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Abstract

How can Jordan's experiences hosting Palestinian refugees inform policymaking toward Syrian refugees? As the ten-year anniversary of the Syrian uprisings approaches, Syrian refugees remain displaced with limited opportunities for repatriation, resettlement, or naturalization. Although there are many important differences between Syrian and Palestinian refugees—particularly Syrians' right to a sovereign state's nationality—there are increasing similarities between these two protracted refugee groups. One of the most critical among these similarities is holding ambiguous membership statuses in Jordan, where groups hold more rights than other non-Jordanians but fewer rights than Jordanian citizens. The experiences of noncitizen Palestinian refugees, such as those who fled to Jordan from the Gaza Strip after the 1967 war, highlight the destructive precarities that accompany an absence of legal rights, including insecure access to work, education, and healthcare. These experiences suggest that securing some Syrian rights in law can help mitigate the precarity of sustained refugee status. Further, Jordan has expressed a willingness to provide legal rights to some noncitizen groups, including investors and the children of Jordanian women and non-Jordanian men. Overall, formalizing critical, less politicized rights in law is one tangible way to improve the daily lives of Syrian, as well as other, protracted refugees.

Jordan's Refugee History

Jordan has been a major refugee-host state for almost its entire independent existence. Even prior to its independence in 1946, the Ottoman Empire resettled refugees starting in the mid-nineteenth century on the territory that would become Jordan's East Bank. These refugees included Muslims from the Northcentral and Northeast Caucasus, such as Circassians, Chechens, Ossetes, and Daghestanis, who arrived after 1864, as well as Armenian refugees who arrived after 1915 (Hamed-Troyansky 2017). Since 1946, Jordan's East Bank has received waves of Palestinian, Lebanese, Iraqi, and Syrian refugees, as well as smaller numbers of refugees from other countries, such as Sudan, Somalia, and Yemen.

These refugee populations have played a central role in developing modern Jordan. For example, Circassian and Chechen refugees settled in and expanded Jordan's capital, Amman, before the Hashemites and British arrived after World War I (Hamed-Troyansky 2017). In addition, migrants and refugees from Syria and Palestine primarily staffed and led Transjordan's, and later Jordan's, government for decades, as well as developed its economy (Abu Odeh 1999; Brand 1988a). Palestinian and Syrian refugees also have enabled the Jordanian government to benefit from substantial amounts of foreign aid since 1948, including from the United Kingdom, United States, Arab Gulf states, European Union, and international organizations (Tsourapas 2019; Brand 1994; Wilson 1987).

Refugee Legal Statuses and Rights

A key trait that differentiates these refugee groups is whether they have access to Jordanian nationality. Essentially, all the groups that arrived prior to 1954 received Jordanian nationality, in accordance with the provisions of the Jordanian nationality laws of 1954, 1949, and 1928 (Frost 2021). The groups that arrived after 1954, with the exception of the displaced Palestinians arriving from Jordan's West Bank to its East Bank after the 1967 war, have not received Jordanian nationality. Jordanian nationality is valuable because it signifies being a Jordanian citizen and it provides all the legal rights associated with this citizen status, including rights to vote, run for office, work in all sectors, attend public schools, acquire a driver's license, and own property. Individuals possess Jordanian nationality when they have a national number (*raqm watani*) and a family book (*daftar al-'a'ilah*).

Jordanian passports, however, are not limited to citizens. Some noncitizens can possess a Jordanian passport that does not connote nationality, as has been the case in other Arab countries, such as the United Arab Emirates (UAE) (Lori 2019; Jamal 2015). The Jordanian government started issuing such "temporary" passports for noncitizen Palestinian refugees fleeing from the Gaza Strip to Jordan after the 1967 Arab-Israeli War; I refer to this group as the ex-Gazans. These passports allowed ex-Gazans to travel to other Arab countries, particularly Libya and the Gulf states, to work as well as served as an indicator of legal residency (Frost 2020a).¹

Despite residing in Jordan and receiving Jordanian passports since 1968 (El-Abed 2004), the ex-Gazans do not have a right to these temporary passports in law (Frost 2020a).² In addition, few rights are connected to them in published legislation. Instead, their access to government services primarily materializes in practice through internal implementing regulations or instructions. This makes life more difficult and precarious for the ex-Gazans because they do not know exactly what rights they have or will have in the future. As one ex-Gazan explained to me during an interview in Amman, Jordan: "With new regulations in the ministries, it is hard to follow our rights. Jordanian citizens have laws and decisions and the constitution. The [ex-]Gazans have regulations. They do not have stable, clear policies."³

For example, as recounted to me several times during personal interviews in Jordan, ex-Gazans may have access to work in a specific sector, such as nursing, and then suddenly no longer have access to this sector. This change can nullify substantial family investments in a child obtaining a nursing degree in hopes of having steady access to work. This example is one instance of the broader concern that, at any time, the government can decide to treat the ex-Gazans as foreigners because, in law, they do not have a distinct noncitizen status. This occurred recently when the

¹ After Jordan renounced its ties to the West Bank and removed Jordanian nationality from everyone living there in 1988, the government started issuing temporary passports to this group of Palestinians as well, though with slightly more favorable renewal terms (Kingdom of Jordan 1988).

