



LEGAL BRIEFING

ON THE RIGHTS OF STATELESS PALESTINIANS IN THE UK

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European
Network on
Statelessness

Image: Ronit Shaked

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INTRODUCTION

This briefing provides an overview of the routes to protection and leave to remain for Palestinians present in the United Kingdom (UK).¹ It outlines the international legal frameworks and their application in the UK, and examines the legal and practical barriers faced by Palestinians in securing recognition as refugees and stateless persons.

[Section 1](#) introduces the circumstances that have led to the protracted refugeehood and statelessness of many Palestinians, explains specific terminology used in this briefing, and summarises the routes to protection available to Palestinians in the UK. It also outlines why and how Palestinians who do not hold the nationality of another country meet the international law definition of a stateless person. [Section 2](#) examines the protection mechanisms available to Palestinian refugees in the UK in more detail, in accordance with Articles 1D and 1A(2) of the 1951 Convention relating to the Status of Refugees ([Refugee Convention](#))² and the European Convention on Human Rights ([ECHR](#)). [Section 3](#) explores the recognition of Palestinians as stateless persons under the 1954 Convention relating to the Status of Stateless Persons ([1954 Convention](#)),³ and the UK's leave to remain on the basis of statelessness. [Section 4](#) addresses the challenges Palestinians face when exercising their right to family reunification after being recognised as refugees or stateless persons, as well as considerations regarding detention and expulsion. The [Key Takeaways](#) section summarises the main arguments discussed in the briefing, and [Annex I: Additional resources and COI on statelessness](#) provides a list of country-of-origin information and additional resources for readers to find up-to-date information on the situation in the occupied Palestinian territories (oPt).

KEY TAKEAWAYS

For ease of reference, readers are encouraged to consult the [Key Takeaways](#) section at the end of this briefing (p. 37), which summarises the main legal arguments and provides an overview of the routes to protection and leave to remain in the UK discussed in the briefing. However, please note that the Key Takeaways should only be read in conjunction with the relevant section of the report for context and accuracy.

The aim of this briefing is to support legal representation, advocacy, and information-sharing that seeks to improve access to protection and uphold the rights of Palestinians in the UK, or in other countries. It has been drafted as a resource particularly for legal practitioners representing Palestinian clients seeking protection as refugees and/or as stateless persons in the UK. The

¹ The term 'protection' may have different meanings according to the context in which it is used. In this briefing, it is used primarily to refer to the rights and safeguards afforded to refugees under international law. In the UK, leave to remain as a stateless person is not considered a protection category (which is reserved for refugees and those granted humanitarian protection), thus in this briefing we refer to it as a different route to regularisation. UNHCR's protection mandate includes physical protection and material assistance, safeguarding fundamental rights, and ensuring durable solutions; see UNHCR, [What we do](#) (accessed 18 September 2025). UNRWA defines protection as 'the outcome of Palestine refugees having access to their rights, including the right to health, right to education, right to family life, right to non-discrimination, right to be free from arbitrary arrest, and other key rights under international law', see UNRWA, [What we do](#) (accessed 18 September 2025).

² United Nations (UN) [Convention relating to the Status of Refugees](#) (28 July 1951).

³ UN [Convention relating to the Status of Stateless Persons](#) (28 September 1954).

briefing provides an overview of key issues in this area, as well as good practice case law from European jurisdictions. It does not seek to provide a comprehensive analysis of UK case law in this field.

This briefing builds on our previous report [Palestinians and the Search for Protection as Refugees and Stateless Persons](#) (2022), co-published with BADIL - the Centre for Palestinian Rights & Residence, which provides a more in-depth analysis of some of the issues discussed, the history of Palestine, and critical reflections on European regional and national case law.⁴ Readers are encouraged to consult the 2022 report, as well as the [Litigation Toolkit on Statelessness for Legal Practitioners](#), and complementary resources and developments published by the European Network on Statelessness (ENS): <https://www.statelessness.eu>.

⁴ European Network on Statelessness (ENS) and BADIL, [Palestinians and the Search for Protection as Refugees and Stateless Persons](#) (2022) pp 2-4.

1. PALESTINIANS AND THE SEARCH FOR PROTECTION

1.1. The need for protection: historical context and terminology

With millions of Palestinian refugees worldwide and over 90% of the population in Gaza forcibly displaced, Palestinians constitute the longest standing refugee population in the world.⁵ The circumstances leading to such a large number of refugees with origins in Palestine can be traced back to the United Nations (UN) Resolution 181 which, following the Second World War and the end of the British occupation of Palestine, recommended that the Palestinian territory be partitioned into two States, Arab and Jewish, with each having a constitution to provide equal rights to all inhabitants and with no forcible transfer of populations.⁶ However, in 1948, Israel declared its State, and claimed much more of the former Mandate territory than was allocated to the Jewish State in UN Resolution 181. This led to the forced displacement of approximately 800,000 Palestinians in what Palestinians refer to as the *Nakba*. In December 1948, the UN General Assembly adopted Resolution 194, resolving that Palestine refugees wishing to return to their homes should be permitted to do so.⁷ The resolution has never been implemented. Instead, it was followed by the occupation of the remainder of Mandatory Palestine by Israel and successive armed conflicts, including the 1967 War, during which a further approximately 500,000 Palestinians were displaced.⁸

Following the initial displacement of Palestinians in 1948, a separate protection regime was created for Palestinian refugees, who were excluded from the mandate of the United Nations High Commissioner for Refugees (UNHCR), and instead fell under the responsibility of the United Nations Conciliation Commission for Palestine (UNCCP) and the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA).⁹ The former was established with a mandate to facilitate durable solutions and legal protection for Palestine refugees, but concluded early into its existence that it was unable to fulfil its mandate and has been effectively inactive ever since.¹⁰ While UNRWA's mandate to provide humanitarian assistance has evolved to include limited protection activities, it does not include the pursuit of durable solutions such as resettlement or repatriation, nor certain other aspects of protection, thus creating a protection gap in the international legal framework for Palestinian refugees.¹¹ UNRWA's capacity to fulfil its mandate is directly impeded, and at times made impossible, by lack of funding and deliberate

⁵ BADIL, [Survey of Palestinian Refugees and Internally Displaced Persons 2019-2021](#), Volume X (2022) p xii; BADIL, Press Release, '[77 Years of Ongoing Nakba: Resisting Ongoing Forcible Displacement](#)' (2025); UNHCR, [Global Trends Report](#) (2024),

⁶ UN General Assembly (UNGA), Resolution 181(II) UN Doc A/RES/181(II) (29 Nov 1947). For more detail on the history of Palestinian displacement, see ENS and BADIL, [Palestinians and the Search for Protection](#) (fn 4) pp 2-4; BADIL, [Closing Protection Gaps: A Handbook on Protection of Palestinian Refugees in States Signatories to the 1951 Refugee Convention](#) (2nd ed, 2015); BADIL, [Survey 2019-2021](#) (fn 5).

⁷ Palestine: Progress Report of the United Nations Mediator, GA Res 194(III), UN Doc A/RES/194(III) (27 November 1948), para 11.

⁸ United Nations, '[History of the Question of Palestine](#)' (accessed 2 September 2025); BADIL, [Survey 2019-2021](#) (fn 5) p 1-18.

⁹ The UNCCP was established in accordance with UNGA Resolution 194(III), UN Doc A/RES/194(III) (Palestine: Progress Report of the United Nations Mediator) (27 November 1948); UNRWA's mandate was established in UNGA, Resolution 302 (IV) (Assistance to Palestine Refugees) (8 December 1949).

¹⁰ See UNGA, 'Progress Report and Supplementary Report of the United Nations Conciliation Commission for Palestine, covering the period from 23 January to 19 November 1951' UN Doc A/1367/Rev.1 (1951), para 79; UNCCP Annual Report, in which it stated that it had 'nothing new to report': UN Doc A/80/295 (5 Aug 2025). See also BADIL, [Survey 2019-2021](#) (fn 5) p. 75-79.

¹¹ 'Operations of the United Nations Relief and Works Agency for Palestine Refugees in the Near East', UNGA Resolution 70/85, UN Doc A/RES/70/85 (15 December 2015); BADIL, [Closing Protection Gaps](#) (fn 5); Guy Goodwin-Gill and Jane McAdam, *The Refugee in International Law* (Oxford University Press, 3rd ed, 2007), 436-38; UNRWA, '[What We Do: Protection](#)' (accessed 2 September 2025).

Israeli actions and obstruction, which leaves many Palestinians unable to access assistance, protection, or durable solutions from either UNRWA or UNCCP.¹²

It is estimated that there are over 8 million Palestinian refugees worldwide.¹³ The UN reports that 5.9 million of these are considered 'Palestine refugees', referring to persons 'who, as a result of the 1948 Arab-Israeli conflict, were displaced from that part of Mandate Palestine which became Israel, and who have been unable to return there'. UNRWA services are also available to 'displaced persons', namely those who 'have been displaced from the Palestinian territory occupied by Israel since 1967 and have been unable to return there', and to the descendants of both of these categories.¹⁴ UNRWA operates in the West Bank (including East Jerusalem), Gaza, Lebanon, Syria, and Jordan, and does not provide assistance outside these areas of operation. The distinction between Palestinian refugees who fall into one of the above categories (and are thus eligible for UNRWA assistance) and those who do not, is relevant to the application of the Refugee Convention, as will be discussed [Section 2](#).

In addition to the need for protection as refugees, Palestinians who have not acquired the nationality of another country should be considered stateless under the 1954 Convention (as outlined in [Section 1.3](#)). However, the legal status of Palestinians and their ability to access ID and travel documents, as well as naturalisation, will differ depending on their current and/or former country/ies of residence. For further details, see ENS and BADIL, [Palestinians and the Search for Protection as Refugees and Stateless Persons](#), or the resources in [Annex I](#) of this briefing.

The return of Palestinians to their homes remains obstructed due to Israeli policies and practices that perpetuate systemic discrimination and forced displacement.¹⁵ In addition, many Palestinians living outside of the oPt,¹⁶ both those who are already recognised as 'Palestine refugees' and 'displaced persons' and those who are not, face various forms of discrimination, persecution, and insecurity, including statelessness. The situation for Palestinians residing in the West Bank and Gaza has deteriorated significantly in recent years due to forced starvation, occupation, and genocidal acts carried out by the Israeli regime.¹⁷

¹² See UNRWA's 'Situation Reports on the Humanitarian Crisis in the Gaza Strip and the West Bank, including East Jerusalem', available at: <https://www.unrwa.org/resources/reports>; UK Home Office, [Country Policy and Information Note: Humanitarian Situation in Gaza, Occupied Palestinian Territories](#) (November 2024) p 51; UNRWA, [Annual Operational Report 2024](#) (15 July 2025); Asylos, [Lebanon: Stateless Palestinians](#) (2023); Asylos, [Palestine \(Gaza\): United Nations Relief and Works Agency for Palestine Refugees in the Near East \(UNRWA\) 1 August - 24 September 2024](#) (2024).

¹³ In this briefing, the term 'Palestinian refugee' is used as an umbrella term, referring to all refugees of Palestinian origin who have been, and continue to be, externally displaced (and their descendants). For further understanding of this term, see BADIL, [Survey 2019-2021](#) (fn 5), p. xiii: 'the term Palestinian refugees refers to all those Palestinians who have become (and continue to be) externally displaced (1948 refugees, outside the area that became Israel, and with regard to 1967 displaced persons, outside what became the oPt) in the context of the ongoing Israeli-Palestinian conflict, as well as their descendants.' The same survey cites 9.17 million forcibly displaced Palestinians worldwide, out of which approximately 8.36 million are refugee (p xvii). See also BADIL, ['77 Years of Ongoing Nakba'](#) (n 4), which places the number of Palestinian refugees and internally displaced persons (IDPs) at approximately 9.76 million.

¹⁴ UNRWA, [Operational Report 2024](#) (2025) p 3; UNHCR, [Guidelines on International Protection No. 13: Applicability of Article 1D of the 1951 Convention relating to the Status of Refugees to Palestinian Refugees](#), HCR/GIP/17/13 (December 2017) para 8. UNRWA's mandate extends to persons displaced in the context of the 1967 War in accordance with UNGA, Resolution 2252 (ES-V) (Humanitarian Assistance) (4 July 1967).

¹⁵ See BADIL, [Forced Population Transfer: The Case of Palestine – Denial of Reparations](#), Working Paper No. 22 (BADIL, 2018) 27 – 33.

¹⁶ In this briefing, unless otherwise stated, 'oPt' refers to Gaza and the West Bank. While we recognise that East Jerusalem is part of the occupied Palestinian territories under international law, for the purposes of this briefing, it is treated as a separate category due to the different legal status granted to Palestinians residing there.

¹⁷ International Court of Justice (ICJ), [Order of 26 January 2024, Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip \(South Africa vs Israel\)](#); UN Human Rights Council, [Commission of Inquiry: Legal analysis of the conduct of Israel in Gaza pursuant to the Convention on the Prevention and Punishment of the Crime of Genocide](#), A/HRC/60/CRP.3 (16 September 2025); UNRWA, [Situation Report #179 on the Humanitarian Crisis in the Gaza Strip and the West](#)

1.2. Routes to protection in the UK

Many Palestinians have complex histories of displacement, and either themselves or their families have been forced to flee multiple times from different countries while seeking refuge. By the time they arrive in the UK, many have endured successive displacements, sometimes across different regions and generations.

Palestinians in the UK who have fled their country of former habitual residence (whether from one of UNRWA's five areas of operation or any other country) may be entitled to protection under various mechanisms. These include refugee status in accordance with the Refugee Convention (either under Article 1D or Article 1A(2)) and leave to remain on other human rights grounds, including under Article 3 (the prohibition of inhuman and degrading treatment) and Article 8 (the right to family and private life) of the European Convention on Human Rights (ECHR). Palestinians may also be eligible to apply for leave to remain as stateless persons in accordance with the 1954 Convention and the rules outlined in the [Immigration Rules Appendix on Statelessness](#). Unfortunately, Palestinians in UNRWA's areas of operation have generally been excluded from UK resettlement schemes, which rely exclusively on referrals from UNHCR.¹⁸

CHOOSING THE APPROPRIATE LEGAL ROUTE

It is important to consider which legal route is the most appropriate in the particular circumstances of each case. The report '[Statelessness in practice: Implementation of the UK statelessness application procedure](#)' provides a detailed list of the relevant considerations when deciding which application is most suitable in each individual case, and [Asylum Aid's information page on statelessness](#) provides helpful guidance and updated information. Where an applicant is unsuccessful under one procedure, this will not exclude them from applying for leave to remain or protection, where eligible, under another procedure. Since there is no formal referral mechanism in the UK from the asylum procedure to the possibility to apply for leave to remain as a stateless person, many Palestinians who are in fact stateless but were denied refugee status may remain unaware of their rights as stateless persons in the UK.

