⁴ *Supra* note 14.

²⁵ Palestinian Human Rights Organization, “*Ban on Building Materials Continues: Refugee Shot Near Buss Camp*” online at <<http://www.palhumanrights.org/press.htm>>.

²⁶ *Supra* note 23.

²⁷ *Ibid.*

²⁸ *Supra* note 11.

²⁹ *Ibid.*

³⁰ *Supra* note 14.

camps are not allowed to bring in construction material to repair damaged houses. Lebanese security services use this as leverage to recruit informers and buy their allegiance.³¹

- **Palestinian groups in refugee camps maintain a separate, arbitrary system of justice for other Palestinians.** Members of the various Palestinian groups that control the camps tortured and detained their Palestinian rivals.³²
- In the Palestinian camp of Ayn al Hilweh **assassination of opponents is more common than their arrest.**³³
- Many armed political factions compete for control of the camps and factional fighting is a common feature of life in some of the camps.³⁴

Freedom of Association

- Under Lebanese law, all associations and NGOs must be registered by Lebanese Citizens, thus, **Palestinians are not permitted to organize and form associations**, unless through a Lebanese citizen.
- Where authorities discover that the associations are not Lebanese, they are forced to cease activities.³⁵

Freedom of Movement

- Those waiting to go in and out of the camps may be subject to **identity checks** by the Lebanese or Syrian army.
- On 22nd September, 1995, the Lebanese authorities forbade Palestinians (mainly working in Gulf States) outside Lebanon to re-enter without a re-entry visa; at the same time their embassy would not issue any new travel documents, without pre-authorization of the Ministry of the Interior. Because of these restrictions many Palestinians working in the Gulf States who were expelled by these countries after the Gulf War were unable to return to either country. Many others did not want to risk leaving Lebanon, for fear of not being permitted re-entry to see their families.
- In 1999 the Lebanese government cancelled the requirement for entry/exit visas. However, as the majority of Palestinians were affected after the Gulf War, they were compelled to seek asylum elsewhere.
- Palestinians are forbidden from living in the areas near the frontiers, where they can only go with prior authorization.³⁶

³¹ *Ibid.*

³² *Ibid.*; and U.S Department of State, *Lebanon Report on Human Rights Practices for 1997*. Released by the Bureau of Democracy, Human Rights, and Labor (January 30, 1998).

³³ Foundation for Human and Humanitarian Rights, *The State of Human Rights in Lebanon, 1999: An Overview*, Lebanon, February 2000.

³⁴ *Supra* note 1.

³⁵ *Supra* note 11.

³⁶ *Ibid.*

- Some of the Palestinian refugee camps in the south of Lebanon might easily be mistaken for military zones. The camps are isolated from the outside world by fences and are guarded by Lebanese soldiers that control and vet access to and exit from the camps.³⁷

Right to Education

- Although Palestinians are entitled to the same education as Lebanese, when Lebanese schools and universities enroll their students, they give priority to Lebanese candidates. Moreover, private education is unaffordable to most Palestinians. According to the Department of Palestinian Affairs, around 20% of the Palestinian refugees have had access to Lebanese education.³⁸
- UNRWA provides education in 75 schools (70 primary and 5 secondary). UNRWA education is free, and attended by approximately 39000 students. 42% of UNRWA schools in Lebanon were built in the 1950s and 1960s, and today are in a state of disrepair. Moreover, the number of schools does not match the growing population, resulting in a system of double shifts, where classes are taught to one group in the morning and another in the afternoon. In each small classroom there are around 40 students.³⁹
- Because of overcrowding, students graduate from elementary school automatically, to free up space for new students. Failure rates are around 40-50%, which also reflects the poor teaching they receive, due to the fact that salaries for teachers are extremely poor, while hours are long.⁴⁰
- Because living conditions are so poor, many young people give up school to work illegally, in order to secure income for their families. Others use drugs, crime or join politico-religious factions to gain income.⁴¹
- Palestinian children reportedly were forced to leave school at an early age to help earn income. The U.N. estimated that 18 percent of street children in the country were Palestinian.⁴²

³⁷ *Supra* note 1.

³⁸ *Supra* note 11.

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ *Supra* note 23.

⁴² *Supra* note 14.

Right to Healthcare

- In Lebanon, public hospitals are largely insufficient, and the majority of the population relies on private hospitals, which cost too much for most Palestinians. UNRWA provides medical services in 24 private general hospitals, and one maternity and child care center. Basic services are offered only in the areas of maternity, child care, family planning and control of infectious and non-infectious disease.⁴³
- Due to high levels of demand, UNRWA doctors have had to see from 150-200 patients per day, and therefore cannot provide quality services.⁴⁴
- UNRWA is barely able to meet the basic needs of the Palestinian population; partial reimbursement (25% of the cost of hospital treatment) is one of the coping mechanisms, which has resulted in cases of Palestinians who have not been able to leave hospitals because they cannot pay the costs of their stay.⁴⁵
- Due to increasing populations and decreasing funds, UNRWA has had to restrict its services, including suspending subsidies for certain emergency treatments and medical staff, and reducing medical equipment and maintenance.⁴⁶

Right to Social Security

- Palestinians in Lebanon are *de jure* and *de facto* discriminated against in relation to other non-citizens with regards to the right to work and the right to social security;⁴⁷
- The Lebanese law on social security (26/09/63) relating to foreigners, **states that only foreigners who hold a work permit and are from a State which applies the principal of reciprocity may claim social security**. As a result, Palestinian workers are excluded, even when they have a work permit, as they cannot meet the principal of reciprocity criteria because they are Stateless.⁴⁸

Lack of UNRWA funding

- United Nations Relief and Works Agency (UNRWA), Amnesty International and the Palestinian Human Rights Organization have recognized that, as a result of this systematic discrimination, Palestinian Refugees in Lebanon are almost entirely dependent on UNRWA for basic services.
- UNRWA is, however, unable to provide these services, due to budget constraints. In their 2003 report to the UN General Assembly, UNRWA describes the situation succinctly:

209. Demand for food aid and cash for food assistance continued to rise as legal restrictions on employment of Palestine refugees in Lebanon remained in force and

⁴³ *Supra* note 11.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ *Supra* note 23.

⁴⁷ *Supra* note 3.