² The 1969 passports law, which remains in effect today, includes provisions for "special case" passports that the government can provide on humanitarian grounds. However, the validity of these passports often has not aligned with that of the temporary passports. In addition, one does not receive a special case passport based on a list of qualifications and application procedures. Instead, their distribution remains at the Minister of Interior's discretion.

³ Author interview alone with ex-Gazan refugee (OF27) in Arabic, January 2019. Due to the sensitivity of this research, I use anonymized identifiers and broad descriptions of my interviewees. The George Washington University (GWU) institutional review board (IRB) approved this research project (#111530).

government started stipulating that ex-Gazans, like other foreigners, needed to obtain work permits, even though the government had never required them in practice before. As one of the poorest groups in Jordan, this policy change made it even more difficult for ex-Gazans to support themselves (Kvittingen et al. 2019).

The law's general silence on ex-Gazan rights is not surprising when considering that Jordan has not signed onto the 1951 Geneva Convention Relating to the Status of Refugees or the 1967 Protocol. However, more broadly, Jordanian law only distinguishes between two types of noncitizens: Arab and non-Arab foreigners. These foreigner categories render protracted refugees,⁴ who may have lived in the state for generations (e.g., ex-Gazans), and short-term economic migrants (e.g., Egyptian workers) the same. This is problematic for protracted refugees who need affordable access to education and healthcare as well as access to some work sectors, driver's licenses, and property ownership to support themselves. The fact that most protracted refugees cannot leave Jordan further amplifies the importance and urgency of these needs.

Legal Rights for Noncitizens

The citizen-noncitizen dichotomy makes more sense when noncitizens can become citizens. However, in countries such as Jordan, ordinary naturalization, particularly for refugees, is not an option in practice (Manby and Bauböck 2020). Instead, naturalization is a highly politicized, taboo issue (Frost 2020b). This situation demands more distinctions between types of noncitizens, where long-term noncitizen groups, such as protracted refugees, can access more legal rights. A limited number of new legal rights could help alleviate daily hardships without requiring the government to naturalize these refugees or provide them with full citizen rights.

Jordan has precedents of providing rights in law for noncitizens. For example, after lengthy efforts by women's rights campaigns and their parliamentary allies, the Jordanian government agreed in 2014 to grant the children of Jordanian women and non-Jordanian men distinct noncitizen rights. The government referred to these rights as a set of "advantages" or "privileges" ("*mazaya*"), officially described as "facilitations" or "easing of restrictions" ("*tashilat*") (Kingdom of Jordan 2014).⁵ This agreement fell short of activist aims to allow Jordanian women, like Jordanian men, to confer their nationality to their children, but it did represent a move to recognize a group of people who are not citizens or foreigners.

At first this move was limited to a Cabinet decision (rather than a new or amended law) stipulating this group's access to special identity cards and new rights. In addition, these provisions largely deferred to existing laws, which continued to treat this group like other foreigners (Frost and Brown 2020; Human Rights Watch 2018). However, in 2019, the government passed a new provision in Article 12 of the labor law that exempted the children of Jordanian women and non-Jordanian men from needing work permits.⁶ Many more legal changes are needed to follow

⁴ Protracted refugee groups are refugees with the same nationality living in the same host state for at least five years without immediate prospects for a durable solution (Milner 2014). Durable solutions include repatriation, resettlement, or full local integration.

⁵ The accompanying regulations for this decision are in the *Official Gazette*, Number 5320, issued on December 31, 2014. Copies of these are on file with the author.

⁶ "Amended Law Number 14 of 2019 – Amendment to the Labor Law," Issue Date "May 16, 2019" Issue Number 5573. Accessed through Qistas legal database <<https://qistas.com/>>.

through on the 2014 agreement's promises, but the 2019 law change highlights the government's ability to attach legal rights to different noncitizen statuses.