Exact figures on the number of stateless persons in the UK are difficult to obtain and unreliable, but UNHCR reports a total of 4,672 stateless people in the United Kingdom in 2024, including 389 (non-refugees) granted leave to remain as a stateless person.¹⁹ However, the data provided by the UK Government is not analysed or presented in such a way as to enable an accurate understanding of the stateless population or the number of Palestinian refugees in the UK, as there are potentially overlapping statistical categories, such as 'stateless', 'unknown nationality', and 'Palestinian

[Bank, including East Jerusalem](#) (11 July 2025); UN Human Rights Council, [Anatomy of a Genocide – Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967](#), A/HRC/55/73 (1 July 2024); Request for the Indication of Provisional Measures; BADIL, '[77 Years of Ongoing Nakba](#)' (n 4); Amnesty International, [Gaza: Evidence points to Israel's continued use of starvation to inflict genocide against Palestinians](#) (3 July 2025);

¹⁸ See, for example, Home Office, [UK Refugee Resettlement: Policy Guidance](#) (18 August 2021) p 4. The lawfulness of the Vulnerable Persons Resettlement Scheme was challenged on the basis that a Palestinian who had fled Syria could not be referred for resettlement by UNHCR as they were in UNRWA's area of operation. However, the UK Supreme Court ruled in favour of the Secretary of State, upholding the lawfulness of the scheme and confirming the decision of the Court of Appeal. See *R (on the application of Marouf) (Appellant) v Secretary of State for the Home Department* [2023] UKSC 23 and the lower court decisions: [Turani v SSHD \[2021\] EWCA Civ 348](#); [Turani v SSHD \[2019\] EWHC 1586 \(Admin\)](#).

¹⁹ UNHCR, Global Trends Report 2024: [Annex 4](#); ENS, [Statelessness Index: United Kingdom](#).

Occupied Territories'. For a detailed overview of the most recent data and critical analysis, see the [Statelessness Index: United Kingdom](#).

In addition to receiving protection as refugees or leave to remain as a stateless person, stateless Palestinians also have rights deriving from the UK's international obligations to prevent and reduce statelessness. As a party to the Convention on the Rights of the Child (CRC) and the 1961 Convention on the Reduction of Statelessness (1961 Convention), the UK must grant nationality to children born in its territory who would otherwise be stateless. Under Article 32 of the 1954 Convention, it also has obligations to facilitate the naturalisation of stateless people in its territory. For further information on the provisions to prevent childhood statelessness in the UK, see the [Statelessness Index: United Kingdom](#) and the report [Invisible Kids: Childhood statelessness in the UK](#).

1.3. Palestinians as stateless persons

Regardless of the procedure, it is important to determine if the applicant for protection is stateless. In asylum claims, identifying statelessness is essential to determining a person's asylum claim as it may be a relevant factor in establishing a form of persecution or contribute to a risk of harm. This includes, for example, where denial or withdrawal of nationality is linked to persecution as a member of a particular ethnic or social group (e.g. being Palestinian), or where the denial of economic and social rights on the basis of nationality status is so severe that it amounts to persecution. Identifying statelessness is also relevant for procedural reasons, as the fear of persecution for stateless persons must be assessed in relation to former countries of habitual residence, rather than in relation to a person's country of origin. If a stateless Palestinian is unsuccessful in an asylum claim, they may also be eligible for leave to remain in the UK on the basis of their statelessness.

Before outlining the various routes to protection or leave to remain available in the UK, it is therefore vital to establish why most Palestinians should be considered stateless under international law, unless they hold the nationality of another country.

1.3.1. The concept of statelessness

To be stateless is to not be considered a national by any State under the operation of its law. For the millions of stateless people around the world, this can result in widespread denial of human rights and violates the universal human right to a nationality. When not granted the protection they are due under international law, stateless individuals face challenges accessing basic rights, including the right to work or to access public funds or healthcare, and remain at risk of arbitrary detention and excluded from social, civic and political life.²⁰

²⁰ Asylum Aid, Jesuit Refugee Service (JRS) UK, University of Liverpool Law Clinic, JustRight Scotland, ENS, [Stateless People in the UK: At Risk of Legal Limbo, In Need of Protection](#) (2025). See also ENS, [Protecting Stateless Persons from Arbitrary Detention: An Agenda for Change](#) (2017).

Article 1 of the 1954 Convention provides the international customary law definition of a stateless person, which should be used in the interpretation and application of any other legal instrument referring to stateless persons, including the Refugee Convention and the 1961 Convention.²¹

ARTICLE 1, 1954 CONVENTION RELATING TO THE STATUS OF STATELESS PERSONS

Definition of the term “Stateless person”

For the purpose of this Convention, the term “stateless person” means a person who is not considered as a national by any State under the operation of its law.

The 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws provides that it is for each State to determine under its own law who its nationals are, and ‘any question as to whether a person possesses the nationality of a particular State shall be determined in accordance with the law of that State’.²² Likewise, UNHCR has emphasised that the determination of whether the person is recognised as a national should not be based on a Contracting State’s interpretation of another State’s nationality laws, but rather be informed by consultations with and written confirmation from the State in question of the nationality status of the person concerned.²³ A State’s response to an enquiry is also not the end of that enquiry as determining statelessness requires an analysis of how the competent authorities apply the law in practice (including any discriminatory practices of the competent authority in specific cases).²⁴

1.3.2. Nationality, statelessness and Palestinian identity

Part of the challenge in defining who is a ‘stateless person’ is that the statelessness conventions do not define ‘nationality’. In some contexts, the terms ‘national’ and ‘nationality’ have a general meaning, referring to a shared identity, sometimes based on race or ethnicity, language, religion, or affinity and connection to a particular place, people, or political identity.²⁵ Nationality also has a legal meaning under international law, often synonymous with ‘citizenship’ (in the English language) in domestic law.²⁶

While the 1954 Convention does not define the terms ‘national’ or ‘nationality’ (and nor do most other international treaties) there is a general understanding that nationality in international law refers to a legal bond between a person and a State and does not refer to a person’s ethnic origin.

²¹ International Law Commission, [Draft Articles on Diplomatic Protection with commentaries](#), Yearbook of the International Law Commission, 2006 Vol. II (Part Two). The term ‘*de facto stateless*’ is not defined in international law and should not be relevant for the purposes of determining whether a person is stateless under the 1954 Convention, which should only be carried out by reference to the definition in Article 1 of the 1954 Convention. In fact, many situations which may be described as ‘*de facto statelessness*’ fall within the scope of the 1954 Convention where individuals are not considered nationals of a State *under the operation of its laws*. A distinction between *de jure* and *de facto* statelessness is not made in this briefing to avoid unduly limiting the personal scope of the 1954 Convention. For an analysis of these terms, see Laura van Waas, ‘The UN Statelessness Conventions’ in Alice Edwards and Laura van Waas (eds), *Nationality and Statelessness under International Law* (Cambridge University Press, 2014), Ch 3.

²² League of Nations, *Convention on Certain Questions Relating to the Conflict of Nationality Law*, Treaty Series, vol. 179, p. 89, No. 4136, 13 April 1930, Articles 1 and 2.

²³ UNHCR, [Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Articles 5-9 of the 1961 Convention on the Reduction of Statelessness](#) (May 2020) para 81. Previously, the ECtHR has placed reliance on UNHCR guidelines, as seen in ECtHR, *M.S.S. v. Belgium and Greece*, (application no. 30696/09), 21 January 2011, para 295.

²⁴ UNHCR, [Handbook on Protection of Stateless Persons](#) (2014), para 23.

²⁵ Francesca P Albanese and Lex Takkenberg, *Palestinian Refugees in International Law* (2nd Edn) (Oxford Public International Law, 2020) Part One (III), S. 3.2.2, citing Khalidi R, *Palestinian Identity: The Construction of modern national consciousness*, New York: Columbia university press 2010.

²⁶ Alice Edwards, ‘The Meaning of Nationality’ in Alice Edwards and Laura van Waas (eds), *Nationality and Statelessness under International Law* (Cambridge University Press, 2014).

This is supported by the definition of nationality under the 1997 European Convention on Nationality,²⁷ and in the International Court of Justice (ICJ) *Nottebohm* judgment.²⁸

The term 'national' in the definition of a stateless person under the 1954 Convention reflects 'a formal link, of a political and legal character, between the individual and a particular State',²⁹ which is different from the concept of nationality in the sense of membership of a religious, linguistic or ethnic group. Many Palestinians consider themselves to be Palestinian 'nationals' in view of their or their family's long-standing ties to Palestine, as well as their ethnicity, and shared political and cultural affinity. This includes Palestinians with layered histories of displacement, who may have been born in Syria, Lebanon, or other countries outside of Palestine because their parents or grandparents were forcibly displaced. Furthermore, Palestinians are recognised internationally as a national people – a legal classification under international law that entitles them to the right to self-determination and other rights.³⁰

The recognition of Palestinians as stateless under international law (unless they hold the nationality of another country) serves to ensure that those living without a legal bond to a State (the State of Palestine or any other country) are afforded the protection to which they are entitled under the statelessness conventions. It ensures that Palestinians can live in dignity and are afforded basic human rights in their host countries. As a result, the recognition that a person lacks a nationality under international law, and is therefore stateless, does not undermine the national identity of a group of people in the context of a shared political or cultural identity, nor is it contrary to Palestinians' connection to Palestine, their right to self-identify as Palestinian nationals, or their right to self-determination. Furthermore, recognition of statelessness does not interfere with Palestinians' right of return, which has been recognised by numerous UN General Assembly (UNGA) resolutions, as well as by the ICJ, and which remains intact for all Palestinian refugees, regardless of whether they have acquired the nationality of another country or whether they are stateless.³¹

²⁷ The 1997 European Convention on Nationality, Article 2(a).

²⁸ See *Nottebohm* Case, Judgment of 6 April 1955, ICJ Reports 1955, 23: 'nationality is a legal bond having as its basis a social fact of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties'. For further information on the criteria for establishing a 'genuine link', see Susan M Akram, 'Palestinian Nationality and "Jewish" Nationality: From the Lausanne Treaty to Today' in Farsakh, Leila (ed) *Rethinking Statehood in Palestine: Self-Determination and Decolonization Beyond Partition* (University of California Press, 2021) p 192-224, 193.

²⁹ UNHCR, [Handbook on Protection of Stateless Persons](#) (2014), paras 52.

³⁰ This recognition dates to the 1919 Covenant of the League of Nations, which acknowledges that Palestinians were one of the communities formerly part of the Turkish/Ottoman Empire whose 'existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone' (Article 22 of the Covenant of the League of Nations, 28 April 1919). See also BADIL, [Palestinian Self-Determination: Land, People and Practicality, Working Paper No. 28](#) (October 2021) p 4. The right to self-determination has since been affirmed numerous times by the UN and the ICJ; see, e.g., UNGA, Resolution 2672(XXV) (8 December 1970); UN General Assembly, Resolution 78/192 (22 December 2023); ICJ, [Advisory Opinion on the Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem](#) (19 July 2024) para 102; ICJ, [Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory](#) (9 July 2004) para 118.

³¹ ICJ, [Advisory Opinion](#) (19 July 2024) (fn 30); UN General Assembly, [Resolution A/ES-10/L.31/Rev.1](#) (13 September 2024) para 3(d); UNGA, Resolution 79/81 (10 December 2024) para 15(c). For earlier resolutions, see UNGA, Resolution 194(III) para 11 and UNGA, Resolution 153(VI) para 2; See also W. Thomas Mallison and Sally V. Mallison, '[An International Law Analysis of the Major United Nations Resolutions Concerning the Palestinian Question](#)' (1979). The right of an individual to return to his place of origin or nationality has been recognised in multiple human rights treaties and UN resolutions. The International Covenant on Civil and Political Rights (1966), Article 12(4) states that 'no one shall be arbitrarily deprived of the right to enter his own country.' The Convention on the Elimination of All Forms of Racial Discrimination (1969), Article 5(d)(ii), obligates states to eliminate racial discrimination 'in all its forms' and to 'guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of [...] the right to leave any country, including one's own and to return to one's country.'

While in these paragraphs we have explained the different meanings of the word 'national[s]' in the cultural sense and in the legal sense, elsewhere in this briefing (except where otherwise specified) references to 'national' or 'nationality' should be interpreted solely in the international legal sense: that is, the formal bond of a person to a particular State, with the rights and duties inherent in belonging to that State.

1.3.3. Why Palestinians should be considered stateless

Although there is a general understanding that nationality in international law refers to a legal bond between a person and a State, there is no agreed minimum content of what defines nationality in international law. The right to reside in the territory without restrictions on exit or entry and to have access to diplomatic protection and consular services when abroad are core aspects of nationality.³² However, other aspects are also important, such as the rights to vote, hold political office, work (including employment with the government) without needing a work permit, be eligible to own property, and be entitled to access education and welfare benefits on a non-discriminatory basis.³³ Furthermore, and most importantly, the existence of a sovereign State is necessary for the existence of a nationality.³⁴

Palestine remains under the occupation of Israel, does not have full sovereignty, does not have full control over issuance of official documentation nor entry and exit to its territory, and attempts to enact a Palestinian nationality law have failed.³⁵ The displacement of Palestinians initiated by the creation of Israel in 1948 (and continuing subsequently), combined with the negation of Palestinians' right to self-determination, has resulted in the statelessness of many Palestinians. This does not negate the fact that Palestinians have an entitlement to Palestinian nationality under international law; rather it is a recognition that, at present, Palestinians are 'not considered nationals by any State under the operation of its law', as per the 1954 Convention definition. As such, Palestinians who have not acquired the nationality of another country should be considered not only refugees but also stateless persons.

While this briefing does not expand on the various legal statuses of Palestinians depending on their place of residence, it is worth noting that some Palestinians residing in Israel have acquired Israeli 'citizenship' (a legal status that confers lesser rights than Israeli 'nationality', which is reserved for Jewish people under Israeli law), and most Palestinians residing in 1948 Palestine (current day Israel) were excluded from obtaining Israeli citizenship following the creation of Israel and their forced displacement.³⁶ Furthermore, most Palestinians residing in neighbouring Arab countries

³² The International Law Commission describes diplomatic protection as: 'the invocation by a State, through diplomatic action or other means of peaceful settlement, of the responsibility of another State for an injury caused by an internationally wrongful act to a natural or legal person that is a national of the former State with a view to the implementation of such responsibility': UN, [Draft Articles on Diplomatic Protection with commentaries](#) (2006) Pt 1, Art I.

³³ See Alice Edwards, 'The Meaning of Nationality' (fn 26).

³⁴ African Commission on Human and Peoples' Rights, *The Right to Nationality in Africa* (2015), p. 13; Albanese and Takkenberg, *Palestinian Refugees in International Law* (fn 25) Part One (III), S. 3.2.2.

³⁵ The legal status of the Palestinian territories is primarily determined by two Advisory Opinions of the International Court of Justice (ICJ) which concluded that the West Bank, including East Jerusalem, and the Gaza Strip are occupied territories under international law, as they were occupied in 1967 during the conflict between Jordan and Israel. Israel therefore has the status of Occupying Power, according to the definition of the Fourth Geneva Convention. The occupied territories include Gaza, since although Israel withdrew its military presence in 2005, it still maintains control over the territory, meaning that it remains under the authority of a hostile army, even without a continuous physical presence. See ICJ, [Advisory Opinion](#) (2004) (fn 30) para 78, 89; ICJ, [Advisory Opinion](#) (2024) (fn 30).

³⁶ Susan Akram, 'Palestinian Nationality and "Jewish" Nationality' (fn 28) 201 - 204; BADIL, [Palestinian Refugee Children: International Protection and Durable Solutions](#) (2007) p 6. See also Blog by ENS Individual Member, [Palestinian citizens of Israel fear risk of becoming stateless amidst rising calls for citizenship revocation](#) (12 September 2024).

are ineligible to access nationality in accordance with the 1965 Casablanca Protocol and are not considered nationals of those States (with some exceptions for certain persons of Palestinian origin in Jordan and Egypt).³⁷

(a) Lack of Palestinian sovereignty

Palestine declared its independence in 1988 and is recognised as a State by 151 countries (as of 21 September 2025) and as a non-member observer at the UN.³⁸ However, it continues to be a State under military occupation by Israel. Issuance of Palestinian identity and travel documents requires permission from Israel, and Palestine 'is far from being independent or sovereign'.³⁹ The Palestine Liberation Organization (PLO) was formed in 1964 and was recognised over subsequent years as the sole legitimate representative of the Palestinian people, including by Israel in 1993, through the Oslo Peace Accords. The Palestinian Authority was created in 1994 to govern Palestine, to a limited extent.