⁴⁸ *Supra* note 11.

prevailing socio-economic conditions limited income-earning opportunities for refugees.⁴⁹

- Since 1994, UNRWA has been facing serious budget shortages which have affected the quality and scope of the services it renders.⁵⁰

Statelessness: No United Nations Protection or any other form of protection

- Palestinian Refugees are **the only refugees in the world to exist** solely under the mandate of the United Nations Relief and Works Agency (UNRWA) and therefore **outside the realm of the United Nations High Commissioner for Refugees (UNHCR)** in their host countries. The consequence of this *fact* is one many do not comprehend. The Palestinian Refugees become sidelined and marginalized, without hope for any form of protection.
- For over 50 years, [Palestinian refugees] have been excluded from the international system for the protection of refugees.⁵¹
- The lack of adequate assistance is only one of the failures of the international community towards Palestinian refugees living in UNRWA's area of operation. Unlike other refugees, they are not protected by the 1951 Convention relating to the Status of Refugees or the United Nations High Commissioner for Refugees (UNHCR). Both the 1951 Convention and the Statute of UNHCR exclude Palestinian refugees from international protection. Ironically, like the Lebanese law barring [Palestinian refugees] from owning property in Lebanon, the Convention and the Statute do not explicitly exclude Palestinian refugees; rather, they exclude anyone who receives assistance from other organs of the United Nations. Here again, Palestinian refugees find themselves singled out.⁵²
- Thus, because of their unique situation, Palestinian refugees in Lebanon have been denied virtually every available means of securing their basic rights:

The exceptional condition of Palestinian statelessness and Palestinian dispersal extends itself to all political, economic, social and humanitarian spheres. UNRWA's mandate does not provide protection for Palestinian refugees nor can they appeal to the assistance of UNHCR whose mandate specifically exempts them from its protection. This aberration is particularly significant, not only for refugees living under Israeli occupation in the West Bank and Gaza, but also for those Palestinian refugees who are temporary residents in various countries, mainly Lebanon, Syria and Jordan (1). Thus, UNRWA's operations in these countries, the refugees' legal status and their rights are subject to host government policies without recourse to international agreements delineating refugee rights.⁵³

⁴⁹ UNRWA, *UNRWA's 2003 Report to the United Nations General Assembly*, online at <<http://www.un.org/unrwa/publications/index.html>>

⁵⁰ Sherifa Shafie, "Palestinian Refugees in Lebanon", Forced Migration Online Research Guide (2003), online at <<http://www.forcedmigration.org/guides/fmo018/fmo018.pdf>>.

⁵¹ *Supra* note 1.

⁵² *Ibid.*

⁵³ *Supra* note 12.

No Improvement in Sight

- Harsh discriminatory practices by the Lebanese government and the incapacity of lack of UNRWA to fulfill its mandate have driven Palestinian refugees into a situation characterized by abject poverty, isolation, and persecution.⁵⁴
- This deplorable situation is also highly unlikely to improve in the foreseeable future. Sherifa Sherfie noted that as recently as...

...the 18th of April 2003, during the meeting of the newly formed Lebanese cabinet, President Lahoud stressed that Lebanon will not back down on its insistence that Israel complies with the right of return of the Palestinian refugees, and that it (Lebanon) rejects any plans for their resettlement in Lebanon (tawteen)...At present, any resettlement (tawteen) of Palestinian refugees is forbidden by the Lebanese Constitution.⁵⁵

This attitude is reflective of the official Lebanese government position that Lebanon cannot and therefore will not accommodate Palestinian refugees.

⁵⁴ *Supra* note 50.

⁵⁵ Julie M. Peteet, “*Lebanon: Palestinian Refugees in the Post-War Period*”, online at <<http://www.monde-diplomatique.fr/cahier/proche-orient/region-lebanon-refugee>>

Appendix II

Persecution faced by Palestinians in Occupied Palestine

Palestinians living under Israeli military occupation in the West Bank and the Gaza Strip continue to be explicitly and systematically deprived of their civil, political, economic, social and cultural rights and liberties:

Military Occupation

- The West Bank and Gaza Strip, which constitute 22% of British mandated Palestine, have been under Israeli military occupation since 1967.
- U.N. Resolution 242 holds that continued occupation of these territories is illegal. The Resolution proclaims the “inadmissibility of the acquisition of territory by war”. In fact, the international community recognizes the illegality of the continued occupation of Palestinian territories. But still, Israel refuses to end its occupation.
- The Israeli military occupation is in itself violent and a major violation of International Law and international human rights law. The ongoing military occupation has many implications leading to great suffering for the Palestinians who have seen their lives, on all levels, controlled on a daily basis by the occupying army.
- The military occupation is in violation of many U.N. resolutions and International conventions such as:
 - UN resolutions 194, 242, 338, 1397, 1402, and many more
 - 4th Geneva Convention
 - Hague Regulations
 - UN Code of Conduct for Law Enforcement Officials
 - International Covenant of Economic, Social, and Cultural Rights
 - Convention on Elimination of All forms of Racial Discrimination
 - Convention on Rights of the Child and others

Canada has either ratified or acceded to each of these instruments.

Injuries and killings: indiscriminate violence, assassinations & human shields

- Since the start of the second Intifada in September 2000, over 2,755 Palestinians have been killed and 28,000 Palestinians have been injured. Most have been civilians. 460 Palestinian children have been killed. The number of Palestinian children killed, mainly in air and ground attacks, has increased in 2003.¹

¹ UN Commission on Human Rights, Special Rapporteur "Statement by Special Rapporteur on adequate housing regarding house demolitions in Occupied Palestinian territories" (06.11.2003).

- **The indiscriminate use of violence** is further illustrated by the use of flechette shells in Gaza. The use of such anti-personnel weapons in a densely populated area such as Gaza exposes civilians to great risk and fails to take account of the need to distinguish between civilians and military objectives.²
- **Shelling, shooting, aerial bombardment:** Palestinian communities, especially those located near Israeli settlements and military bases, are frequently subjected to indiscriminate shelling and shooting of residential areas, in some places every night. Heavy machine guns and tanks fire into Palestinian villages and refugee camps, while Apache helicopter gunships and F-16 fighter planes bombard PNA office buildings in civilian areas. Such use of force is disproportionate and often indiscriminate, resulting in deaths and damage and destruction to many homes.³
- Israeli Security forces in the Occupied Territories operate pursuant to **Open-Fire Regulations**, which limit the circumstances in which firing at persons is allowed. Despite these Regulations, from the beginning of the first Intifada (9 December 1987) to the end of May 2003, Israeli security force killed 3,399 Palestinians in the Occupied Territories, the vast majority by gunfire. 659 of those killed were minors under 17. The principal reason for these deaths is the deliberate policy of allowing lethal gunfire in situations where soldiers are not in danger.⁴
- **Violence by Security Forces:** According to many testimonies given to B'Tselem and other human rights organizations, the security forces use violence, at times gross violence, against Palestinians unnecessarily and without justification.⁵
- In one case, an IDF Spokesperson issued an official statement which contended that the soldier who killed a Palestinian civilian in Beit Omer, Hebron District, in November 2000, had shot him in self-defense after the man tried to snatch the soldier's weapon. B'Tselem's thorough research revealed that the claim was false. In fact, the Palestinian was shot following a verbal argument with the soldier. During the argument, the soldier aimed his weapon at the Palestinian's head and pulled the trigger.⁶
- **Extrajudicial assassinations:** From October 2000 to April 2003, the IDF has killed more than 230 Palestinians, including 80 children, women and innocent bystanders, in assassination actions. Over 300 persons have been injured in these actions.⁷
- **Human Shields:** During the Al-Aqsa Intifada, IDF soldiers have used Palestinian civilians as human shields. This practice has been most common during IDF operations in Palestinian population centers, such as Operation Defensive Shield. The method is the same each time: soldiers pick a civilian at random and force him to protect them by doing