In addition, Jordan offers investors access to temporary Jordanian passports and some Jordanian rights under certain published conditions. These conditions, as of 2019, include setting up an investment project in any productive economic sector, through which they pay 1–1.5 million U.S. dollars, depending on where the project is registered, and provide at least 20 registered jobs for Jordanians.⁷ Further, these conditions explicitly state that, under these terms, the investor “shall be treated as a Jordanian citizen, with the exception of political rights.”⁸

The key difference between these distinct noncitizen rights and those of noncitizen Palestinian refugees is that the former rights are codified in law, while the latter primarily exist in practice. There are a variety of reasons for the ambiguous citizenship statuses and rights of Palestinians in Jordan, which I discuss at length elsewhere (Frost 2020a), but an important byproduct of ex-Gazan rights in practice though not law is the precarity and insecurity it creates for them. Policies that govern through opaque executive decisions, instructions, and internal regulations ultimately empower states at the expense of those they govern (Frost and Brown 2020; Natter 2021).

Legal Rights for Protracted Refugees

One potential take-away from the experiences of noncitizen Palestinian refugees in Jordan for Syrian, as well as other, refugees today is the long-term value of securing rights in published, accessible legislation, preferably at the level of laws or bylaws. It is unrealistic to expect that naturalization procedures will ease and enable protracted refugees to acquire Jordanian nationality—few countries would agree to naturalize such large noncitizen groups. However, there are rights that the Jordanian government might be willing to extend, at least in published regulations or bylaws, concerning less politicized areas that are critical in daily life.⁹ For example, access to Jordanian driver's licenses, limited property ownership, and reduced fees for public healthcare. These are all areas where the ex-Gazans, as temporary Jordanian passport holders, have received legal rights in the past two decades.¹⁰

Although legal rights connected only to published regulations or Cabinet instructions (*ta'limat*), which can change quickly and easily, are less secure than those connected to higher levels of legislation, such as laws (*qawanin*) or bylaws (*'anthima*), they at least provide documentation of a group's access to a right in Jordan. This documentation is a helpful step toward reducing the

⁷ Investors can receive Jordanian nationality if they continue to meet these terms for at least three years. There also are two other scenarios under which investors (and their families) can receive Jordanian nationality. This is according to a Jordanian Cabinet letter concerning “Regulations on Granting Citizenship” (*ta'limat minh al-jinsiyya*) to the Minister of Interior on October 3, 2019, <<https://www.jic.gov.jo/wp-content/uploads/2020/04/2.pdf>>.

⁸ Jordanian Cabinet letter concerning “Regulations on Granting Citizenship” (*ta'limat minh al-jinsiyya*) to the Minister of Interior on October 3, 2019, <<https://www.jic.gov.jo/wp-content/uploads/2020/04/2.pdf>>.

⁹ I discuss similar ideas about quasi-citizenship and interim durable solutions in Frost 2019 and Frost 2020b.

¹⁰ Bylaw Number 101 of 2008 – Drivers' License Bylaw,” Issue Date “November 2, 2008” Issue Number 4935. Bylaw Number 104 of 2008 – Vehicle Registration and License Bylaw,” Issue Date “November 2, 2008” Issue Number 4935. Regulations Number 11 of 2007 – Regulations on the Treatment of the People of the Gaza Strip in Ministry of Health Hospitals and Centers,” Issue Date “May 16, 2007” Issue Number 4827. All accessed through Qistas legal database <<https://qistas.com/>>.

precarity of refugee lives, particularly when refugees do not have access to a durable solution in the foreseeable future. Likewise, although states can refrain from implementing legislation in practice (Frost 2020a), published legislation provides refugees and their advocates with tangible evidence to defend refugee rights.

There are signs that Jordan is willing to connect Syrian refugee status with some legal rights. For example, the Jordan Compact in 2016 included a provision to issue 200,000 work permits to Syrian refugees.¹¹ Although Jordan has found creative ways to implement this agreement (Lenner and Turner 2019), which at times has limited the number of Syrians who benefit in practice, e.g., by issuing one Syrian many different permits (Frost and Shteivi 2018), it provides a legal starting point for Syrian refugees and their advocates. A valuable next step would be to include Syrian refugees' rights, such as to work without permits or in certain sectors, in Jordanian legislation, like the inclusion of the children of Jordanian women and non-Jordanian men in the 2019 labor law amendments.