Pursuant to the Oslo Accords, the Palestinian Authority can grant permanent resident status to existing residents and certain persons of Palestinian origin returning from abroad, and it can issue identity cards and travel documents for residents of the West Bank and Gaza, provided they are included in the Israeli-controlled Palestinian population registry. However, these acts require permission from the Israeli authorities.⁴⁰ The issuance of documents also often requires presence in the Palestinian territories, which in turn has its borders controlled by Israel. In any case, permanent residence is not the same as nationality.

Thus, while Palestinians who have obtained these (residence) documents are generally permitted entry to the oPt by Israel, there are also restrictions on entry to Gaza and on the freedom of movement within the West Bank, and such residence statuses do not constitute nationality. Furthermore, the fact that the issuance of identity documents and re-entry into Palestine are ultimately subject to the discretion of Israeli authorities further demonstrates the lack of Palestinian sovereignty and independence. Thus, the granting of documentation by the Palestinian Authority cannot be considered an action of an independent, sovereign State and Palestine cannot be considered an independent and sovereign State for the purposes of Article 1 of the 1954 Convention. In addition, Israeli policies that permit the revocation of Palestinian residence permits and travel documents in the oPt based on residence abroad put some Palestinians at risk of losing even their ability to enter and reside in the territory.

In the case of Palestinians who are not eligible for – or who are not granted – permanent residence or identity documents by the Palestinian Authority, they remain without any legal bond to the State of Palestine and are unable to exercise any rights generally attached to a nationality, including the right to enter, exit, or reside in the territory.

³⁷ League of Arab States, Protocol for the Treatment of Palestinians in Arab States ('Casablanca Protocol'), 11 September 1965. When determining statelessness, some national authorities will require an applicant to show that the applicant has taken all reasonable steps to acquire a nationality of any relevant countries, which may include countries in which they were born or habitually resided. See Home Office guidance for decision makers, [Permission to Stay as a Stateless Person](#) (last updated 22 July 2025) p 23.

³⁸ UNGA, 'Status of Palestine in the United Nations', Resolution 67/1, 29 November 2012.

³⁹ Leila H Farsakh, *Rethinking Statehood in Palestine: Self Determination and Decolonization Beyond Partition* (University of California Press, 2021), p 1.

⁴⁰ See Wout van Doren et al, '[The Broadening Protection Gap for Stateless Palestinian Refugees in Belgium](#)' in *The Statelessness & Citizenship Review* 2(2) (2020), 307-08.

Furthermore, Palestine has limited ability to offer diplomatic protection or consular assistance to Palestinians outside Palestine.⁴¹ There are Palestinian missions in many countries, but, as noted, Palestine is not a sovereign, independent State and certain governmental functions, including the issuance of travel and identity documents and entry to the West Bank and Gaza, are restricted by Israel. While Palestinian missions abroad may issue travel documents to individuals of Palestinian origin, often referred to as 'external-use only' or 'zero-number' passports, these do not entitle the holder to lawfully enter and reside in the oPt as they lack an Israeli-issued ID number.⁴²

(b) Lack of a Palestinian nationality law

Palestine does not currently have a nationality law. While the 1968 Palestine National Charter defines who is considered Palestinian, this is not a nationality law.⁴³ A nationality law would need to establish who is a citizen of the State of Palestine, how Palestinian citizenship is acquired and lost, and what constitutes proof of citizenship. There have been two later efforts by the Palestine Liberation Organisation and the Palestinian Authority, in 1995 and 2012, to establish a Palestinian nationality law, but both of these failed.⁴⁴ In addition, the Palestinian Basic Law of 1997 - meant to be a temporary constitution until one could be drafted and adopted in an independent Palestinian State - discusses Palestinian nationality in broad terms but does not clearly define who is a Palestinian national. It states that 'citizenship shall be regulated by law' and thus anticipates a subsequent nationality law, which does not yet exist.⁴⁵ The details of any future Palestinian nationality law remain unknown. For example, we do not know with certainty if such a law will confer Palestinian nationality to people of Palestinian origin whose families have lived outside Palestine since before 1947; or what proof of Palestinian ancestry might be required for people to register as Palestinian nationals, if registration will be required.

Similarly, registration criteria, or practices regarding the conferral of identity documents to Palestinians, cannot replace the need for a nationality law in this context.⁴⁶ While the Palestinian Authority may issue identity documents, the validity and efficacy of such documents outside of the territory is limited, and their issuance is restricted by Israel. The so called 'passports' issued by the Palestinian Authority should be considered travel documents rather than proof of nationality, given their issuance is premised on permission from Israeli authorities. The use of registration criteria is also not enough to define nationality, which requires clear legal rules for acquisition, loss, and transmission of nationality. Registration criteria applied by administrative authorities or

⁴¹ See List of Diplomatic Missions in Palestine & Palestinian Diplomatic Missions abroad at: <https://www.embassy-worldwide.com/country/palestine/>.

⁴² Euro-Med Human Rights Monitor, [Undocumented Citizens in the Gaza Strip](#) (2020).

⁴³ Article 5 of the Charter defines Palestinians as: 'those Arab nationals who, until 1947, normally resided in Palestine regardless of whether they were evicted from it or have stayed there. Anyone born, after that date, of a Palestinian father - whether inside Palestine or outside it - is also a Palestinian': [The Palestinian National Charter: Resolution of the Palestine National Council](#) (1968).

⁴⁴ This briefing does not provide a full history of Palestine and previous nationality laws, but focuses on whether Palestinians should *currently* be considered stateless. For a detailed consideration of the relevant history, see Susan Akram, 'Palestinian Nationality and "Jewish" Nationality' (fn 28) 194, 207-208.

⁴⁵ *ibid.* The Palestinian Basic Law of 1997 was passed by the Palestinian Legislative Council in 1997 and ratified by then-President Yasser Arafat in 2002. The Oslo Accords also define who is eligible to vote in the West Bank and Gaza, but this does not constitute a nationality law. Palestine also has an electoral law, introduced by decree in 2007, which establishes eligibility for voting and sets out who is considered Palestinian for purposes of the electoral law. However, eligibility to vote does not necessarily equate with nationality. This is not a nationality law and does not establish definitively who is considered a national of Palestine.

⁴⁶ Albanese and Takkenberg, [Palestinian Refugees in International Law](#) (fn 25) Part One (III), S. 3.2.2. See also [Hungary, Supreme Court \(Kúria\), Judgment no. Kfv.II.38.067/2018/6 of 13 November 2019](#), in which the Supreme Court of Hungary acknowledged, at paragraph 16, that 'a travel document is not always suited to prove nationality'.

international organisations cannot be considered equivalent to the rules that define who is a national of a certain State.

(c) Recognition of Palestine as a State

It is important to note that international recognition of the State of Palestine is not determinative of the nationality or stateless status of Palestinians in and of itself. The assessment of whether an individual is stateless must be grounded in the definition of a stateless person in Article 1 of the 1954 Convention and its application in practice by the authorities of the relevant country. Whether an individual is a national of a particular State can only be determined by the competent authority of that State.

The recognition of Palestine by another State does not impact the legal status of Palestinians, as the factors outlined above (the lack of Palestinian sovereignty over its borders and the existence of a nationality law) do not change following such recognition. Many Palestinians remain unable to return to Palestine and to access diplomatic protection and other rights attached to a nationality. The act of recognising Palestine as a State is primarily an act of political expression, with limited factual or legal implications unless and until Palestine becomes a sovereign country with a functioning nationality law.⁴⁷ Basing a determination of statelessness on whether a host State recognises the State of Palestine has resulted in inconsistent outcomes across different Contracting States to the 1954 Convention. This differentiated interpretation is incompatible with international law, as according to the principle of unity in treaty interpretation the 1954 Convention should be interpreted harmoniously and consistently across its Contracting States.⁴⁸

Even if Palestine is recognised as a State by several countries, Palestinians who do not hold the nationality of another country should still be considered stateless under international law. The lack of a harmonised and consistent recognition that Palestinians are stateless has a significant impact on Palestinians' ability to access protection and safeguards to prevent and reduce statelessness.⁴⁹

⁴⁷ Albanese and Takkenberg, *Palestinian Refugees in International Law* (fn 25) Part One (III), S. 3.2.2; Jesús Tolmo García, [El problema de la apatridia en personas de Estados no reconocidos o de reconocimiento limitado y su incidencia en España](#) (Universidad de Murcia, 2025).

⁴⁸ International treaties should be interpreted in accordance with Articles 31–33 of the 1969 Vienna Convention on the Law of Treaties (VCLT) which do not support the idea of multiple contradictory interpretations of international legal provisions.

⁴⁹ On the impact of the lack of recognition in safeguards to prevent childhood statelessness, see ENS, [Briefing on the right to a nationality of children born to Palestinian parents in Belgium](#) (2024).

IN SUMMARY: WHY PALESTINIANS SHOULD BE CONSIDERED STATELESS

Efforts to enact a Palestinian nationality law have failed, and Palestine currently does not have an independent, sovereign ability to issue identity and travel documents, allow persons to enter and reside in its territory, or offer full diplomatic protection to Palestinians. In these circumstances, Palestinians cannot be considered nationals of Palestine for the purposes of statelessness determination under the 1954 Convention, which defines a person as stateless if they are 'not considered as a national by any State *under the operation of its law*' (emphasis added).

If Palestine does adopt a nationality law, then persons who are considered nationals under that law might no longer be stateless. However, it will be important to consider other circumstances, including Palestine's sovereignty and ability to independently issue documentary proof of nationality such as passports to all persons recognised as nationals under its laws, to grant them an unrestricted right to enter and reside in the territory, and to provide them diplomatic protection when abroad, as well as other criteria commonly associated with a nationality.

Recognition of the State of Palestine by individual States is not determinative of the statelessness of Palestinians and does not change their circumstances or status, including the lack of a Palestinian nationality law. It is only the international law definition of a stateless person that defines who is stateless, therefore states cannot unilaterally decide that a Palestinian is not stateless just because that country has recognised Palestine. A determination of statelessness grounded in State recognition would lead to inconsistent outcomes across Contracting States to the 1954 Convention and would thus be contrary to international law.

Therefore, Palestinians who do not hold the nationality of another country should be considered stateless for the purposes of the 1954 Convention unless and/or until they can be considered nationals of an independent, sovereign State which has a nationality law.

2. PROTECTION UNDER THE REFUGEE CONVENTION

Palestinians in need of international protection may be entitled to protection as a refugee under Article 1A(2) or Article 1D of the Refugee Convention, or have a right to protection under other human rights law (e.g., complementary protection or protection of family or private life).⁵⁰

Article 1A(2) of the Refugee Convention affords protection to refugees who face a well-founded fear of persecution for one of the five reasons set out in the Convention (race, religion, nationality, political opinion, or membership of a particular social group). Article 1D (second paragraph) provides for the automatic recognition as refugees of individuals for whom UNRWA assistance or protection has ceased. We will first analyse the scope of Article 1D, before assessing how the general provision under Article 1A is applied to Palestinian refugees.

Before proceeding with the analysis of protection under the Refugee Convention, it must be noted that legal practitioners have identified the lack of adequate country-of-origin information covering statelessness specific issues and the conditions faced by stateless Palestinians, particularly in UNRWA's areas of operation, as a specific challenge to advancing asylum claims.⁵¹ Difficulties accessing relevant country of origin information are compounded in the oPt due to the refusal by the Israeli authorities to permit the entry of humanitarian and media organisations to Gaza.⁵² The importance of relying on accurate and up to date country of origin information has been emphasised by numerous courts in relation to statelessness and asylum applications. In *SN and LN*, the CJEU affirmed the obligation of Member States to ensure that up to date country of origin information is used in the assessment of claims for asylum. Information from various sources should be reviewed, including the EUAA, UNHCR and international organisations for the protection of human rights.⁵³ Annex I provides a summary of additional resources and country-of-origin information to support asylum claims by Palestinian applicants.

2.1. Protection under Article 1D

The first paragraph of Article 1D of the Refugee Convention operates as an *exclusion* clause, which conditionally excludes persons who are receiving protection or assistance from a UN agency other than UNHCR. In practice, this clause is applied to persons receiving assistance or protection from UNRWA, as it is currently the only relevant and operational UN agency with a mandate for Palestinian refugees in its areas of operation. This is followed by an *inclusion* clause in the second paragraph of Article 1D, stating that if such protection or assistance ceases, the persons concerned are automatically entitled to the benefits of the Refugee Convention without needing to prove individualised persecution (provided other relevant exclusion clauses do not apply, although this

⁵⁰ In European Union (EU) law, Article 1D has been mirrored in Article 12(1)(a) of the EU Qualification Directive (Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)).

⁵¹ This was identified in discussions with practitioners by ENS. This gap was identified by Asylos following a review of publicly available country of origin information, case law and interviews with lawyers across the UK and Europe. See Asylos, [Palestine \(Gaza\): United Nations Relief and Works Agency for Palestine Refugees in the Near East \(UNRWA\) 1 August - 24 September 2024](#) (2024), p 3.

⁵² *ibid*, p 10.

⁵³ Court of Justice of the European Union (CJEU), *SN and LN*, C-563/22 (13 June 2023), para 77.

requires careful consideration).⁵⁴ Thus, once recognised as refugees under Article 1D, no additional assessment under Article 1A(2) is required.⁵⁵ Given the way Article 1D operates, it has been suggested that it would be most accurately described as a ‘contingent inclusion clause’.⁵⁶

ARTICLE 1D OF THE REFUGEE CONVENTION

This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention.

Article 1D was drafted to ensure the continuation of protection for Palestinian refugees, and was only intended to conditionally exclude Palestinians from the remit of UNHCR to allow UNRWA (and UNCCP) to provide a tailored and more appropriate solution for displaced Palestinians.⁵⁷ Article 1D does not intend to permanently exclude Palestinians from international protection, as has been recognised by regional and domestic courts.⁵⁸ A broad interpretation of Article 1D which reflects this purpose is thus required, as recommended by UNHCR.⁵⁹

2.1.1. The personal scope of Article 1D: the exclusion clause of the first paragraph

Article 1D applies to all those who are eligible to receive assistance from UNRWA within one of its five operational areas and thus may apply to ‘Palestine Refugees’, ‘displaced persons’, and their descendants (as described in [Section 1.1](#)).⁶⁰ UNRWA has also published instructions that specify and define categories of persons eligible to receive UNRWA assistance.⁶¹

UNHCR guidance outlines that the words ‘at present receiving’ in Article 1D are to be interpreted as referring to individuals who are, or were, receiving assistance and to those who are eligible to

⁵⁴ The application of the exclusion clauses under the Refugee Convention to Palestinian refugees falling within the scope of Article 1D requires careful consideration. Article 1C states that it applies to ‘any person falling under the terms of section A’, which would not be the case for those falling under Article 1D. The termination clause under Article 1E may also be incompatible with Article 1D. For a detailed analysis, see Susan Akram, ‘UNRWA and Palestinian Refugees’ in *The Oxford Handbook of Refugee & Forced Migration Studies* (eds E. Fiddian-Qasbiyeh, G. Loescher, K. Long, N. Sigona, OUP, 2014), p 236.