² *Ibid.*

³ Palestinian Centre for Human Rights, *Intifada Report*, "Fact Sheet: Killings", online at <<http://www.pchrgaza.org/facts/Fact.pdf>>

⁴ B'Tselem, The Israeli Information Center for Human Rights in the Occupied Territories "Violence by Security Forces" online at <http://www.btselem.org/english/Security_Forces_Violence/index.asp>.

⁵ *Ibid.*

⁶ B'Tselem, The Israeli Information Center for Human Rights in the Occupied Territories "Clarification on the Data on Persons Killed during the al-Aqsa Intifada" online at <<http://www.btselem.org/english/Statistics/Clarifications.asp>>.

⁷ *Supra* note 3.

dangerous tasks that put his life at risk. The soldiers in the field did not initiate this practice; rather, the order to use civilians as a means of protection was made by senior army officials.⁸

House Demolitions & Property Destruction

- The collective punishment of Palestinians in the form of destruction of property has had serious consequences for the Palestinian people and the environment of Palestine. According to Jeff Halper, the Director of the Israeli Committee against House Demolitions, “The bulldozer has become as much a symbol of Israeli occupation as the rifle and the tank.”⁹
- The situation is particularly acute in Gaza. According to the Commissioner-General of UNRWA:

At the end of May 2003, a total of 1,134 homes [had] been demolished by the Israeli military in the Gaza Strip, making almost 10,000 individuals homeless. Unfortunately, this is not a policy on the wane. During the first two years of the intifada, the average number of homes demolished in Gaza - a statistical category both depressing and surreal - was 32 per month. Since the start of 2003, the average has risen to 72. Disturbingly, the publication of the road map to peace has so far had no impact.¹⁰

- According to information received, the Israeli army has destroyed an estimated 4,000 homes over the past three years, leaving thousands of people homeless, many of whom are women, children and elderly persons.¹¹
- **The destruction of thousands of acres of agricultural land** based on the claim that Palestinians fired from these lands and the demolition of entire residential neighborhoods on the charge that some of them contained tunnels constitute excessive injury to the civilian population. This injury is illegal.¹²
- Since the beginning of the Al-Aqsa Intifada, **Israel has demolished hundreds of houses, uprooted thousands of trees, and destroyed thousands of acres of land** in the Gaza

⁸ B'Tselem, The Israeli Information Center for Human Rights in the Occupied Territories “Human Shields” online at <http://www.btselem.org/english/Human_Shield/index.asp>

⁹ UN Commission on Human Rights (ECOSOC), “Report of the Special Rapporteur of the Commission on Human Rights, John Dugard, on the situation of human rights in the Palestinian territories occupied by Israel since 1967, submitted in accordance with Commission resolution 1993/2 A - E/CN.4/2004/6”, 08.09.2003, online at <[http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/95729536bb9b1a87c1256dc7002bc8e0/\\$FILE/G0316082.pdf](http://www.unhcr.ch/Huridocda/Huridoca.nsf/0/95729536bb9b1a87c1256dc7002bc8e0/$FILE/G0316082.pdf)>.

¹⁰ International Herald Tribune, 22 June 2003, online at <http://www.un.org/unrwa/news/articles/alhayat_alquds.html>

¹¹ UN Commission on Human Rights, Special Rapporteur, “Statement by Special Rapporteur on adequate housing regarding house demolitions in Occupied Palestinian territories”, 06.11.2003, online at <<http://www.unhcr.ch/hurricane/hurricane.nsf/view01/2873B291BFFC831BC1256DD6003D28F9?opendocument>>

¹² B'Tselem, The Israeli Information Center for Human Rights in the Occupied Territories “Destruction of Houses and Fields” online at <http://www.btselem.org/english/Houses_and_Fields_Destruction/index.asp>.

Strip. In almost all the cases of demolition, the houses were occupied and the residents fled when the bulldozers appeared at their doorsteps.¹³

Land confiscations and the Wall

- The fact must be faced that what we are presently witnessing in the West Bank is a visible and clear act of **territorial annexation** under the guise of security.¹⁴
- Israel is presently building a wall in the West Bank that, when completed, will be some 450 (possibly 650) kilometers in length. At the time of writing some 150 kilometers have already been completed and building constructors are working frenetically to finish it as soon as possible. At times this barrier takes the form of an eight-meter-high wall (near Qalqiliya).¹⁵
- The Wall has serious implications for human rights. It further restricts the freedom of movement of Palestinians, restricts access to health and education facilities and results in the unlawful taking of Palestinian property. However, the Wall has more serious implications as it violates two of the most fundamental principles of contemporary international law: the prohibition on the forcible acquisition of territory and the right to self-determination.¹⁶

Checkpoints

- Checkpoints, closures and curfews are words that fail to capture the full enormity of what is happening today in the West Bank and Gaza. A checkpoint is not simply a military outpost on a highway that checks the documents of pedestrians and traffic that seek to proceed along the road.¹⁷
- Every day thousands of Palestinians must pass through these checkpoints in order to travel from home to work, to reach schools and hospitals and to visit friends and family. Every day Palestinians are compelled to waste hours passing through these checkpoints. Frequently, Palestinians are obliged to leave their vehicles at one checkpoint and to walk along dusty roads to another checkpoint to take a taxi to their destination. Accounts of rudeness, humiliation and brutality at the checkpoints are legion.¹⁸
- Ambulances are often delayed and women give birth to children at checkpoints. Checkpoints are not so much a security measure for ensuring that would-be suicide bombers do not enter Israel, but rather the institutionalization of the humiliation of the Palestinian people.¹⁹

¹³ *Ibid.*

¹⁴ *Supra* note 9.