Jordan, similar to many other countries (Lori 2019; Lawrance and Stevens 2017), has taken steps to systematically document citizen and noncitizen groups, including Syrian refugees. This process, typically motivated by security concerns, can reduce the rights of noncitizens by rendering or exposing them as noncitizens (Stevens 2017; Harris 2013). For example, Joseph Harris (2013) highlights how the extension of universal healthcare for citizens and the introduction of "smart" national identity cards in Thailand initially resulted in less access to healthcare for stateless noncitizens. Prior to the reform, both stateless noncitizens and citizens depended on welfare and charity to access healthcare. However, after the reform, citizens received greater state-funded access to healthcare, while stateless noncitizens had to rely only on hospitals' charity until eight years later when they gained legal access to the program (Harris 2013, 116–120).

In this article, I do not advocate for the expansion of identity documentation campaigns. Instead, I argue that when such campaigns have occurred, efforts to link these already existing noncitizen statuses with concrete legal rights can help to reduce the precarity of those holding these statuses. Specifically, when groups secure unambiguous rights in law, it can help mitigate the broader ambiguities surrounding their "semi-citizen" status, as has been the case with refugee rights in the United States and many European states (Cohen 2009, 155–164). Likewise, Harris (2013, 123) underlines that the Thai healthcare reform discussed above eventually expanded stateless noncitizens' access to healthcare by linking this access to legal rights, rather than hospitals' charity or uncertain implementation of previous welfare provisions. Latvia and Estonia also provide examples of semi-citizen statuses for ethnic Russians eventually translating into access to naturalization for the children of these groups born in-country (UNHCR 2017).¹²

However, there is a risk that states will reduce noncitizen rights if pressured to incorporate those rights in law. Specifically, in some cases, existing ambiguous policies may benefit groups more than the legal rights the government would be willing to offer in more sensitive areas, such as access to long-term residency or high-skilled work (Frost 2020a, 199–224, 274–309, and 413). In such cases, advocates should look for other areas where formalized rights would expand and secure noncitizen rights. For example, access to driver's licenses, property ownership, or public

¹¹ See Bank and Fröhlich in this volume for more on Jordan's recent policies toward Syrians.

¹² Although the initial deprivation of these groups' nationality is subject to criticism (de Chickera 2020).

healthcare, which, as noted above, are areas where the ex-Gazans have received legal rights in Jordan.¹³ In addition, although Palestinian refugees in Iraq and Syria could not obtain access to nationality in those countries since their arrival in 1948, they could access other less contentious legal rights for many decades, such as certain forms of housing, work, and education in Iraq (Bouckaert 2006; Abu Amer 2018) and equal access to employment, commerce, and national service as citizens in Syria (Brand 1988b). Thus, efforts to formalize rights should focus on areas where this would expand, not contract, refugee rights.

Relatedly, refugee advocates should consider and weigh the consequences of focusing only on one refugee group. For example, as Jordan began offering Syrian refugees access to work permits, this policy highlighted that, in law, all noncitizens—including the ex-Gazans—must hold a work permit, even if in practice they never had to hold one before.¹⁴ It also inadvertently prioritized hiring Syrians over other groups, such as Sudanese, Somali, and Yemeni refugees. A more comprehensive agreement could have included provisions to protect, and at least not diminish, the rights of these other groups. Regardless, although this policy did direct the government’s attention to enforcing the law more diligently, it did not introduce harsher legal measures, and, at least for the ex-Gazans, it yielded some implementing instructions to allow them to work in more sectors and own more forms of property than other noncitizens, thereby formalizing some of their previous rights (Azzeh 2016; *Jordan Times* 2018).

Overall, formalizing critical protracted refugee rights in law is one tangible way to improve the lives of refugees while they wait for a durable solution, whether in Jordan or other host states. This limited—and still challenging—type of intervention cannot replace the primary importance of working to provide protracted refugees with durable solutions, where they can access full citizen rights and more secure livelihoods, whether by returning to their homes, resettling in a third country, or naturalizing in their host states. However, as the ex-Gazans, and numerous other groups (Loescher and Milner 2006; Milner 2014), have shown, this waiting period can last for generations, making more interim, denizen legal statuses and rights an important opportunity to reduce the precarity in their daily lives.

¹³ Bylaw Number 101 of 2008 – Drivers’ License Bylaw,” Issue Date “November 2, 2008” Issue Number 4935. Bylaw Number 104 of 2008 – Vehicle Registration and License Bylaw,” Issue Date “November 2, 2008” Issue Number 4935. Regulations Number 11 of 2007 – Regulations on the Treatment of the People of the Gaza Strip in Ministry of Health Hospitals and Centers,” Issue Date “May 16, 2007” Issue Number 4827. All accessed through Qistas legal database <<https://qistas.com/>>.

¹⁴ However, ex-Gazans mobilized in response to this policy and were able to receive, at least for the time-being, an exemption from paying most of the fees associated with acquiring a work permit (*Jordan Times* 2017).

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