⁵⁵ UNHCR, [Guidelines on Article 1D](#) (fn 14) para 3. See also CJEU, *El Kott*, C-364/11 (19 December 2012) para 81. In the UK context, see First-tier Tribunal (Immigration and Asylum Chamber), *AB and NB v Secretary of State for the Home Department*, PA/07864/2019 & PA/07865/20119 (29 March 2023) para 9.

⁵⁶ Susan Akram, ‘UNRWA and Palestinian Refugees’ (fn 54) p 233.

⁵⁷ UNHCR, [Guidelines on Article 1D](#) (fn 14) para 12. For more information on the preparatory works of the Refugee Convention see Albanese and Takkenberg, *Palestinian Refugees in International Law* (fn 25) Part One (II) S 3.2; BADIL, [Closing Protection Gaps](#) (fn 5), preface. This purpose is also recognised in the UK Home Office, [Asylum Policy Instruction - Article 1D of the Refugee Convention: Palestinian refugees assisted by the United Nations Relief and Works Agency \(UNRWA\)](#) (2016) p 4.

⁵⁸ CJEU, *Office Français de Protection des Réfugiés et Apatrides (OFPRA) v SW*, C-294/22 (5 October 2023), para 37; *SN and LN* (fn 53) para 70; New Zealand Immigration and Protection Tribunal, *AD (Palestine)*, [2015] NZIPT 800693-695, para 99.

⁵⁹ UNHCR, [Guidelines on Article 1D](#) (fn 14) paras 6-7.

⁶⁰ UNHCR, [Guidelines on Article 1D](#) (fn 14) paras 8, 17.

⁶¹ UNRWA, [Consolidated Eligibility and Registration Instructions \(CERI\)](#) (2009).

receive assistance.⁶² However, this interpretation is distinct from the interpretation of the Court of Justice of the European Union (CJEU) as established in *Bolbol*, which states:

'It follows from the clear wording of Article 1D of the Geneva Convention that only those persons who have *actually availed* themselves of the assistance provided by UNRWA come within the clause excluding refugee status set out therein, which must, as such, be construed narrowly and cannot therefore also cover persons who are or have been eligible to receive protection or assistance from that agency' (*emphasis added*).⁶³

The holding in *Bolbol*, that only persons who have 'actually availed themselves' of the assistance provided by UNRWA come within the scope of Article 1D, creates a protection gap for some Palestinians who are or were eligible to register with UNRWA. UNHCR rejects the holding in *Bolbol* as being incompatible with the object and purpose of Article 1D and urges decision-makers to take a more favourable approach in line with the protective purpose of Article 1D. UNHCR considers that this narrow interpretation also creates a two-tier approach to protection, where individuals fleeing the same circumstances are subject to different treatment depending on whether they have received assistance. Such an interpretation, which differentiates between similarly situated individuals, is in conflict with the purpose of Article 1D to provide continuing protection and assistance for all Palestinian refugees, 'whose refugee character is already established'.⁶⁴

Once it has been established that an individual falls within the scope of the first paragraph of Article 1D, they will be excluded from protection under the Refugee Convention unless it has been determined that assistance has ceased for any reason, which would trigger the inclusion clause in the second paragraph of Article 1D.

2.1.2. The functional scope of Article 1D: the inclusion clause of the second paragraph

The inclusion clause in the second paragraph of Article 1D will be triggered once a Palestinian is outside of UNRWA's areas of operation (in line with the geographical limitations of UNRWA) and where protection or assistance has been established to have ceased for any reason. Once assistance from UNRWA has been established to have ceased, the applicant is automatically entitled to refugee status, as long as other exclusion clauses are not applicable.⁶⁵

Following the plain language of the Refugee Convention, the reasons why the person left an UNRWA area of operation, including whether they left voluntarily or involuntarily, are not of itself determinative. The key determining factor is whether the person is currently able to (re)avail themselves of UNRWA's assistance. Further, the term 'ceased for any reason' should be interpreted broadly, in line with the object and purpose of the Convention, and include circumstances other than the cessation of UNRWA's mandate. These aspects have also been confirmed in UNHCR guidance.⁶⁶ However, UNHCR guidance also states that if an individual is outside UNRWA's area of operation but is currently able to safely return to it and refuses to (re)avail themselves of UNRWA's

⁶² UNHCR, [Guidelines on Article 1D](#) (fn 14) para 13. Registration with UNRWA is sufficient proof of receiving assistance from it and falling within the scope of Article 1D, but it should not be a prerequisite as assistance can also be provided in the absence of registration.

⁶³ CJEU, *Bolbol*, C-31/09 (17 June 2010) para 51. This was confirmed in *El Kott* (fn 55) para 65.

⁶⁴ UNHCR, [Guidelines on Article 1D](#) (fn 14) paras 13-14

⁶⁵ *El Kott* (fn 55) para 81.

⁶⁶ UNHCR, [Guidelines on Article 1D](#) (fn 14) paras 18-19.

assistance only for reasons of personal convenience, they would not be entitled to protection under the Refugee Convention.

UNHCR provides a non-exhaustive list of objective reasons for why an individual may not be able to (re)avail themselves of UNRWA's assistance, which would bring them within the scope of the second paragraph of Article 1D: (1) termination of UNRWA's mandate; (2) UNRWA's inability to fulfil its protection or assistance mandate; (3) threat to the applicant's life, physical integrity, security or liberty or other serious protection-related reasons; and (4) practical, legal and/or safety barriers preventing an applicant from (re)availing themselves of UNRWA's protection or assistance.⁶⁷ Cessation of protection or assistance will therefore not only occur in the case of the abolition of UNRWA, 'but also the fact that it is impossible for that organ or agency to carry out its mission' or 'to guarantee that [their] living conditions in that area will be commensurate with the mission entrusted to that agency'.⁶⁸ An assessment of whether this is the case must be carried out on an individual basis.⁶⁹

CJEU jurisprudence, as well as jurisprudence from some UK courts, has interpreted Article 1D as meaning that such protection or assistance must have ceased for reasons beyond the applicant's control and independent of their volition, and that in cases of 'mere absence' or 'voluntary decision to leave' protection or assistance would not be deemed as having ceased.⁷⁰ However, such a restrictive interpretation is not in line with the plain language of Article 1D, and risks unduly excluding Palestinians from protection, who wouldn't otherwise be able to access any form of assistance or protection as refugees. It is imperative that the words 'ceased for any reason' are interpreted in line with the plain meaning of the treaty, the principle of good faith in the interpretation of treaties,⁷¹ and in line with the object and purpose of the Convention to ensure continuing protection and assistance for Palestinian refugees. Such an interpretation would also reflect the UN's recognition that most Palestinians are already refugees.⁷² As such, the key consideration in assessing whether assistance has ceased should be whether the applicant is able to access effective protection, regardless of the reasons why protection or assistance has ceased and regardless of whether the applicant had control over such reasons.

Another important aspect that has been rapidly developing in recent case law of the CJEU concerns the threshold by which to determine UNRWA's inability to fulfil its mandate of providing assistance and guaranteeing adequate living conditions to Palestinians. In the 2023 case, [OFPPRA v SW](#), the CJEU acknowledged that the provision of health assistance to Palestinian refugees to meet their basic needs forms part of UNRWA's mission, 'whatever the nature of the care or medication needed for those purposes'.⁷³ The CJEU held that the inability of UNRWA to provide such care and assistance cannot be considered to fall outside of its mission in cases where it lacks operational capacity due to, among others, budgetary constraints. Otherwise, this would leave Palestinians receiving UNRWA's assistance at risk of being unable to benefit from international

⁶⁷ UNHCR, [Guidelines on Article 1D](#) (fn 14) para 22.

⁶⁸ *El Kott* (fn 55) paras 56, 62, 63; See also CJEU, [Serin Alheto](#), C-585/16 (25 July 2018) para 86.

⁶⁹ *El Kott* (fn 55) para 64; *Serin Alheto* (fn 68) para 86.

⁷⁰ See *El Kott* (fn 55) para 49-50, 59, 65; CJEU, [Bundesrepublik Deutschland v XT](#), C-507/19 (13 January 2021) paras 70-71; *AB and NB* (fn 55) para 36; UK Upper Tribunal, *SSH D v HMS*, PA/00392/2017 (20 December 2018), para 60.

⁷¹ Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) Article 31. See also Katia Bianchini, *Protecting Stateless Persons: The Implementation of the Convention relating to the Status of Stateless Persons across EU States* (Brill Nijhoff, 2018), 88-93, discussing the correct interpretation of Article 1D of the Refugee Convention and Article 1(2)(i) of the 1954 Convention in accordance with the VCLT.

⁷² For further details on this argument and reasoning, see BADIL, [Closing Protection Gaps](#) (fn 5), Ch 5, S 1.3.

⁷³ CJEU, *OFPPRA v SW* (fn 58) paras 40-41.

protection due to the limitations of UNRWA and their exclusion from the Refugee Convention. Therefore, the CJEU held that access to protection or assistance will be considered to have ceased in circumstances where access to healthcare is not possible, which has the effect of exposing that person to a real risk of imminent death or decline in their state of health or life expectancy.⁷⁴

In its most recent decision considering Article 1D, *SN and LN*, the CJEU considered a case concerning a stateless Palestinian mother and her child who fled Gaza in 2018 and sought protection in Bulgaria. The ruling was issued in June 2024 and addressed the dire conditions in Gaza and the impact of significant funding cuts to UNRWA which rendered the agency's assistance inadequate to ensure decent living conditions. The CJEU considered that a situation of extreme poverty and general insecurity is sufficient to demonstrate the cessation of assistance by UNRWA. It held that the inclusion clause in Article 1D will be triggered where a Palestinian refugee, upon return to the area of UNRWA's operation in which they habitually resided, would be found 'in a personal state of serious insecurity [and where] UNRWA finds itself, *for whatever reason, including by reason of the general situation prevailing in that sector*, unable to ensure dignified living conditions and minimum security for that stateless person, taking into account, where applicable, the specific needs linked to his or her state of vulnerability' (emphasis added).⁷⁵ The CJEU also established that the applicant's vulnerability must be taken into account when assessing the standard of assistance expected, and recognised the specific needs of children in this context, relying on the prohibition of torture and inhuman or degrading treatment or punishment and the principle that the best interests of the child should be a primary consideration. It relied on UNHCR's observations that the situation in Gaza (as of March 2022) amounted to an 'objective reason' for leaving UNRWA's area of operation, and explicitly referred to the 'unprecedented deterioration' of living conditions and UNRWA's inability to fulfil its mission 'due to the consequences of the events of 7 October 2023'.⁷⁶

In light of this judgment, applicants are not required to prove that they are specifically affected by the general situation. Once UNRWA fails to provide dignified living conditions and minimum security in a sector of its area of operations, particularly considering the applicant's vulnerability, Palestinians who were habitually residing in that sector are to be recognised *ipso facto* (automatically) as refugees.

The CJEU has also held that a claim must be assessed in relation to the circumstances and situation in UNRWA's areas of operation not just at the time of the applicant's departure from the area, but also 'at the time when the competent administrative authorities consider an application for refugee status or the judicial authorities concerned rule on the appeal against a decision refusing to grant such status'.⁷⁷ In addition, UNHCR is unequivocal in its assertion that the possibility to re-avail of UNRWA services should only be assessed in relation to an UNRWA area of operation in which the individual has previously resided; it cannot be assumed that a Palestinian refugee will be able to access UNRWA assistance in any area of operation.⁷⁸ Furthermore, registration with UNRWA does

⁷⁴ *ibid*, paras 42, 48.

⁷⁵ *SN and LN* (fn 53) para 78. See also ECRE, [Legal Note On The Cessation Of International Protection And Review Of Protection Statuses In Europe](#) (April 2025) p 17.

⁷⁶ *SN and LN* (fn 53) paras 73, 78-79, 81-82.

⁷⁷ CJEU, *NB and AB*, C-349/20 (3 March 2022), para 58. This was confirmed in *SN and LN* (fn 53) para 75.

⁷⁸ UNHCR, [Guidelines on Article 1D](#) (fn 14) para 22(k). This is supported by the CJEU holding in *El Kott* (fn 55) (see para 77). However, it is regrettable that the CJEU has since departed from this stance in *Serin Alheto* (fn 68) (see paras 134, 140).

not confer a right to enter or reside in a given area as that is determined by the host State, which retains authority over immigration and residency matters.

2.1.3. Comparative analysis on the application of Article 1D in European jurisdictions

These developments in CJEU jurisprudence reflect developments in other jurisdictions in which domestic courts have acknowledged the inability of UNRWA to fulfil its mandate in certain areas of operation. Applying the *SN and LN* judgment, in France, the National Court of Asylum granted refugee status on the basis of Article 1D to a Palestinian couple from Gaza and ruled that UNRWA can no longer provide effective assistance and protection for Palestinians residing there.⁷⁹ In August 2024, the Federal Administrative Court in Austria held that a stateless Palestinian from Syria was to be granted refugee status *ipso facto* under the inclusion clause of Article 1D due to UNRWA's inability to provide assistance or protection in the Syrian area of operations.⁸⁰ In *AE (Lebanon)*⁸¹, the New Zealand Immigration and Protection Tribunal held that a Palestinian previously residing in Lebanon was entitled to refugee protection under Article 1D due to UNRWA's inability to provide necessary medical treatment, which was potentially life-threatening, and its failure to prevent the applicant from falling into 'abject poverty'. The Tribunal also adopted a broader interpretation regarding the personal scope of Article 1D and held that it applied to all Palestinians who are or were *entitled* to receive UNRWA assistance.⁸²

In Belgium, the Council for Aliens Law Litigation (CALL), an asylum appeals body, held in a series of cases in 2021 that, due to the financial difficulties faced by UNRWA, the Agency could not be deemed to be capable of fulfilling its mission in Gaza and Lebanon and therefore UNRWA's assistance had ceased for the purposes of Article 1D. Thus, Palestinian refugees from either of those areas and registered with UNRWA would be within the scope of the inclusion clause.⁸³ Similarly, in 2020, the Amsterdam District Court found that a Palestinian applicant from Gaza fell under the inclusion clause in Article 1D due to his 'personal situation of serious insecurity' on account of UNRWA's inability to provide adequate humanitarian relief in Gaza.⁸⁴

2.1.4. Application in the UK

Article 1D of the Refugee Convention is reflected in Para 339AA of the Immigration Rules Part 11.⁸⁵ In 2016, the UK Home Office released guidance on the application of Article 1D in asylum claims, which is to be read in conjunction with the relevant country policy and information note.⁸⁶ The most recent country policy and information note on the oPt was updated in November 2024 and

⁷⁹ France, Cour Nationale du Droit d'Asile (CNDA), no. 23042517, no. 23042541, (13 September 2024). See also the recent judgment of the Dutch Council of State which applied the *SN and LN* and ruled that, in a case concerning a stateless Palestinian from the West Bank, the Minister for Asylum and Migration must consider the conditions in the area of operation at the time of the decision and not only at the time of the individuals departure. See The Netherlands, Council of State, case no. 202307092/1/V2 (7 May 2025).

⁸⁰ Austria, Federal Administrative Court, *Bundesamt für Fremdenwesen und Asyl, BFA*, L512 2276189-1 (2 August 2024).

⁸¹ New Zealand Immigration and Protection Tribunal, *AE (Lebanon)* [2019] NZIPT 801588 (28 May 2019).