¹⁵ *Ibid.*

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ *Ibid.*

- There are some 300 checkpoints or roadblocks, including about 140 checkpoints manned by the military.²⁰
- When at all possible, traveling even a short distance between West Bank towns and villages usually entails a lengthy, costly and potentially dangerous journey for Palestinians. Detours to avoid closed checkpoints, blockades or areas which are forbidden to them often take travelers miles out of their way, sometimes on tracks over or round steep hills, changing several vehicles and crossing blockades on foot. In addition this involves the risk of being turned back, harassed or even shot. Such detours are difficult or impossible for the sick, the elderly or those carrying heavy packages or small children.²¹
- Blocking of the access roads to certain towns and villages by means of staffed checkpoints or concrete blocks, dirt piles, or deep trenches. Since October 2000, most of the Palestinian communities in the West Bank have been closed off in this manner, and their residents severed from the outside world.²²
- B'Tselem's checkpoint monitors took testimonies from ten Palestinians who were assaulted between December 27-31 by soldiers serving at the Sarra checkpoint. The abuse included a mock execution, severe beatings and tying up the victims. The abuse occurred on a regular basis.²³
- In 2001 the UN Committee on Economic, Social and Cultural Rights described Israel as perpetrating:

...continuing gross violations of economic, social and cultural rights in the occupied territories, especially the severe measures adopted by the State party to restrict the movement of civilians between points within and outside the occupied territories, severing their access to food, water, health care, education and work.²⁴

Sieges, Curfews & Closures

- West Bank towns and villages have often been placed under curfew, in many cases for prolonged periods. After the Israeli army retook control of the main West Bank towns in the spring of 2002, 24-hour curfews were imposed for days and in some cases weeks. The army almost completely stopped vital service providers and ambulances from functioning. At times, curfews were lifted for a few hours to allow Palestinians to purchase essential supplies.²⁵
- Nablus was under curfew for longer than any other city, and remained under 24-hour curfew for five months after 21 June 2002, apart from one month when it was under a

²⁰ *Ibid.*

²¹ Amnesty International "Surviving under siege: The impact of movement restrictions on the right to work" (#15839, 08.09.2003).

²² B'Tselem, The Israeli Information Center for Human Rights in the Occupied Territories, "Freedom of Movement" online at <http://www.btselem.org/english/Freedom_of_Movement/index.asp>.

²³ B'Tselem, The Israeli Information Center for Human Rights in the Occupied Territories "Sarrah Checkpoint - A Week of Severe Abuse" (04.01.04) online at <http://www.btselem.org/English/Press_Releases/2004/040104.asp>.

²⁴ *Supra* note 21.

²⁵ *Ibid.*

night curfew only. In the H2 area of Hebron some 30,000 Palestinians have been under full or partial curfew most of the time in order to allow some 500 Israeli settlers to move freely.²⁶

- When a town or a village is under curfew, the Israeli army usually schedules to allow the movement of civilians for a few hours during daylight. However, scheduled breaks in the curfew are often cancelled without notice. Members of the Israeli security forces have frequently resorted to lethal force to enforce closures, killing or injuring scores of unarmed Palestinians as a result. Soldiers have opened fire on Palestinians bypassing checkpoints, crossing trenches, removing barriers and breaking curfews. They have fired at ambulance personnel, municipal employees and journalists who had coordinated their movements in advance with the Israeli army.²⁷
- According to the Palestine Red Crescent Society, the total days of curfew accumulated by all major Palestinian cities and villages between September 2000 and February 8th 2004 amount to 1,081 days.²⁸
- The most extreme restriction on movement. During curfew, the residents are completely prohibited from leaving their homes. Since the beginning of "Operation Determined Path", on 18 June 2002, curfew has been routine for hundreds of thousands of Palestinians.²⁹
- Since the outbreak of the Al-Aqsa Intifada, Israel has imposed a total closure on the Occupied Territories and has prohibited Palestinian movement between the Occupied Territories and Israel and between the West Bank and the Gaza Strip.³⁰

Imprisonment, administrative detentions and torture

- According to documented information published by Palestinian human rights organizations and the Palestinian law NGOs in addition to official sources as the statistics provided by the International Committee of the Red Cross (ICRC) and the Israeli military occupation forces, the number of Palestinian detainees amounted to 28,000 since the outbreak of the present Intifada. Presently, there are approximately 5700 prisoners (males and females) who are detained in four detention centers. This number includes 1200 administrative detainees who are being held without charges, nor have they been brought to trial. Moreover, there are 66 women prisoners detained in Al-Ramleh prison within the Green Line and about 200 boys of no more than 18 years who live under very difficult conditions of detention³¹
- Overcrowding in the Ramle Women's Prison, where 10 girls were detained in October 2003, means that up to 8 women are held in each cell, and the number of skin diseases is

²⁶ *Ibid.*

²⁷ *Ibid.*

²⁸ Palestine Red Crescent Society, online at <http://www.palestinercs.org>.

²⁹ *Supra* note 22.

³⁰ B'Tselem, The Israeli Information Center for Human Rights in the Occupied Territories "Policy of Closure" online at <http://www.btselem.org/english/Freedom_of_Movement/Closure.asp>.

³¹ Al Haq, "Legal" Cover for Illegitimate Practices: Arbitrary Arrests and Prison Conditions of Palestinian Political Prisoners in Israeli Prisons and Detention Centers" online at <http://www.alhaq.org/humanrights/index.htm>.

reportedly increasing as a result of those conditions. The quality of food is reported to be extremely bad and helpings have been halved in the last weeks. The administration has even prohibited schoolbooks and other academic material, which the inmate's families used to bring for them. Detainees who have not been sentenced are not allowed to have any books at all. These restrictions are in complete contradiction with Israeli civil law and International law.³²