⁸² *ibid*, para 41, citing New Zealand Immigration and Protection Tribunal, *AD (Palestine)* [2015] NZIPT 800693-695 (23 December 2015).

⁸³ *ENS and BADIL, Palestinians and the Search for Protection* (fn 4) p 34. See Belgium, Council for Aliens Law Litigation, judgment no. 249 784 (24 February 2021); Belgium, Council for Aliens Law Litigation, judgment no. 249 930 (25 February 2021); Belgium, Council for Aliens Law Litigation, judgment no. 250 868 (11 March 2021).

⁸⁴ The Netherlands, Amsterdam District Court Den Haag, NL20.6600 (24 August 2020) para 7.1. Note however, the judge goes on to incorrectly apply the exclusion clause, holding that the applicant's claim should be assessed under Article 1A(2) rather than granted refugee status *ipso facto* in accordance with the second paragraph of Article 1D.

⁸⁵ [UK Immigration Rules Part 11: Asylum](#).

⁸⁶ UK Home Office, [Asylum Policy Instruction - Article 1D](#) (fn 57); UK Home Office, [Country Policy and Information Note: Humanitarian Situation in Gaza, Occupied Palestinian Territories](#) (November 2024); UK Home Office, [Country Policy and Information Note: Lebanon: Palestinians](#) (March 2024).

explicitly recognises the chronic underfunding experienced by UNRWA and its inability to provide humanitarian assistance in Gaza.⁸⁷

While UK jurisprudence had previously limited the application of Article 1D to those receiving protection at the time of signature of the Refugee Convention (i.e. 'at present'), this has since been overruled by *Bolbol*.⁸⁸ Thus, Article 1D includes within its scope any Palestinian refugee receiving UNRWA protection or assistance at the time when the application of Article 1D falls to be considered in the individual case. UK courts have also applied the holding from *Bolbol* that only those who have *actually availed themselves* of UNRWA assistance fall within the scope of Article 1D.⁸⁹

In relation to the personal scope of Article 1D, the Home Office guidance outlines that Article 1D 'applies to the consideration of asylum claims by stateless Palestinians whose habitual place of residence is the oPt or one of the neighbouring States of Jordan, Lebanon, and Syria'.⁹⁰ However, UK case law demonstrates that this is not always the case in practice. In the case of *Nader v SSHD*, the UK Upper Tribunal held that Article 1D was applicable, despite the applicant not being habitually resident in Lebanon (or any area of operation of UNRWA).⁹¹ Furthermore, the Upper Tribunal ruled that the possibility for the applicant to return to one of UNRWA's areas of operation was not limited to areas of operation where the individual had formerly habitually resided.

Regarding the functional scope of Article 1D, the 2016 Home Office Guidance clarifies that the approach in *El Kott* is binding on UK courts.⁹² While it is unclear whether the approach of the UK courts will diverge from CJEU jurisprudence following the completion of the Brexit transition period and to what extent this jurisprudence will have binding or persuasive effect, CJEU case law retains relevance in the context of understanding international developments on the interpretation of Article 1D.⁹³ In 2012 the Upper Tribunal held that, since Article 12(1)(a) of the EU Qualification Directive retains an explicit reference to Article 1D of the Refugee Convention, the 'ruling of the CJEU on this article of the Directive is a ruling not only on the meaning of the Directive but also on the meaning of Article 1D of the Convention'.⁹⁴

The inability of UNRWA to fulfil its mandate has been recognised to some extent by the UK courts. In the case *AB and NB v SSHD* of March 2023, the First-tier Tribunal recognised that 'while UNRWA is still providing basic services to Palestinian refugees in Lebanon, the agency is struggling to meet

⁸⁷ UK Home Office, [Country Policy and Information Note: Humanitarian Situation in Gaza, Occupied Palestinian Territories](#) (November 2024) p 51.

⁸⁸ For the UK courts' more restrictive approach, see UK Court of Appeal, *Amer Mohammed El-Ali v. SSHD and Daraz v. SSHD* [2002] EWCA Civ 1103 (26 July 2002), in particular para 58. Guidance from the Home Office as well as case law confirm a change in approach. See UK Upper Tribunal (Immigration and Asylum Chamber), *Said (Article 1D: Interpretation) v. SSHD* (7 November 2012); UK Upper Tribunal (Immigration and Asylum Chamber), *AKO v SSHD*, appeal no. PA/09415/2018 (24 January 2022); UK Home Office, [Asylum Policy Instruction - Article 1D](#) (fn 57), p 7, 9.

⁸⁹ *AKO v SSHD* (fn 88) para 39. See also *SSHD v HMS* (fn 70) para 61. The applicant in this case was granted refugee status on the basis of Article 1D.

⁹⁰ UK Home Office, [Asylum Policy Instruction - Article 1D](#) (fn 57), p 4.

⁹¹ UK Upper Tribunal (Immigration and Asylum Chamber), *Nader v SSHD*, Appeal No. PA/11313/2018 (14 March 2019), paras 28-29.

⁹² UK Home Office, [Asylum Policy Instruction - Article 1D](#) (fn 57), p 8. This interpretation was also applied by the First-Tier Tribunal in *AB and NB* to an asylum claim lodged prior to the end of the transition period (See *AB and NB* (fn 55) para 36). See also *SSHD v HMS* (fn 70), para 60.

⁹³ For a discussion on the binding nature of CJEU case law in this context, and a consideration of CJEU cases decided after the completion of the transition period, see UK Upper Tribunal (Immigration and Asylum Chamber), *AKO v SSHD* (fn 88) paras 12-39. On this issue, the Norwegian Government has acknowledged that while Norway is not bound by EU law (it not being a member of the European Union), the rulings of the CJEU concerning Article 1D are relevant sources of law when interpreting its international obligations on this issue. See [Instruction GI-03/2021](#).

⁹⁴ UK Upper Tribunal (Immigration and Asylum Chamber), *Said (Article 1D: Interpretation) v. the SSHD* (7 November 2012), paras 18-19.

their needs generally and in some cases is unable to do so at all'.⁹⁵ It held that, for example, the inability of UNRWA to provide wheelchair access and special needs teachers at a school to meet the needs of a Palestinian child with severe medical conditions, meant that the cessation of assistance was beyond the control of the applicant. Assistance from UNRWA was also held to have ceased for the child's mother. The judge assessed the circumstances in relation to the date of the hearing and the date on which they left Lebanon, noting the deterioration of circumstances in Lebanon since they left.⁹⁶ It is also worth noting that the UK courts have acknowledged the 'great weight' that must be attached to arguments of UNHCR given its 'special expertise' in the field of asylum law and statelessness.⁹⁷

Finally, both regional and domestic jurisprudence regarding Article 1D have ignored the impact of UNCCP's non-operational status on the interpretation of Article 1D. In light of the drafting history and given the purpose this provision was intended to fulfil, it has been argued that the cessation of 'protection or assistance' under Article 1D should be interpreted to mean that the cessation of *either* protection or assistance to Palestinian refugees should trigger the inclusion clause of Article 1D on a general scale.⁹⁸ Such an interpretation would be in line with the purpose of Article 1D to provide Palestinian refugees with the same level of protection (in the sense of durable solutions and immediate assistance) as refugees falling within the scope of Article 1A(2).⁹⁹ However, neither CJEU jurisprudence nor UNHCR guidance adopts this approach.

2.2. Protection under Article 1A(2) and human rights-based claims

Where an applicant does not fall within the scope of Article 1D, they may qualify as a refugee under Article 1A(2) of the Refugee Convention based on a well-founded fear of persecution for a Convention reason. A Palestinian applicant may also be able to claim a human rights-based protection under Article 3 (the prohibition of torture, inhumane and degrading treatment) and Article 8 (the right to respect for private and family life) ECHR, which may be made at the same stage as claims based on the Refugee Convention.

2.2.1. Establishing persecution

Several courts have recognised Palestinians as refugees under Article 1A(2) of the Refugee Convention on the basis of a well-founded fear of persecution linked to 'race' and 'nationality'.

In July 2025, the French National Court of Asylum (CNDA) ruled that Palestinians fleeing Gaza who are not registered with UNRWA meet the definition of a refugee under Article 1A(2) due to a fear of persecution on the basis of 'nationality'. The case concerned a mother and her minor son who had fled Gaza and had entered France by way of consular passes. The applicants were not registered with, nor eligible to receive assistance from UNRWA, and thus applied for international protection under Article 1A(2) (as opposed to Article 1D). The Court considered the acts of Israeli

⁹⁵ *AB and NB* (fn 55) para 44.

⁹⁶ *ibid*, paras 28, 47, 35.

⁹⁷ UK High Court of Justice, *Asylum Aid, R (on the application of) v SSHD* [2025] EWHC 316 (Admin) (14 February 2025), para 81; UK Supreme Court, *R (AAA (Syria) and others) v SSHD* [2023] UKSC 42 (15 November 2023), paras 63-71.

⁹⁸ BADIL, [Closing Protection Gaps](#) (fn 5), introduction and Ch 5, S 2.2. See also Susan Akram, 'UNRWA and Palestine Refugees' in *The Oxford Handbook of International Refugee Law* (eds C. Costello, M. Foster, and J. McAdam, OUP, June 2021); and Bianchini, *Protecting Stateless Persons* (fn 71) 90-92.

⁹⁹ The fact that displaced Palestinians were refugees was widely acknowledged by UN delegates at the time the Refugee Convention was drafted. This is why Article 1D contains an automatic ('ipso facto') inclusion clause. See BADIL, [Closing Protection Gaps](#) (fn 5), preface; and see Susan Akram, 'Palestinian Refugees and their Legal Status: Rights, Politics, and Implications for a Just Solution', in *Journal of Palestine Studies* XXXI, no. 3 (Spring 2002), 36-51, 40.

forces in Gaza, particularly since the breakdown of the ceasefire agreement of 19 January 2025 by the Israel Defence Forces (IDF) on 17 March 2025, including the large-scale destruction of civilian infrastructure, blockages to the delivery of humanitarian aid, and the forced displacement of Palestinians. It ruled that the Israeli armed forces exercise control over a substantial part of Gaza and that its methods of warfare, which indiscriminately affect the entire civilian population of Gaza, amount to 'persecution' in the context of Article 1A(2) due to their sufficiently serious and repeated nature.¹⁰⁰ The Court held that the applicants, as stateless Palestinians from Gaza, possess characteristics associated with 'nationality' for the purposes of Article 1A(2), taking into account the definition of 'nationality' as provided for in Article 10 of the Qualification Directive (Directive 2011/95/EU), which includes 'membership of a group which has its identity based on cultural, ethnic or linguistic factors, common geographical or political origins, or its relationship with the population of another State'.¹⁰¹ The Court also noted that Palestinians were recognised as a distinct 'national, ethnic, racial or religious group' by the ICJ within the context of protection under the Genocide Convention.¹⁰² The Court granted refugee status to the applicants on the basis of a well-founded fear of persecution by the IDF on account of their nationality.

The ruling of the French CNDA represents a significant development in the recognition of Palestinians as refugees under Article 1A(2) of the Refugee Convention. By recognising that Palestinians who are not registered with UNRWA may qualify as refugees on the basis of nationality-based persecution, the CNDA has expanded the scope of protection available to Palestinians. This judgment also importantly acknowledges the discriminatory treatment faced by Palestinians in Gaza and may be instructive in relation to discrimination on the basis of nationality faced by Palestinians in other UNRWA areas of operation. Furthermore, the Court's conclusion that Palestinians are part of a 'nationality' based on 'cultural, ethnic or linguistic factors, common geographical or political origins', despite the lack of recognition of a Palestinian State by France, is in line with international jurisprudence which also recognises Palestinians as a distinct group.¹⁰³ This approach significantly lowers the evidentiary threshold for Palestinians to establish refugee status by acknowledging the collective nature of persecution in Gaza and not requiring an individualised threat.

The UK Court of Appeal, in its 2008 decision *MA (Palestinian Territories) v SSHD*, ruled that denial of re-entry to a stateless person to their country of former habitual residence does not, in principle, amount to persecution and thus does not give rise to recognition as a refugee under the Refugee Convention.¹⁰⁴ However, where a Palestinian individual faces a risk of persecution on the basis of race upon return to their country of former habitual residence, this may be sufficient to establish refugee status. This occurred in the 2014 case *H E-H v. The Secretary of State for the Home Department* which concerned a stateless Palestinian who was born and raised in Egypt.¹⁰⁵ After overstaying his tourist visa in the UK, the individual applied for asylum claiming that he would face a real risk of persecution if returned to Egypt on the basis that he may be denied re-entry or a residence permit, which would leave him at risk of detention in conditions amounting to

¹⁰⁰ *ibid*, para 13, 15-20.

¹⁰¹ *ibid*, para 21.

¹⁰² *ibid*, para 14 citing ICJ, [South Africa vs Israel](#) (fn 17) 45.

¹⁰³ See above ICJ, [South Africa vs Israel](#) (fn 17) para 45.

¹⁰⁴ UK Court of Appeal, *MA (Palestinian Territories) v SSHD* [2008] EWCA Civ 304 (9 August 2008). See also UK Court of Appeal, *SH (Palestinian Territories) v SSHD* [2008] EWCA Civ 1150 (22 October 2008), para 52.

¹⁰⁵ UK Upper Tribunal (Immigration and Asylum Chamber), *H E-H v. SSHD*, appeal No. AA/04018/2013 (17 January 2014).

persecution.¹⁰⁶ The Court held that the applicant was to be granted international protection as he would be at risk of persecution for a Convention reason (race) and treatment contrary to Article 3 ECHR.¹⁰⁷

Article 3 may also be relevant where Palestinians are likely to face discrimination on the basis of race following return to their country of former habitual residence. The European Court of Human Rights (ECtHR) has previously established that ‘discrimination based on race could, in certain circumstances, of itself amount to degrading treatment within the meaning of Article 3’, recalling that different treatment on the basis of race may ‘constitute a special form of affront to human dignity’.¹⁰⁸ The UK Upper Tribunal has also held that ‘discrimination on the ground of race is a factor that should be taken into account in deciding whether a breach of Article 3 has been established. It may in some circumstances tip the balance’.¹⁰⁹ In this context, in March 2024, the Home Office also conceded the asylum and human rights appeal of a Palestinian citizen of Israel on the basis that he would be subject to discrimination in Israel on account of his race.¹¹⁰

The 2023 case, *BJ (Palestinian Territories) v SSHD (IAC) (Unreported)* concerned an individual who was born in the West Bank and applied for international protection in the UK.¹¹¹ The Upper Tribunal set aside a judgment of the First Tier Tribunal, ruling that the judge had failed to give adequate consideration to the statelessness of the individual when assessing whether he would be at risk upon return. The Court noted:

‘It is true that not every denial of citizenship amounts to persecution. However, it can be a factor that, along with other factors, gives rise to a real risk of persecution or ill-treatment in a particular case. Likewise, the Appellant’s statelessness and practicality as to his return are directly relevant to his Article 8 claim’.¹¹²

2.2.2. Assessing multiple countries of former habitual residence

(a) Identifying habitual residence

Where a stateless Palestinian fears persecution, but Article 1D does not apply, the assessment of a well-founded fear of persecution must be assessed with reference to their country of former habitual residence.¹¹³ Given the history of repeated forced displacement experienced by many Palestinians, Palestinian applicants may have multiple countries of former habitual residence. Determining against which of these countries (or in relation to how many) their claim should be considered will be a critical factor in their claim for asylum.

UNHCR defines ‘habitual residence’ as stable, factual residence, covering persons who have been granted permanent residence, and also individuals without a residence permit who are settled in a country and have an expectation of maintaining residence there.¹¹⁴ UNHCR guidance recognises that ‘once a stateless person has abandoned the country of his former habitual residence for the

¹⁰⁶ *ibid*, paras 11 – 14.

¹⁰⁷ *ibid*, para 53.

¹⁰⁸ ECtHR, *East African Asians v United Kingdom*, applications no. 4403/70, 4419/70 and others (14 December 1973). See also Legal Action Group, ‘[Asylum for Palestinian Citizens of Israel](#)’ (accessed 2 September 2025).

¹⁰⁹ UK Immigration Appeal Tribunal, *SSHD v. S and K* [2002] UKIAT 5613 (3 December 2002).

¹¹⁰ Legal Action Group, ‘[Asylum for Palestinian Citizens of Israel](#)’ (accessed 2 September 2025).

¹¹¹ UK Upper Tribunal (Immigration and Asylum Chamber), *BJ (Palestinian Territories) v. SSHD*, appeal no. PA/05123/2019 (8 September 2023).

¹¹² *ibid*, para 10.

¹¹³ Article 1A(2) of the Refugee Convention.

¹¹⁴ UNHCR, [Handbook on Protection of Stateless Persons](#) (2014), para 139.

reasons indicated in the definition, he is usually unable to return'.¹¹⁵ Crucially, UNCHR recognises that:

'A stateless person may have more than one country of former habitual residence, and he may have a fear of persecution in relation to more than one of them. The definition [of Article 1(A)(2) of the Refugee Convention] does not require that he satisfies the criteria in relation to all of them'.¹¹⁶

Thus, the applicant need only demonstrate a fear of persecution in relation to one country of former habitual residence. A narrower interpretation, such as restricting the assessment in relation to the last country of habitual residence only, would represent a limitation that is not present in the wording of the Convention.¹¹⁷

For stateless individuals born outside the oPt who have never resided there, the assessment of a well-founded fear of persecution should still consider the oPt as a country of former habitual residence if it was the habitual residence of their parents. This child-sensitive and purposive interpretation ensures that stateless children are not excluded from refugee protection solely due to their place of birth, and it aligns with the notion that the country of former habitual residence functions as the reference point for assessing persecution in the absence of nationality.¹¹⁸

(b) *Comparative case law*

Domestic courts have approached this issue in various ways.¹¹⁹ In a 2020 judgment in [Belgium](#), the CALL held that, in the case of multiple habitual residences, the absence of a fear of persecution in one and the possibility to return there is not sufficient to consider that the applicant benefits from adequate protection.¹²⁰ This case concerned a stateless Palestinian who had resided in both Gaza and the United Arab Emirates (UAE) prior to applying for asylum in Belgium on the grounds of threats from Hamas in Gaza. The applicant had not benefitted from UNRWA assistance and was therefore not subject to Article 1D, with his application therefore being considered under Article 1(A)(2). The Council referenced UNHCR guidance and held that an application for international protection was to be considered with reference to the applicant's two countries of former habitual residence. The fact that the applicant no longer held a residence permit in the UAE did not prevent it from being considered a country of former habitual residence. The Council established that a stateless applicant must only demonstrate a fear of persecution in relation to one of his or her countries of former habitual residence. The absence of persecution or possibility to return to another country of habitual residence was not sufficient to demonstrate the applicant's access to

¹¹⁵ UNHCR, [Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees](#) (2011), para 101.

¹¹⁶ *ibid*, para 104.

¹¹⁷ Hélène Lambert and Michelle Foster, *International refugee law and the protection of stateless persons* (Oxford University Press, 2019), p 139.

¹¹⁸ Sharelle Anne Aitchison, '[A Teleological and Child-Sensitive Interpretation of a Country of Former Habitual Residence for Stateless Children Born Outside Their Parents' Country of Nationality or Former Habitual Residence](#)' in *The Statelessness & Citizenship Review* 4(1) (2022), 8-31.

¹¹⁹ For example, in the Netherlands, the Council of State has held that a fear of persecution need only be assessed in relation to one country of former habitual residence. in Case 201802214/1/V1, the Council of State upheld the Secretary of State's decision not to consider protection arguments based on the applicant's other country of former habitual residence, Syria, and to deny refugee status on the basis of the applicant's usual residence in the UAE. See Netherlands, Council of State, 201802214/1/V1 (9 February 2019). See also Netherlands, District Court of The Hague, NL19.29411 (12 March 2020); Netherlands, District Court of the Hague, NL21.15401 (11 February 2022).

¹²⁰ Belgium, Council for Alien Law Litigation, *X v General Commissioner for Refugees and Stateless Persons*, no. 245933 (10 December 2020).

'protection' in the sense of the Refugee Convention. The applicant was therefore granted refugee status on the basis of his fear of persecution in Gaza.

In [Ireland](#), the High Court quashed a decision of the Refugee Appeals Tribunal refusing refugee status to a stateless applicant born in Bhutan and previously resident in India. In relation to the assessment of refugee claims by applicants with more than one country of former habitual residence, the Court referenced with approval the Canadian case, *Thabet v Canada* (Minister of Citizenship and Immigration) [1996] 1 F.C. 68, at paragraph 27:

'[W]here a claimant has been resident in more than one country it is not necessary to prove that there was persecution at the hands of all those countries. But it is necessary to demonstrate that one country was guilty of persecution, and that the claimant is unable or unwilling to return to any of the states where he or she formerly habitually resided'.¹²¹

While the facts of this case did not involve applicants of Palestinian origin, it is possible to foresee a case in which a Palestinian (who had not received assistance nor protection from UNRWA) and who faces a fear of persecution in, for example, Gaza, also established habitual residence in another country prior to arrival in the UK and applying for refugee status. Due to inability to re-enter the country of habitual residence, the applicant may be unable to avail themselves of protection there and should therefore be granted refugee status due to their fear of persecution in Gaza.

This interpretation of the Irish and Belgian courts recognises that permission to reside in another country, or lack of persecution therein, does not amount to protection in the context of the Refugee Convention. It further reflects the reality of many Palestinians, who, although they may have permission to reside in some countries, these statuses are often of a temporary nature and contain severe restrictions on the exercise of rights including the right to work and own property, which lead to precarious living situations falling far short of the rights envisaged in the Convention. Additionally, these precarious statuses may not protect Palestinians from the possible risk of refoulement.

¹²¹ Ireland, High Court, *B.D.R. v Refugee Appeals Tribunal* [2016] IEHC 274 (25 May 2016).

3. PROTECTION UNDER THE 1954 CONVENTION

3.1. The rights of stateless persons in the UK

The key international legal instruments relating to the protection of stateless persons and prevention of statelessness are the 1954 Convention and the 1961 Convention. The UK is State party to both of these conventions, although it maintains several reservations¹²² and neither convention has been fully incorporated into domestic law. Some of the rights enshrined in the 1954 Convention are implemented through the Immigration Rules Appendix Statelessness, while many of the provisions of the 1961 Convention are enacted through the British Nationality Act 1981. Although the UK is not State Party to either the [1997 European Convention on Nationality](#) or the [2006 Convention on the Avoidance of Statelessness in Relation to State Succession](#), it has ratified other international human rights instruments that aim to address or prevent statelessness, including the International Covenant on Civil and Political Rights (Article 24.3) and the Convention of the Rights of the Child (Articles 2, 3, 7 and 8), among others.¹²³

Under the 1954 Convention, States Parties must ensure that stateless persons have access to certain rights, depending on their degree of attachment to the State (e.g. the right to facilitated naturalisation, to receive identity papers, the right to work, protection from expulsion, and economic and social rights including housing, education, and social security). This ensures that stateless persons, particularly those who have migrated, are granted protection by their host country.¹²⁴ As States cannot meet these obligations towards stateless persons without a mechanism to identify who on their territory is stateless, the obligation to identify and determine statelessness, as well as to grant a route to protection (i.e. residence and rights in line with the Convention) for stateless people, is implicit in the 1954 Convention.¹²⁵ The 1961 Convention obliges States to contribute to the reduction of statelessness by establishing safeguards to prevent statelessness, including in the context of acquisition and deprivation of nationality, although these obligations will not be analysed in this briefing.¹²⁶

3.2. Leave to remain in the UK as a stateless person

As outlined in [Section 1.2](#), if a Palestinian applicant is unsuccessful in their asylum claim there may be other routes to access protection or leave to remain in the UK. Another option may be applying

¹²² The UK maintains reservations to the 1954 Convention regarding Article 38 (reservations), Articles 8 and 9 (exceptions for national security), Article 24 (Labour legislation and social security) and Article 25 (Administrative assistance). In relation to the 1961 Convention, the UK has declared reservations in relation to the grounds upon which nationality can be deprived. See ENS, [Statelessness Index: United Kingdom](#).

¹²³ The UK is also State Party to the International Covenant on Economic, Social and Cultural Rights (Articles 2.2 and 3), the Convention on the Elimination of All Forms of Discrimination against Women (Article 9), the Convention on the Elimination of All Forms of Racial Discrimination (Article 5(d)(iii)), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of Persons with Disabilities (Article 18).

¹²⁴ 1954 Convention. See UNHCR, [Handbook on Protection of Stateless Persons](#) (2014), paras 132-139.

¹²⁵ UNHCR, *Statelessness Determination Procedures and the Status of Stateless Persons* ('[Geneva Conclusions](#)') (2010); Gábor Gyulai, 'The determination of statelessness and the establishment of a statelessness-specific protection regime' in Alice Edwards and Laura van Waas (eds), *Nationality and Statelessness under International Law* (Cambridge University Press, 2014). The ECtHR has also noted that Contracting States have an obligation to provide an effective and accessible procedure enabling the applicant to have the issue of their status determined with due regard to their private-life interests under Article 8 of the European Convention on Human Rights (ECHR). See ECtHR, *Hoti v. Croatia*, application no. 63311/14 (26 April 2018), para 131; ECtHR, *Sudita Keita v. Hungary*, application no. 42321/15 (13 May 2020), para 36.

¹²⁶ Article 8 of the 1961 Convention.

for leave to remain as a stateless person, which will be assessed in more detail in this section. However, before applying for any procedure it is important to consider which legal route is the most appropriate in the particular circumstances of each case. The report '[Statelessness in practice: Implementation of the UK statelessness application procedure](#)' and [Asylum Aid's information page on statelessness](#) provide helpful guidance.¹²⁷

As a signatory to the 1954 Convention, the UK is under an obligation to provide certain rights to stateless persons. In April 2013, the UK Home Office introduced a dedicated statelessness determination procedure (SDP), on the basis of which an individual may be granted leave to remain in the UK as a stateless person.¹²⁸ This was provided for in the Immigration Rules Part 14: Stateless Persons (which have since been deleted, with the exception of family reunion rules). Any applications made on or after 31 January 2024 are now assessed in relation to the [Immigration Rules Appendix Statelessness](#). However, applications made prior to 31 January 2024 continue to be assessed in relation to the [Immigration Rules Part 14](#). These rules are complemented by Home Office guidance for decision makers, [Permission to stay as a stateless person: caseworker guidance](#) (last updated 22 July 2025). A [Best Practice Guide](#) for legal practitioners for statelessness and applications for leave to remain has been released by the Immigration Law Practitioners' Association (ILPA) and the Liverpool Law Clinic, and is set to be updated in 2025.

A number of issues have been identified with the SDP, including significant errors in decision making, failure on the part of decision makers to make adequate enquiries, as well as the lack of legal aid in England and Wales, and the lack of a right to appeal.¹²⁹ The [Statelessness Index: United Kingdom](#) also provides a comparative overview of how the SDP is benchmarked against international norms and good practices, and in relation to other European countries. Constructive advocacy is ongoing to address these shortfalls, and, notwithstanding these issues, the SDP remains an important route for stateless people who do not qualify for refugee status to acquire leave to remain in the UK.

The definition of a 'stateless person' in the 1954 Convention is mirrored in S3.1 of the Immigration Rules Appendix Statelessness, which also makes explicit reference to the Convention. A determination of statelessness is therefore made in reference to the definition and exclusion clauses in the 1954 Convention, as well as additional requirements imposed by the Immigration Rules. These requirements include that the applicant must have taken all reasonable steps to acquire (or re-acquire) nationality of any relevant countries, or to establish a right to admission as a permanent resident of any relevant countries.¹³⁰ Furthermore, the applicant must not fall foul of any of the grounds for refusal under [Part 9: Grounds for Refusal](#).

The UK Home Office guidance outlines that '[i]n all cases, the burden of proof rests with the applicant, who is expected to co-operate with you to provide sufficient evidence to demonstrate that they are stateless and that there is no country to which they can be removed for purposes of

¹²⁷ Johanna Bezzano and Judith Carter, [Statelessness in practice: Implementation of the UK statelessness application procedure](#) (Liverpool University Law Clinic, 2018) p 10.

¹²⁸ *ibid.* For up-to-date information on the SDP in the UK, see ENS, [Statelessness Index: United Kingdom](#).

¹²⁹ See ENS, [Statelessness Index: United Kingdom](#); UNHCR, [Statelessness Determination in the UK: A UNHCR audit of the Home Office approach to decision-making in the Statelessness Determination Procedure](#) (2020) p 22; Liverpool University Law Clinic and Asylum Aid, [Ongoing challenges in accessing leave to remain in the UK as a stateless person](#) (2020).

¹³⁰ Immigration Rules Appendix Statelessness, S 3.2 and 2.1.

permanent residence'.¹³¹ However, decision makers are required to carry out research and enquiries, particularly for child applicants, where the applicant is 'unable' to do so.¹³² The standard of proof applied is the 'balance of probabilities', which is higher than in asylum applications.¹³³

Applicants who are determined to be stateless will be granted leave to remain for five years and most of the rights protected in the 1954 Convention, subject to the fulfilment of the additional requirements imposed by the Immigration Rules and where no ground for refusal applies.¹³⁴ If the application is refused, the applicant may apply for an Administrative Review and there is a possibility of judicial review or making a new application if an Administrative Review does not result in a legally correct decision.¹³⁵ A discretionary immigration status is sometimes available for stateless people who do not meet the full criteria.

While Home Office guidance states that the non-recognition of the State of Palestine may be the decisive factor on which a determination of statelessness is based,¹³⁶ it is important to clarify that all Palestinians who do not hold the nationality of another country meet the definition under Article 1(1) of the 1954 Convention as a matter of international law, regardless of whether the UK recognises the State of Palestine or not (as outlined in [Section 1.3](#)). Thus, if the State of Palestine is recognised by the UK, this should have no bearing on their ability to access leave to remain in the UK as a stateless person.

It must be noted that, similarly to the protection under the Refugee Convention, Palestinians who receive protection or assistance from UNRWA are not eligible for leave to remain as a stateless person under Section 2.2(a) of the Immigration Rules: Appendix Statelessness, which reflects the exclusion clause outlined in Article 1(2)(i) of the 1954 Convention.¹³⁷ The Home Office guidance to caseworkers provides that, in practice, this exclusion clause is to be applied in a manner analogous to Article 1D of the Refugee Convention.¹³⁸ Given the parallels between this clause and Article 1D of the Refugee Convention, caselaw in relation to the latter may also be applicable in applications for leave to remain on the grounds of statelessness, under the 1954 Convention. Therefore, given the inability of UNRWA to provide protection or assistance in some of its areas of operation, it may be that this clause may not operate to exclude people from protection (although the individual is likely to receive refugee status in that case).