- The International Secretariat of OMCT was informed by PCATI and Defence for Children International/Palestine Section (DCIPA), another member of the SOS-Torture network, of the alarming situation of many other Palestinian children in detention. OMCT is gravely concerned by the high number of allegations of unlawful arrests and detention, torture and ill-treatment of children while in police custody or in Israeli detention facilities, as well as the poor and often inhuman living conditions there.³³
- Due to overcrowding in permanent facilities, so-called "temporary centers" without special provisions for minors continue to hold child detainees for prolonged periods of time. This even concerns child prisoners who have been tried, even though they are supposed to be moved to permanent facilities under Israeli rules. In Atzion Military Detention Centre outside Bethlehem, 7 prisoners are being held in cells of 2.5m x 2.5m, with no distinction made between adults and children. Moreover, Atzion is reported to be the facility with the harshest living conditions. Apart from the very serious and continuing allegations of torture and ill-treatment, inmates are refused basic hygiene, adequate food and access to toilets.³⁴
- There are 6,000 Palestinians in Israeli prisons and detention centers. Some have been tried, some have not. The number of those detained includes 175 juveniles and 70 women.³⁵
- The living conditions inside the prisons are very difficult due to the fact that the prison administrations do not take into account the minimum needs of the prisoners. On the contrary, they violate the simplest living requirements, including food, water and basic needs, and they violate the international standards and instruments for the protection of human rights. Moreover, the prison administrations do not provide the detainees with the minimum-needed medical care, and the ill prisoners are not examined by doctors or given the needed medicine or treatment, especially those who have chronic diseases, such as cancer, failure of kidneys, etc.³⁶
- The broad and arbitrary detentions carried out by the occupation forces against the Palestinian civilians represent a form of collective punishment in contradiction to article 13 of the Fourth Geneva Convention. This article states that "No protected person may be punished for an offense he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited."³⁷

³² OMCT - World Organisation Against Torture "Israel: torture and ill-treatment of child detainees" (10.12.2003).

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ *Supra* note 9.

³⁶ *Ibid.*

³⁷ *Ibid.*

- The Israeli occupation forces give themselves the right, through the British Emergency Regulations, to detain any Palestinian for a long period without a specific charge or trial. This procedure is in contradiction to the provisions of Fourth Geneva Convention of 1949.³⁸
- Over the years, Israel held Palestinians in prolonged detention without trying them and without informing them of the suspicions against them.³⁹
- In a publication entitled *Back to a Routine of Torture* covering the period September 2001 to April 2003, PCATI estimated that for the first half of 2003:

...each month, hundreds of Palestinians have been subjected to one degree or another of torture or other cruel, inhuman or degrading treatment, at the hands of the GSS (General Security Service) and bodies working on its behalf. ... The bodies which are supposed to keep the GSS under scrutiny and ensure that interrogations are conducted lawfully act, instead, E/CN.4/2004/6 page 13 as rubber stamps for decisions by the GSS.⁴⁰

- Interrogation by torture is absolutely prohibited by Israeli and international law. Despite this, **Israeli security forces breach the prohibition and torture Palestinians during interrogation.**⁴¹
- In July 2001, B'Tselem published a report on torture that occurred from October 2000 to January 2001 during interrogations of Palestinians in the Gush Etzion police station. The victims were youngsters aged fourteen to seventeen. In most of the cases, the police arrested them at their homes in the middle of the late night and took them to the police station in Gush Etzion, where police interrogators tortured them until morning. The police objective was to obtain confessions and information about other minors. The methods of torture described in the report included: Forcing the minors to stand in painful positions for prolonged periods; Beating the minors severely for many hours, at times with the use of various objects; Splashing cold water on the detainees in the facility's courtyard in wintry conditions; Pushing the minor's head into the toilet bowl and flushing the toilet; Making death threats; Cursing and degrading the minors⁴²

³⁸ *Ibid.*

³⁹ B'Tselem, The Israeli Information Center for Human Rights in the Occupied Territories "Administrative Detention" online at <http://www.btselem.org/english/Administrative_Detention/index.asp>.

⁴⁰ *Supra* note 9.

⁴¹ B'Tselem, The Israeli Information Center for Human Rights in the Occupied Territories "Torture", online at <<http://www.btselem.org/english/Torture/index.asp>>

⁴² *Ibid.*

Attacks on medical personnel

- From Sep 29, 2000, to June 27, 2003, there were 966 recorded cases of the Israeli Army delaying PRCS ambulances (PRCS defines a delay as an ambulance being held for more than 15 minutes per checkpoint) or denying them passage.⁴³
- There are many ways in which the Israeli Army denies access to ambulances. Sometimes soldiers at checkpoints refuse an ambulance passage; this is the most common form of denial of access. In other cases, the ambulances come under attack, and are forced to leave the scene.⁴⁴
- Nablus, 3 February 2003 (21:00): Israeli soldiers at the Jordan Street checkpoint stopped an ambulance at gunpoint and forced it to turn back. The ambulance was attempting to carry a child with heart disease from her home in the Balata Refugee Camp to a hospital in Nablus.⁴⁵
- Drivers, medics and patients are questioned at checkpoints, where some Israeli soldiers make life and death decisions as to how urgently patients require medical care, and how thoroughly an ambulance should be searched.⁴⁶
- According to the Palestine Ministry of Health, 91 patients have died at Israeli Army checkpoints between the beginning of Second Intifada and April 5th, 2003.⁴⁷
- Emergency Medical Technicians (EMTs) are often detained while on duty. Whether or not there is a patient in the ambulance at the time, the detention of EMTs ties up medical teams and ambulances, keeping them from their humanitarian work. Between September 29, 2002, and June 27, 2003, 80 PRCS volunteers and staff members were arrested while on duty. This figure does not include the short-term, informal detentions that commonly occur at checkpoints.⁴⁸
- Between September 29, 2000, and June 27, 2003, PRCS has recorded 255 Israeli attacks on ambulances. 118 PRCS ambulances have been damaged, some more than once. Of these damaged ambulances, 28 are beyond repair.⁴⁹
- On Oct. 26, during the clashes between the Palestinians and the Israeli troops in Zeha village near Tulkarem (North West Bank), Mr. Emad Hussein Abu-Snahneh, suffering from severe tear gas inhalation and asthma, began to suffocate. PRCS teams at 15:30 took Mr. Snahneh in an ambulance (number 61-900-90) to transfer to hospital due the severity of the case. An estimated thirty Israeli troops stopped the ambulance and threatened the team at gunpoint. The team attempted to communicate with the soldiers explaining that the severity of the case and need for hospital care. In spite of all the

⁴³ Palestine Red Crescent Society “Humanitarian duty: violations of International Humanitarian Law Against The Palestine Red Crescent Society” (July 2003) online at <<http://www.palestinercs.org/Downloads/Reports/In%20Depth%20Report.pdf>>.

⁴⁴ *Ibid.*

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ *Ibid.* For more information see the Ministry’s web-site at <www.moh3.com>.