The relevance of jurisprudence regarding Article 1D of the Refugee Convention in relation to the interpretation of Article 1(2)(i) of the 1954 Convention has also been recognised by the Hungarian Supreme Court,¹³⁹ the Swiss Federal Supreme Court¹⁴⁰, and the French Council of State.¹⁴¹ The

¹³¹ UK Home Office, [Permission to stay as a stateless person: caseworker guidance](#) (last updated 22 July 2025) p 20. See also Immigration Rules Appendix Statelessness, S 3.4.

¹³² *ibid.*

¹³³ UK Home Office, 'Permission to stay as a stateless person' (fn 131) p 19, citing UK Court of Appeal, *AS (Guinea) v SSHD & Anor* [2018] EWCA Civ 2234 (12 October 2018). See also ENS, [Statelessness Index: United Kingdom](#).

¹³⁴ Those who are recognised as stateless and who are granted leave to remain are entitled to work, study and access public funds in the UK. See S 5.1 and 5.2 of the Immigration Rules Appendix Statelessness.

¹³⁵ Immigration Rules Appendix Statelessness, S 4.2.

¹³⁶ See UK Home Office, 'Permission to stay as a stateless person' (fn 131) p 23.

¹³⁷ Article 1(2)(i) of the 1954 Convention: 'This Convention shall not apply [to] persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance so long as they are receiving such protection or assistance [...]'.
¹³⁸ UK Home Office, 'Permission to stay as a stateless person' (fn 131) p 15.

¹³⁹ Hungary, [Supreme Court, judgment no. Kfv.II.38.067/2018/6](#) (13 November 2019).

¹⁴⁰ Switzerland, Federal Court, judgment no. 2C_330/2020 (6 August 2021); Switzerland, Federal Court, 2C_587/2021 (16 February 2021).

¹⁴¹ France, [Council of State, judgment no. 427017](#) (24 December 2019); See also Giulia Bittoni, blog '[Can a Palestinian refugee enjoy the status of a stateless person? A French perspective](#)' (13 March 2020).

French Court has also established that, in accordance with Article 8 ECHR, the private life and family situation of a Palestinian refugee should be taken into consideration when assessing whether assistance from UNRWA has ceased in the context of Article 1(2)(i) of the 1954 Convention. This includes considering the applicant's family ties and length of residence in France.¹⁴² In Belgium, in a 2009 case, the Court of Cassation took a more progressive interpretation of the application of the exclusion clause. The Court ruled that once a claimant resided outside one of UNRWA's areas of operation, even if temporarily, they were no longer receiving assistance for the purposes of Article 1(2)(i) and therefore were not subject to the exclusion clause under the 1954 Convention.¹⁴³

This clause, as well as Part 9 grounds for refusal, have been cited by practitioners as some of the key challenges facing Palestinians in obtaining leave to remain as a stateless person in the UK. In the UK, there is no right to appeal a refusal of an application for leave to remain as a stateless person. Thus, there is no case law on this issue in the UK context. Furthermore, the Administrative Review team in the Home Office do not provide substantive written reasons following an Administrative Review. In general, the lack of adequate safeguards in applications for leave to remain as a stateless person may serve to disproportionately impact stateless Palestinians due to the complicated legal nature of their cases. The UNHCR audit of the Home Office approach to decision-making in the UK SDP, from December 2020, recommended a full statutory appeal against a refusal of statelessness leave, among other recommendations for reform of the procedure.¹⁴⁴

¹⁴² *ibid.*

¹⁴³ Belgium, [Court of Cassation, judgment no. C.06.0427](#) (22 January 2009).

¹⁴⁴ UNHCR, [Statelessness Determination in the UK: A UNHCR audit](#) (fn 129). See also ENS, [Statelessness Index: United Kingdom](#).

4. OTHER CONSIDERATIONS AFFECTING PALESTINIANS

4.1. Family reunification

While there is no right to family reunification outlined in the Refugee Convention or the 1954 Convention, the importance of the family unit is protected extensively in international treaties.¹⁴⁵ It has also been emphasised by the ECtHR, which stated that ‘family reunion was an essential element in enabling persons who have fled persecution to resume a normal life’.¹⁴⁶ Thus, the ECtHR has found that the meaning of family life under Article 8 includes a right to family reunification for refugees, and may require positive obligations on the part of the State.¹⁴⁷ This standard applies to all refugees, including those who are stateless. In this context, difficulties evidencing statelessness, and the fact that stateless persons often lack documentation to demonstrate their family links by nature of their statelessness, should be taken into account.¹⁴⁸ It is particularly important that the lack of documentation doesn’t undermine the credibility of the applicant. The ECtHR also held that States are under certain procedural obligations when processing requests for family reunification, namely that decision-making must guarantee ‘flexibility, promptness and effectiveness’¹⁴⁹ and ‘give due consideration to the applicant’s specific situation’.¹⁵⁰ The margin of appreciation is narrower in cases concerning vulnerable persons, such as stateless persons and refugees.¹⁵¹ Denying stateless persons and refugees the right to family reunification solely on the basis that they are not able to provide the documentation required, would be an interference which may be disproportionate and not justified under Article 8(2) ECHR.

Although the right of stateless persons to family reunification is not explicitly outlined in the 1954 Convention, it can also be inferred from Article 32. This provision requires Contracting States to facilitate ‘as far as possible [...] the assimilation and naturalization of stateless persons’, which arguably could imply family reunification given the importance of the family unit.¹⁵² The ECtHR is yet to rule in a case specifically concerning family reunification in the context of statelessness, although a case concerning this matter is pending before the Court.¹⁵³

¹⁴⁵ The importance of the family unit is protected in international law in numerous Conventions, including Article 16(3) UDHR; Article 23(1) ICCPR; Article 10(1) ICESCR; Article 10(1) UNCRC. See UNHCR, [Family Reunification for Refugees and Other Beneficiaries of International Protection](#) (2024) para 4.

¹⁴⁶ ECtHR, *Tanda-Muzinga v. France*, application no. 2260/10 (10 July 2014) para 75. For further information on Article 8 ECHR in the context of family reunification, see ENS and The AIRE Centre, [Legal Briefing: Statelessness and the Right to Respect for Private and Family Life](#) (2024) p 18-19.

¹⁴⁷ ECtHR, *M.A. v. Denmark*, application no. 6697/18 (9 July 2021) para 135.

¹⁴⁸ Betsy Fisher, [The Travaux Préparatoires of the 1954 Convention relating to the Status of Stateless Persons](#) (2022) p 119. See also, ECtHR, *Hoti v. Croatia*, application no. 63311/14 (26 July 2018) paras 126, 136-137.

¹⁴⁹ *M.A. v. Denmark* (fn 147) para 138.

¹⁵⁰ *Tanda-Muzinga v. France* (fn 146) para 82.

¹⁵¹ *Hoti v. Croatia* (fn 148) para 122.

¹⁵² See ENS and The AIRE Centre, [‘Statelessness and the Right to Respect for Private and Family Life’](#) (n 146) p 18-19.

¹⁵³ See ECtHR, *Suji v. Greece*, application no. 13250/23 (communicated 20 September 2023); AIRE Centre, Dutch Refugee Council, ECRE and ENS, [Suji v. Greece: Written submissions on behalf of the intervenors](#) (24 February 2024).

4.1.1. Family reunification for Palestinians with refugee status or humanitarian protection

In the UK, Palestinians granted refugee status or humanitarian protection can sponsor certain family members to join them, without the family member needing to provide proof of identity.¹⁵⁴

However, Palestinians whose family members are based in Gaza face specific challenges in accessing family reunification. Firstly, they may be unable to provide biometric information, which is required before substantive consideration of an application for entry clearance into the UK, due to the ongoing conflict and dire conditions in Gaza. The 2024 case, *RM and others, WM and Others v SSHD* has resolved this issue to some extent.¹⁵⁵ This case concerned two Palestinian families who were internally displaced in Gaza seeking to apply for entry clearance to the UK to join their family members there. The applicants were refused predetermination of their application on the basis of their inability to provide the required biometric information, despite the absence of a functioning Visa Application Centre (VAC) in Gaza. The Court held that such a requirement is incompatible with Article 8 ECHR as it 'amounts to a limitation that only applicants with extraordinary, and therefore rare, unique or unusual circumstances can succeed'.¹⁵⁶ Further, the Court ruled that the refusal of the Home Office to pre-determine the applications without biometric data had effectively put an end to their applications without consideration. This was a disproportionate interference with the applicants' and the sponsors' right to family life, and the sponsor's right to private life due to the significant impact of the current situation on their mental health, under Article 8 ECHR.¹⁵⁷

In certain circumstances, Palestinians have been successful in securing family reunion on the basis of a human rights claim under Article 8 ECHR. The 2025 case *IA et al. v Secretary of State for the Home Department* concerned applications by a stateless Palestinian man and his family residing in Gaza to join his brother, a British citizen, in the UK. The appellants had submitted a collective application for entry clearance outside the immigration rules on the basis of the particularly dire circumstances for the appellants in Gaza. The SSHD had rejected this application on the basis that it lacked compelling, compassionate circumstances to justify granting leave outside the Immigration Rules.¹⁵⁸ Upon appeal to the First-tier Tribunal, the court held that the right to private and family life under Article 8 ECHR had been engaged, but that the interference with this right by way of the respondent's decision to refuse entry was not disproportionate to the public interest considerations at play, with particular weight being given to the purposeful exclusion of Palestinian applicants from resettlement programmes in the UK.¹⁵⁹ On appeal to the Upper Tribunal, the appeal was allowed, with the Upper Tribunal holding that on the particular facts of these cases the SSHD's decision did not strike a fair balance between the interests of the appellants and those of the public, and that compelling and exceptional circumstances were present.¹⁶⁰ Article 8 claims are

¹⁵⁴ At the time of writing this briefing, conditions for sponsoring family members on the basis of protection status were provided for in [Immigration Rules Appendix Family Reunion \(Sponsors with Protection\)](#); [Appendix Child Relative \(Sponsors with Protection\)](#); and [Appendix FM: Family Members](#). However, as of 4 September 2025, the refugee family reunion route (Appendix Family Reunion (Sponsors with Protection)) was closed to new applications pending a review of the policy. See UK Home Office, [Statement of changes to the Immigration Rules: HC 1298](#) (4 September 2025); and an analysis in Free Movement, ['Refugee family reunion route closed in statement of changes: HC 1298'](#) by Sonia Lenegan (4 September 2025). On the exemption of the requirement to provide proof of identity, see Immigration Rules Part 1, S 34(5)(c)(vi).

¹⁵⁵ UK Upper Tribunal (Immigration and Asylum Chamber), *RM and Others, WM and others v. SSHD*, judicial review no. LON-000082 (8 April 2024). See also UK Upper Tribunal (Immigration and Asylum Chamber), *HS and Others v. SSHD*, judicial review no. LON-000457 (29 April 2024) paras 75-76; UK Upper Tribunal (Immigration and Asylum Chamber), *AK and Others v. SSHD*, judicial review no. LON-000689 (18 April 2024).

¹⁵⁶ *RM and Others* (fn 155) paras 19, 90-93, 143.

¹⁵⁷ *ibid*, paras 167-170, 174-176.

¹⁵⁸ UK Upper Tribunal (Immigration and Asylum Chamber), *IA et al. v. SSHD*, case no. UI-2024-005295 et al (13 January 2025) para 5.

¹⁵⁹ *ibid*, paras 7-17.

¹⁶⁰ *ibid*, paras 182-183

particularly relevant in circumstances where Palestinians face more restrictive criteria for family reunion, including if they are residing in the UK on the basis of an immigration status other than refugee or humanitarian protection.

Finally, the challenges Palestinians face in exiting Gaza further hinder their attempts to secure family reunification, undermining their right to family reunification as a matter of UK law. Even where a claim for family reunion is successful, the Foreign, Commonwealth and Development Office (FCDO) may not provide consular assistance to the applicants to exit Gaza. In practice the SSHD has taken the FCDO's refusal to provide consular assistance as a reason to refuse pre-determination of Palestinians' applications for entry clearance, but the FCDO has also refused to assist families who had not yet been granted visas by the Home Office.¹⁶¹ As a result, neither the FCDO nor the Home Office are taking responsibility for the exit of Palestinians who would otherwise be entitled to family reunification as family members of recognised refugees in the UK. A recent UK High Court decision has found that the decision of the Secretary of State for Foreign, Commonwealth, and Development Affairs to refuse consular assistance to a family from Gaza seeking to reunite with a UK national family member was unlawful and required reassessment. The family, who had conditional leave to enter, were refused consular assistance on two occasions. The Court recognised the dire conditions facing the applicants in Gaza, and held that the Secretary of State had failed to consider the 'exceptional' nature of the applicants' circumstances in relation to their conditional leave to enter the UK. The Secretary of State had also failed to consider Israeli policy and the actual number of those in Gaza with conditional leave to enter the UK who are in the same position as the applicants (which stands at about 38 individuals), rather than citing baseless 'floodgates' arguments.¹⁶² The refusal of the Home Office to pre-determine applications on the basis that FCDO assistance will not be provided effectively excludes Palestinian refugees in the UK from exercising their right to family reunion, which again demonstrates Palestinians' inability to access the same level of protections as other refugees, in violation of their right to respect for private and family life under Article 8 ECHR. This is compounded by the fact that Palestinian refugees in Gaza are already excluded from resettlement in the UK.

4.1.2. Family reunification for stateless sponsors

In the UK, the partners and children of stateless persons may apply for leave to remain as family members of the stateless persons in accordance with paragraphs 410 to 416 of the [Immigration Rules Part 14](#). While the 2024 [Appendix Statelessness](#) had introduced a requirement for dependants to apply via Appendix FM (which governs general family reunion routes including for British citizens and people with settled status), this change effectively removed the facilitated family reunion rules for stateless sponsors which existed in the [Part 14](#). Following the successful High Court challenge against this policy in *Asylum Aid v Secretary of State for the Home Department*, on grounds that the policy was discriminatory, this requirement no longer applies.¹⁶³ The Home Office now acknowledges that relevant applications are to be assessed under Part 14 of the Immigration

¹⁶¹ See UK Upper Tribunal (Immigration and Asylum Chamber), *AK and Others*, judicial review no. LON-000689 (18 April 2024), paras 30, 87, 102. In this case, the SSHD noted that her refusal to pre-determine an application for entry clearance outside the immigration rules did not interfere with Article 8 ECHR as it did not consider the applicants to have a reasonable prospect of leaving Gaza. The Upper Tribunal did not accept this, noting that other possibilities to exit apart from FCDO assistance exist and that therefore the refusal to pre-determine the application did amount to an interference of Article 8.

¹⁶² UK High Court of Justice, *R (BEL and Others) v Secretary of State for Foreign, Commonwealth, and Development Affairs* [2025] EWHC 1970 (Admin) (28 July 2025). See also Matrix Chambers, '[High Court quashes United Kingdom's refusal of consular assistance to Palestinian family seeking to leave Gaza](#)' (28 July 2025).

¹⁶³ UK High Court of Justice, *Asylum Aid, R (on the application of) v SSHD* [2025] EWHC 316 (Admin) (14 February 2025).

Rules, although this is understood to be an interim position pending further policy review. It should be noted that public-facing Home Office guidance on family reunion for stateless sponsors has not yet been updated (as of 22 September 2025). This High Court's decision is a positive development that acknowledges the unique circumstances of stateless persons and the need for specific protections on account of their status.