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

attempts to convince the soldiers to permit the vehicle to pass, the soldiers removed Mr. Snahneh from the ambulance, struck him in the face and shoulder and carried him to a military vehicle.⁵⁰

Humanitarian crisis: Poverty and Malnutrition

- The United Nations Under-Secretary-General for Humanitarian Affairs Jan Egeland [...] noted that the UN is increasingly worried with the situation there in the Occupied Territories, and that there could be a humanitarian crisis of enormous proportions if the situation continues to deteriorate, and the humanitarian access to the people gets worse. Egeland said [...] that more than one million Palestinians could be engulfed in this deteriorating situation.⁵¹
- Some 60% of the Palestinian population is living below the poverty level of US \$2.10 per day and unemployment has risen to close to 50 percent.⁵²
- 22% of Palestinian children under 5 are suffering from malnutrition and 9.3% from acute malnutrition, a three- and eight-fold increase, respectively, over 2000 figures.⁵³
- 15.6% of Palestinian children suffer acute anemia, which could lead to permanent impairment of physical and mental development. Food consumption by Palestinians has fallen 30% on average per person and 60% of Palestinian households now live in acute poverty and half of them depend on international food aid.⁵⁴
- The dramatic decline in the standard of living among Palestinians in the Occupied Territories has led to increased malnutrition and other health problems.⁵⁵

⁵⁰ Palestine Red Crescent Society “Arresting the Injured”, online at <http://www.palestinercs.org/beyondnumbers/arresting_the_injured.htm>.

⁵¹ KNA, “More than one million Palestinians can be affected by growing crisis”, 3 Feb 2004, online at <<http://www.reliefweb.int/w/rwb.nsf/480fa8736b88bbc3c12564f6004c8ad5/bc697aaccbb6a4f9c1256e2f005ab122?OpenDocument>>.

⁵² World Bank, “Two Years of Intifada, Closures and Palestinian Economic Crisis: An Assessment”, 5 March 2003, online at <[http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/WBGsummary-ENG/\\$File/WBGsummary-ENG.pdf](http://lnweb18.worldbank.org/mna/mena.nsf/Attachments/WBGsummary-ENG/$File/WBGsummary-ENG.pdf)>

⁵³ Deutsche Presse Agentur, “U.N.: Israel denies Palestinians' right to food and water (DPA)”, 12 Nov 2003, online at <<http://www.reliefweb.int/w/rwb.nsf/480fa8736b88bbc3c12564f6004c8ad5/6591ca0ddee797a185256ddc006fd521?OpenDocument>>

⁵⁴ *Ibid.*

⁵⁵ *Supra* note 21.

Appendix III

The Deportation of Ahmed Abdel-Majeed

"Stateless Palestinian refugee, detained and deported by Immigration Canada, imprisoned in the U.S. and back to the life of persecution in the refugee camp of Ein El Helweh!"

Ahmed Abdel Majeed is a stateless Palestinian refugee from the refugee camp of Ein El Helweh. Ahmed arrived in Canada on March 31st 2001 and claimed refugee status. He is now back in the refugee camp of Ein El Helweh after spending days in the Clinton County Jail in the U.S.

After Ahmed was released from prison for a posting of \$US 10,000 bond, he was then deported to the life of persecution in the refugee camp of Ein El Helweh, a life he has attempted to escape from over three years.

Ahmad was born stateless and unprotected, into the misery and hopelessness of a Palestinian refugee camp. He, amongst other Palestinian refugees, has no civil or political rights in Lebanon. He is barred from working in over 78 professions, cannot own or inherit property, is subject to I.D. checks every time he enters or exits the camp, and has no access to public healthcare or education.

Ahmed came to Canada looking for a life and a future. After struggling to stay in Canada, advocating for both himself and fellow Coalition members, he found himself in detention in Laval, in prison in the United States and finally back in the refugee camp he tried to escape.

In Canada, as a result of his refused refugee claim, Ahmed had been forced to live underground, without access to basic services such as health care and education. Ahmed remained in Canada due to well-founded fears of returning to that which he initially fled, a life of statelessness without any basic civil and human rights and facing daily dangers.

Ahmed's life inalterably changed when at around 10 a.m on Tuesday November 4th 2003 four Canadian Immigration agents picked him up, handcuffed him and took him to detention. Ahmed then called his fellow Coalition members, who immediately went to Citizenship & Immigration Canada's (CIC) main offices. They secured a meeting with René D'Aoust, Director of Investigations and Removals at CIC offices in Montreal.

In this meeting Mr. D'Aoust assured members of the Coalition that Ahmed would not be deported from Canada before 48 hours and that he would have his Detention Hearing. Mr. D'Aoust told the members of the Coalition: "we are well aware we are not dealing with cargo here but with the lives of human beings". Unfortunately, Immigration Canada's actions with Ahmed Abdel-Majeed proved otherwise.

During Ahmed's detention, some MPs brought Ahmed's story to the attention of the Minister of Citizenship & Immigration, Denis Coderre, hoping he might intervene to stop the deportation. The Minister, his parliamentary secretary, his assistant and several Immigration officials were asked to intervene to stay the deportation of Ahmed Abdel-Majeed. Ahmed was hoping even until

the last seconds before his deportation that someone would intervene, but unfortunately, nobody did.

During his detention in Laval, Ahmed kept in constant contact with Coalition and community members. Wednesday evening, Ahmed was informed that he would have a detention hearing the next day, at 1 p.m. Ahmed passed this information along to Coalition members. Concerned for Ahmed's safety and the possibility of him being deported prior to his detention hearing, Coalition members gathered at 6 a.m. on Thursday November 6th 2003, to await Ahmed's phone call. He called confirming he would have his Detention Hearing at 1 p.m. that afternoon at the Immigration & Refugee Board (IRB).

At around 8:30 a.m. Ahmed called again, this time with good news: "he was being released". Five carloads of supporters drove to Laval Detention Center to greet Ahmed thinking that the Minister might have intervened. When they arrived, they were locked out of the Center. The Coalition waited quietly and peacefully in the parking lot for Ahmed for over 30 minutes. They received no phone calls and he did not appear. At this time 3 police cars and one police van arrived, and told Coalition members they must leave or face arrest. A representative of the Detention Center also came out and reconfirmed that Ahmed would be attending his Detention Hearing at 1 p.m.

At 12 p.m. Coalition members and supporters of Ahmed gathered at CIC offices, to stage a sit-in demanding a stay of deportation. At 1 p.m. 8 supporters and Ahmed's lawyer went to his detention hearing. When they arrived, they were informed Ahmed's trial had been cancelled, and he had been returned to Laval Detention Center. Upon contacting the Laval Detention Center, the Coalition was told that Ahmed was 'somewhere else in Montreal.' At this same time, Ahmed called and informed the Coalition that he was at the U.S. border. He had been deported while he, his lawyer and his supporters were repeatedly told that the deportation would not be taking place in the morning, and he would be attending the hearing at 1 p.m. Ahmed's friends and supporters found out later that Ahmed did not misunderstand the Immigration officials but was in fact lied to by them and told that he was going to be released at that time.

At around 11 a.m. that day, Ahmed was told by Canadian Immigration officials that he was leaving Laval Detention Center to attend his bail hearing in downtown Montreal. Canadian Immigration officials and RCMP officers handcuffed Ahmed's wrists and ankles together, and fixed his seatbelt for the trip. Continuously, Ahmed asked the officials where he was being taken. Each time they answered Montreal. About 30 minutes later, Ahmed saw a sign for New York State. Panicked, he asked an agent why he wasn't going to his detention hearing in Montreal. The agent placed his finger to his lips, indicating for Ahmed to be quiet.

INS officials were waiting for Ahmed at the Champlain border, where he was taken and imprisoned in Clinton County Jail. INS places refugees in county jails with prisoners who have criminal charges, commissioning them 28 000 USD per inmate they hold/year. Ahmed, fleeing to Canada for asylum from persecution, found himself in jail in the USA, ultimately criminalized.

On Saturday, November 8, 2003, two members of the Coalition Against the Deportation of Palestinian refugees went to visit Ahmed Abdel Majeed in Clinton County Jail, Plattsburgh, USA. Ahmed was deported to the U.S. as it was his last port of entry to Canada (he came to Canada to apply for a refugee status through the U.S. where he had stayed only for a few weeks).

When Coalition members visited Ahmed that morning, he had come out in a bright orange prisoner jumpsuit. He had lost noticeable weight and looked as if he hadn't slept for days. Ahmed

had yet to see an INS agent, was not aware of his rights, and felt he would be jailed indefinitely, as he is a 23 year old, single, Palestinian & Muslim male.

Had Coalition members not been able to pay for the \$10,000 US bond, Ahmed would have been held in the jail until his case was heard before an immigration judge (the date was unknown) at which time he would have been transferred to a another prison in the Buffalo area where there was a possibility he would remain in prison for weeks if not months. Ahmed also risked being deported administratively before this time. He was only allowed four visits per week, 30 minutes per visit. Nobody could call the prison to speak to him; he had to call people collect.

Ahmed's imprisonment had left him miserable and suspicious. After being repeatedly lied to by Canadian officials, Ahmed did not trust Immigration agents. He was desperate to leave prison, and Coalition members had been contacted by his family from overseas, sending him messages to stay strong and not accept deportation back to the persecutory conditions he fled from in Lebanon. Ahmed told one of the Coalition members in response to his family's plea: "I am grabbing on to Hope, like someone who is grabbing on to air".

Ahmed was one of the most active members of the Coalition Against the Deportation of Palestinian refugees. He strongly believed that if people in Canada knew about what they had to go through, it would only be a question of time until a just solution would be given by Immigration Canada. The day before his detention by Canadian Immigration officials, he told a friend: "I sense beautiful days coming ahead" in reference to a possible stay of their deportation. He was actually detained by Immigration officials while carrying petitions against their deportation, which he had been distributing.

The deception by Immigration agents, his detention and quick deportation only reaffirmed the lack of understanding and callousness of a system that claims to protect persecuted persons. Coalition and community members reaffirm their commitment to organize and fight for the regularization of the Palestinian refugees facing deportation.

Appendix IV

Stories of Palestinian refugee claimants facing deportation

The story of 3 elderly Palestinians currently in Sanctuary at the Notre-Dame-de-Grâce Church in Montreal: Nabih, age 69 – Khalil, age 67 - and Thérèse, age 62.

1930 - Nabih Rizk Ayoub and his brother Khalil are both born in the 30's in Al Basa, a village 35 Km from Haifa in Palestine, which was at the time under British mandate.

1948 - The state of Israel is created; the Israelis and neighboring Arab countries go to war. Nabih and his brother Khalil are expelled from their homeland. They seek refuge in Dbayeh refugee camp, one of 14 refugee camps set up in Lebanon by the United Nations Relief and Works Agency (UNRWA).

1975 - Armed battles explode between rival militias in Lebanon. Nabih, Thérèse and Khalil seek refuge in West Beirut.

1976 - Beirut is under the heavy fire of rival militias. Another exodus for the Ayoub family to Naïma, 20 Km to the south of Beirut.

1982 - Israel invades Lebanon. More than 2000 Palestinian refugees are massacred by right-wing Christian militias allied to Israel in the Sabra and Shatila refugee camps. Yasser Arafat and the PLO are expelled from Lebanon. Nabih, Thérèse and Khalil return to Beirut.

1985 - The civil war continues in Lebanon with, what came to be known as, the *war of the camps*. Palestinian refugee camps are under siege for months, thousands are killed. The Ayoub family flee once more to seek refuge for a few months in Sidon before returning to the Lebanese capital. Nabih is injured.

1989 - Another back and forth for the Ayoubis between Beirut and the Palestinian refugee camp of Ein El Helweh (Sidon) where they were residing.

2001 - The situation in Lebanon continues to deteriorate for the Palestinian refugees who are denied their most fundamental rights. The conditions in Ein El Helweh camp are dangerous as rival militias often enter into gun battles. The Ayoub family decides to flee the life of persecution of the camp. They obtain an American visa and arrive in April to Canada where they claim a refugee status.

2003 - On January 29th 2003, the Immigration and Refugee Board (IRB) member rejects their refugee claim. On the 19th of June 2003, the judicial review at the federal Court is rejected and finally on the 26th of November 2003 the Pre-removal risk assessment is also rejected.

2004 - On January 8th, Citizenship & Immigration Canada asks the 3 Palestinians to present themselves at their offices on the 3rd of February 2004 at 8h30 AM in order for them to enforce their removal from Canada. In mid-January, the 3 Palestinians seek refuge at the Notre-Dame-de-Grâce church whose members unanimously decided to support the 3 Palestinians who were facing imminent deportation to the refugee camp of Ein El Helweh in Lebanon.

My name is Youssef El Loubani

I was born in Bourj el-Barajneh, a Palestinian refugee camp in Lebanon. My family fled their homes in Palestine in 1948, and have lived for 55 years as refugees in Lebanon, without citizenship or human rights. I grew up stateless, in Bourj el-Barajneh refugee camp, under unbearable hardship, and I had to live every day of my life persecuted and discriminated against. As a Palestinian, I have no right to work in almost 80 professions, own or inherit property, access public education or healthcare, and travel freely.