Importantly, the [Immigration Rules Part 1](#) provide explicit exemptions to the requirement to produce proof of identity in family reunion applications. Applications can be made without any identity documents for family members of stateless persons applying under Part 14, and if made by a person in the UK with refugee or humanitarian protection (para. 34(5)(c)(iv) and (v)). In practice, the Home Office respects these provisions, and identity is collected at the biometric registration stage. Relying on these procedural safeguards, legal practitioners have successfully submitted applications for clients with no identity documents.

4.2. Prevention of expulsion

Expulsion of refugees or stateless persons may violate Articles 3 and 8 ECHR, as well as Article 32 of the Refugee Convention and Article 31 of the 1954 Convention. There have been cases before the ECtHR considering the expulsion of stateless Palestinians under Article 8, also in connection with the prohibition of arbitrary detention under Article 5 ECHR.¹⁶⁴ In *Al-Nashif v. Bulgaria* the Court considered the case of a stateless Palestinian whose permanent residency in Bulgaria was revoked on national security grounds. The applicant had two Bulgarian citizen children and was held in detention before being deported to Syria. While the Court found a violation of Articles 5(4), 8, and 13 ECHR, it failed to address the applicant's argument that the authorities' decision was flawed in not having considered the fact that the applicant was a stateless person.¹⁶⁵

Further, where substantial grounds can be shown that a person would face a real risk of being subject to treatment contrary to Article 3 if deported, the Contracting State is under an obligation not to deport the individual to the country in question.¹⁶⁶ In *L.M. and others v. Russia*, the expulsion from Russia of a stateless Palestinian to Syria was found to be in violation of Article 3 ECHR due to the risk of ill-treatment and death there.¹⁶⁷ In *Auad v Bulgaria*, the Court held that the expulsion of a stateless Palestinian to Lebanon would be in breach of Article 3 if carried out. The Court considered the specific circumstances facing the applicant as a stateless Palestinian who had been involved in conflict with members of militant groups returning to Lebanon, noting the likelihood that the applicant would have to return to the camp from which he fled, Ein El-Hilweh, and the violent conditions in the camp which is under the control of Palestinian armed factions and not the

¹⁶⁴ See, for example, ECtHR, *Amie and Others v. Bulgaria*, application no. 58149/08 (12 February 2013); ECtHR, *Miari v. Denmark*, application no. 2852/24 (15 July 2005). In *Miari v. Denmark*, the Court considered the expulsion and six-year entry ban of a stateless Palestinian who had resided in Denmark for 34 years to Lebanon. The Court ruled that the right to family life was not engaged and that the expulsion order was not disproportionate to the applicant's right under Article 8 ECHR. The fact of the applicant's statelessness was not substantively considered in the judgment.

¹⁶⁵ ECtHR, *Al-Nashif v. Bulgaria*, application no. 50963/99 (20 June 2002) para 105. See the Joint Partly Dissenting Opinion of Judges Makarczyk, Butkevych and Botoucharova, where the dissenting judges took the applicant's possession of a Syrian stateless persons' identity document as a factor in favour of the fact that the applicants could lawfully establish their family home in Syria (para 6). See also ENS and The AIRE Centre, '[Statelessness and the Right to Respect for Private and Family Life](#)' (n 146) p 31-32; and ECtHR, *Amie and Others v. Bulgaria* (fn 164), paras 90-102.

¹⁶⁶ ECtHR [GC], *Ilias and Ahmed v. Hungary*, application no. 47287/15 (21 November 2019), paras 125-126; see also ECtHR, [Auad v. Bulgaria](#), application no. 46390/10 (11 October 2011) para 96. In H el ene Lambert, '[Nationality and statelessness before the European Court of Human Rights: a landmark judgment but what about Article 3 ECHR?](#)' (Strasbourg Observers, 16 May 2018), the author has made the argument that Article 3 ECHR should also be considered in the context of statelessness in itself.

¹⁶⁷ ECtHR, *L.M. and others v. Russia*, applications no. 40081/14 et al (5 October 2015).

Lebanese authorities. Thus, there existed at 'least prima facie evidence capable of proving that there are substantial grounds for believing that he would be exposed to a real risk of being subjected to treatment contrary to Article 3 if expelled to Lebanon.'¹⁶⁸

Article 3 ECHR was also considered by the ECtHR in *HA v UK* which concerned a stateless Palestinian who fled Lebanon after being injured in armed conflict and targeted for recruitment by rival factions in the Ein El-Hilweh refugee camp.¹⁶⁹ The applicant had sought asylum in the UK in 2017, citing a fear of forced recruitment by paramilitary groups and indiscriminate violence in the camp from which there was no protection. Following a rejection of his application from the Home Office and unsuccessful appeals before the UK courts, the case was brought before the ECtHR, where the applicant argued that he faced a real risk of severe mistreatment by paramilitary groups if returned to the Ein El-Hilweh camp in Lebanon due to his refusal to join them. Further the applicant noted that neither UNRWA nor the Lebanese authorities would be able to provide protection from these risks. The Court dismissed evidence in relation to UNRWA's inability to provide assistance and protection from the recruitment attempts as irrelevant, and focused its assessment on whether the applicant faced a risk as a result of recruitment attempts. The Court held that, while there was evidence of recruitment of young Palestinians to paramilitary groups, the applicant had failed to establish that his refusal to be recruited would put him at risk of serious harm and ultimately held that his expulsion to Lebanon would not amount to a breach of Article 3 ECHR.¹⁷⁰

The non-recognition by the ECtHR in *HA v UK* of the lack of protection and inconsistent provision of assistance by UNRWA in the Ein El-Hilweh refugee camp in Lebanon would seem to be incompatible with what has been objectively established, namely that UNRWA does not provide protection or assistance to Palestinians residing there. While the outcome of this judgment is regrettable, the Court's assessment in this case focused solely on the lack of negative repercussions on the applicant for his refusal to join paramilitary groups. The Court did not explicitly rule on the question of whether UNRWA was capable of providing protection in this matter (as there was no persecution to provide protection from). Therefore, it remains open to practitioners in future cases to further litigate this point in other contexts and to potentially argue that the general conditions in which Palestinians are forced to live in certain camps or areas of operation amount, in and of themselves, to inhumane and degrading treatment based on UNRWA's inability to provide assistance and its worsening funding crisis.

Reference has been made to the risks facing Palestinians upon return to other areas of operation by domestic courts. For example, in 2024, the Dutch Council of State, ruled that, based on available country of origin information, 'the State Secretary should have assumed that Gaza was facing a situation of indiscriminate violence of such a level as it can be assumed that every person who returns is at serious risk of serious harm by mere presence there' and annulled a moratorium decision on applications from Palestinians from Gaza and the West Bank.¹⁷¹

¹⁶⁸ *Auad v Bulgaria* (fn 166) paras 103, 108.

¹⁶⁹ ECtHR, *H.A. v United Kingdom*, application no. 30919/20 (5 December 2023).

¹⁷⁰ *ibid*, paras 38, 58, 55-56.

¹⁷¹ The Netherlands, Council of State, case no. 202400561/1/V2 (24 April 2024). See also Germany, Administrative Court of Dresden, case no. 11 K 357/24.A (16 April 2024).

KEY TAKEAWAYS

This briefing has outlined the legal basis for recognising Palestinians as refugees and/or stateless persons. It has provided an in-depth analysis of the routes to protection and the possibility to apply for leave to remain in the UK, as well as an overview of European and comparative caselaw that may support the submission or assessment of protection claims by Palestinians. For ease of reference, this section summarises the main arguments discussed in the briefing. However, for a full understanding of the reasoning behind each argument, readers should only read these key takeaways in conjunction with the relevant section of the briefing:

- There are millions of Palestinian refugees worldwide, and many have layered histories of displacement. The UNCCP, established with a mandate to facilitate durable solutions and provide legal protection for Palestine refugees, has been inactive since early in its inception. UNRWA's mandate to provide humanitarian assistance has evolved to include limited protection activities but does not include durable solutions, and UNRWA has effectively been unable to fulfil its mandate due to lack of funding and deliberate attacks from Israel, particularly in Gaza and the West Bank. **This leaves many Palestinian refugees unable to access assistance, protection, or durable solutions from either UNRWA or UNCCP** ([Section 1.1](#)).
- Palestinians in the UK may be entitled to refugee status, leave to remain on other human rights grounds, or leave to remain as stateless persons. **It is important to consider which legal route is the most appropriate in the particular circumstances of each case** ([Section 1.2](#)).
- **Palestinians who do not hold the nationality of another country meet the definition of a stateless person under Article 1 of the 1954 Convention.** This is mainly due to the absence of a Palestinian nationality law and the State of Palestine's lack of sovereign control over its population registry, issuance of documentation and borders due to the occupation by Israel. Recognition of Palestine as a State by other States does not alter the legal status of Palestinians as stateless under international law. It is important to identify whether a Palestinian individual holds the nationality of another country or is stateless, as this will determine how they are routed through the various procedures ([Section 1.3](#)).
- **Palestinians who previously received assistance from UNRWA and are now outside its areas of operation, or are unable to re-avail themselves of its assistance, are entitled to refugee status *ipso facto* (automatically) under the second paragraph of Article 1D of the Refugee Convention.** Jurisprudence from the CJEU and other jurisdictions confirms that the cessation of assistance may be due to UNRWA's operational incapacity, insecurity, lack of access or discriminatory access to (specific) basic services ([Section 2.1](#)).
- **Palestinians who do not receive protection under Article 1D, may qualify for refugee status under Article 1A(2) based on a well-founded fear of persecution on grounds of race, nationality, or membership of a particular social group.** Courts have recognised collective persecution in Gaza and discriminatory treatment in other areas. Statelessness may also be a relevant factor in assessing risk of harm, and has been determined to constitute a ground for persecution on the basis of nationality. Applications for refugee

status from stateless Palestinians must be assessed in relation to a country of habitual residence. If the applicant has resided in more than one country, a well-founded fear of persecution in any one of those countries should suffice to grant refugee status ([Section 2.2](#)).

- Where a Palestinian individual is unsuccessful in their asylum claim, this will not exclude them from applying under another procedure. **Stateless Palestinians may also be eligible for leave to remain as a stateless person, in accordance with the 1954 Convention and the UK Immigration Rules Appendix on Statelessness.** Since there is no referral mechanism from the asylum procedure to the possibility to apply for leave to remain as a stateless person, many Palestinians who are in fact stateless but were denied refugee status may remain unaware of their rights as stateless persons in the UK ([Section 3](#)).
- Stateless Palestinians and Palestinian refugees have rights under Article 8 ECHR, including the right to family reunification. Family members of Palestinians, particularly those in Gaza, face significant challenges in joining family members in the UK, although legal challenges have successfully addressed some of these ([Section 4.1](#)).
- Palestinians may face risks of serious harm upon return to UNRWA's areas of operation, engaging Articles 3 and 8 ECHR. UNRWA's inability to provide protection or assistance must be considered in assessing risk on return ([Section 4.2](#)).
- Resources and country-of-origin information with specific information on statelessness should be regularly published and consulted in decisions affecting Palestinians. An overview of relevant publications is included in [Annex I](#).

ANNEX I: ADDITIONAL RESOURCES AND COI ON STATELESSNESS

The following are a list of sources that may provide useful information for legal practitioners in evidencing the living conditions, security situation, and discrimination faced by Palestinians in UNRWA's areas of operations:

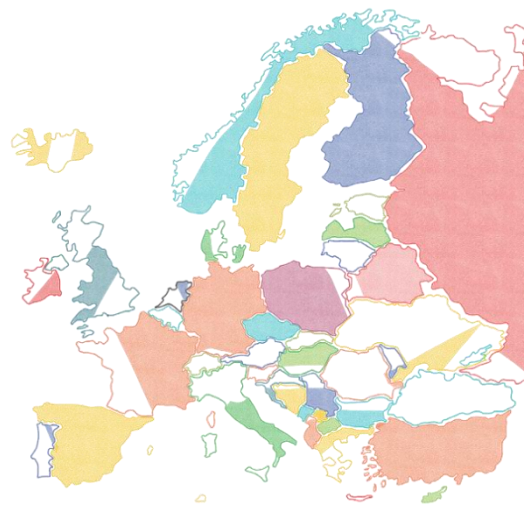
- [Asylos](#): Asylos is an international network that provides Country of Origin information research for asylum applications. Asylos produced a report specifically on the conditions facing stateless Palestinians in Lebanon, [Lebanon: Stateless Palestinians \(March 2023\)](#) and a report on the security and living conditions for Palestinians in Gaza ([Palestine \(Gaza\): United Nations Relief and Works Agency for Palestine Refugees in the Near East \(UNRWA\) 1 August - 24 September 2024](#)). Legal practitioners can request case-specific research reports through the [Asylos' COI Research Database](#).
- [United Nations Office for the Coordination of Humanitarian Affairs \(OCHA\) - Occupied Palestinian Territory](#): OCHA have a dedicated website on their work in the oPt where publications and recent reports on the situation in the oPt can be found.
- [United Nations Relief and Works Agency for Palestine Refugees \(UNRWA\)](#): UNRWA produces up to date situation reports on the humanitarian situation in Gaza, the West Bank, and East Jerusalem, as well as official statements.
- [United Nations High Commissioner for Refugees \(UNHCR\)](#): UNHCR regularly publishes position papers on protection, returns, and other refugee-related matters, including:
 - UNHCR, [Position on Returns to the Syrian Arab Republic](#), December 2024
 - UNHCR, [International Protection Considerations with Regard to People Fleeing the Republic of Iraq, Update I](#), January 2024
 - UNHCR, [Position on Returns to Gaza](#), March 2022
 - UNHCR, [Position on the Designations of Libya as a Safe Third Country and as a Place of Safety for the Purpose of Disembarkation Following Rescue at Sea](#), September 2020
 - UNHCR, [United Arab Emirates: Country of Origin Information Relating to the Return and \(Re\)admission of Individuals Who Previously Resided in the UAE and Who Require a Visa Prior to Arrival](#), 12 May 2020
- [United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Palestinian People and Other Arabs of the Occupied Territories | OHCHR](#): The Special Committee investigates and produces reports on Israeli policies and practices in the oPt, including East Jerusalem, and on the treatment of Palestinian prisoners in Israeli prisons.
- [The Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel | OHCHR](#): This independent international Commission was established by the UN Human Rights Council in May 2021 through Resolution [A/HRC/RES/S-30/1](#) to investigate alleged violations of international humanitarian and human rights law. Its most recent publication is the [Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel](#) (6 May 2025) and ["More than a human can bear"](#):

[Israel's systematic use of sexual, reproductive and other forms of gender-based violence since 7 October 2023](#) (13 March 2025).

- [European Union Agency for Asylum \(EUAA\)](#): The EUAA produce regular country of origin information reports.
- [ACLED \(Armed Conflict Location and Event Data\)](#): This is an independent, international non-profit organisation, which collects data on violent conflict and protest in countries around the world. ACLED maps political violence, property destruction, and violence against civilians in Gaza through its [Gaza Monitor](#), as well as information on conflicts in other UNRWA areas of operation.
- [Adalah, The Discriminatory Laws Database \(2017\)](#): This database provides information on Israeli laws that discriminate either directly or indirectly against Palestinian citizens in Israel or Palestinians residing in the oPt.
- [Healthcare Workers Watch](#): This is an initiative led by Palestinian healthcare workers, which monitors attacks on healthcare workers and treatment in detention by Israeli authorities in Palestine.

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