As a child I lived through civil war, camp sieges and massacres. Our houses in the camps still bare the scars of the attacks, as they have not been reconstructed. We faced hunger many times, rarely sleeping as we were afraid of bomb attacks. During these times we were unable to go to the market as we were not allowed to leave the camp. We survived on what we had. When I was five years old, my family and I were in our house when a bomb exploded on the roof. Most of us were injured. I was injured near my heart and needed surgery and hospitalization.

In 1982, during the Israeli invasion of Beirut, a bomb exploded in my father's car, and he lost sight in both his eyes. In 1990, my father fell from our roof and was rushed to the Red Crescent hospital in the camp. The camp did not have the proper equipment to help him as he needed an urgent operation on his back, so they sent him to a Beirut hospital, Al Makased. As UNRWA does not cover the costs of his emergency operation, we were forced to borrow money from everyone we knew to cover the hospital fees. The operation failed and he became disabled. After 3 months his situation worsened. At the end of 1990 my father died, leaving my mother, myself and 5 other children.

In top of the violence we suffered in the camp, we also went through an unimaginable nightmare: the kidnapping of my sister Enas on July 27, 1993. A Syrian military officer kidnapped her when she was 11 years and she stayed missing for almost 4 years. We informed the authorities, placed posters of her everywhere, but she was unfound. Almost 4 years after her disappearance, she was released by the military man and came back home. She told us of her terrible story. She had been kept in Syria, in the house of that man and was raped many times. A few weeks after she was back to us, we found out that she was pregnant. My sister's daughter, Waffa, is now 5 years old, and because she has no father she does not even have papers and access to the basic UNRWA services most children get. She cannot attend school, and also lives under threat daily of him returning for her. Until now our family lives in fear, as the Syrian militia member had returned to our home and demanded little Waffa back. He has much more power than our family does, and we have little to protect her with.

I have always been ambitious and used the little opportunity I had to learn about computers and business. In 1998, I finished high school, and later I obtained a diploma from Norwegian People's Aid in Business and Office Practice. Even though I was educated, I could not find a job because of the restrictions imposed on stateless Palestinian refugees. Faced with these restrictions I had no civil rights whatsoever and no future in Lebanon.

I came to Canada hoping that I could study and work in a country where I can live with human rights, peace and respect. I have one sister who lives in Canada, she is married and has held citizenship for seven years. My other sister and brother are being sponsored by a group of five well-established Canadians, under the Women at Risk Program, due to the risks to the livelihood of both my sister and her young daughter Waffa. My mother was included in this sponsorship; however, she passed away last spring.

I am now 24 years old, and have spent many of my adult years developing my support network and my life in Montreal. As a stateless person, I wish to have a place that wants me to be living on its soil, to have the same human rights as those around me. To uproot my life here in order to go back to persecution in the refugee camp of Bourj el Barajneh would be unbearable. I would be sentenced to living in a 55 year old refugee camp, as a forgotten person, without protection, my family or the supportive community I have developed here.

Running from their death, seeking life...

This is an appeal from Shaker Khazal to the Canadian government to stop the deportation of Palestinian refugees from Canada. Shaker is a Stateless 15 year old Palestinian refugee stuck in the refugee camp of Bourj El Barajneh in Lebanon.

Every moment, a new thing in life occurs! One of the things that occur is the suffering of people thrown in a world of problems, sunk in dried human rights, waiting death, and looking for hope to achieve their dreams.

By these tiny innocent words, I can describe our life as Palestinian refugees in Lebanon!

Our story began since our land was lost between the crazy circumstances, and then, we were thrown in the land of being a refugee, which is the land of death.

We, the Palestinian refugees in Lebanon, are living a life emptied from all the basic human rights; going to public schools, going to public hospitals, working, .. We are living in camps that miss electricity, water ... The kids are born to be refugees without knowing why, they are only victims paying their life for problems were put in.

We are people who want peace and life, we don't want to die. It is not fair. We came to life to live and struggle to lead a good life, away from war and fear. So can't you help?

Our teenagers are running from their death, seeking life. They only want life in another land. A life with the smile of happiness on its face. God gave the humans a big land, this land is for everyone wanting peace.

Please, this is a message from a child wanting peace, help us, do not deport Palestinians back to suffering, and don't allow death to attack us while we are living, we all belong to God, and God doesn't want this to happen. Take the tear from our eyes, and replace it with a smile that our heart and mind miss!

Shaker Khazal

The story of Rafat, Palestinian from a refugee camp in Occupied Palestine

My suffering is long, painful, and continuous, especially in the last decade where life became very difficult and full of dangers every step of the road. Simply, the human being's life is unsecured and in danger even inside his own home, especially for us as residents of area "C" which is under full Israeli military control.

During the first Intifada, I was riding my bicycle and going back home to Al-Fawar refugee camp (Hebron) where I live with my family. At the camp outskirts, Israeli soldiers stopped me and interrogated me. Then they ordered me to climb a high voltage power post and take down a Palestinian flag from the top of that post. I refused to do so because of my incapability of climbing the post and because of the danger the high voltage might impose on my life. At that point all the soldiers started beating me, kicking me at once in all and every part of my body with no discrimination. One of them started pulling me from my hair with my face downward and kept pulling toward their armed vehicle. During that, a sharp object hit me in the left side of my face, causing a deep 13 cm long cut. I started bleeding and lost a lot of blood which covered my face, head and clothes. The soldiers left me alone on the road side after half an hour of continuous bleeding under a hot sun.

My suffering continued in attempts to provide the necessary supplies for my family since I am the only person to provide for them as my father is sick and unable to work since 1993. I worked in a bookstore in Jerusalem. The 55 km distance, which in normal circumstances takes about an hour, always takes more than 3 hours (each way) because of the many military checkpoints and sand shelters. This is in addition to the expected interrogations, beatings, and arrest, which could be for no reason but depending on the situation and the mood of the soldier at the checkpoint in that specific day. I would be very reasonable if I say that I might be arrested, beaten, interrogated, or even killed if the soldier mood is not that good due to an argument with his girlfriend that day. And this is what happened to me last year when I was stopped among four others at a stationary checkpoint for Israeli army near Bethlehem. After keeping us for 3 hours in the hot sun, my cellular phone (which belongs to the company I work for) rang, the owner is trying to find out why I am late. When I started talking to him, a soldier slammed me, causing the phone to fall from my hand. When I tried to pick it up, many soldiers started beating me and ordered me to get inside their armed vehicle. At that point I refused to do so because I was afraid of them taking me to a rural area and killing me or at least breaking my bones (since it happens many times with other people). They kept beating me over and over until I lost consciousness and I woke up in the hospital.

I experienced many examples of suffering on almost a daily basis and what I mentioned here is just a briefing of a number of examples.