NOTES

SIXTY YEARS IN LIMBO: THE DUTY OF HOST STATES TO INTEGRATE PALESTINIAN REFUGEES UNDER CUSTOMARY INTERNATIONAL LAW

LAURA ANNE REEDS*

This Note argues that customary international law (CIL) requires states of first refuge to integrate long-term refugees living within their borders. First, it discusses the methods that courts and tribunals use to identify principles of CIL and explains the requirements of state practice and opinio juris. *Next, it applies these methods to the principle of long-term refugee integration, demonstrating that the community of nations generally integrates refugees within a single generation and widely acknowledges a legal obligation to do so. Then, after concluding that the principle of long-term refugee integration is binding under CIL, this Note evaluates the extent to which host states for Palestinian refugees have fulfilled their duty to integrate refugees residing within their borders.*

INTRODUCTION: A BRIEF HISTORY OF THE PALESTINIAN REFUGEES

In 1947, the United Nations General Assembly passed Resolution 181, calling for the partition of British Mandate Palestine into two independent territories, a Jewish state and an Arab state, with Jerusalem to become a non-aligned international city.[1] This plan, while accepted by the Jewish Agency,[2] was rejected by the Arab

 Associate, Carter Ledyard & Milburn LLP. J.D., 2005, New York University School of Law; B.A., 2002, University of Michigan. Many thanks to my colleagues on the *New York University Law Review* for all of their hard work on this Note and to Professor Samuel Estreicher for encouraging me to conduct research on this much-neglected topic. Special thanks to David Livshiz, Allen Dickerson, and Brian Frye for generously sharing with me their insights and advice on this Note and on many other subjects.

1 Resolution on the Future Government of Palestine, G.A. Res. 181 (II), U.N. Doc. A/RES/181(II) (Nov. 29, 1947); *see also* U.N. Special Comm. on Palestine, *Report to the General Assembly, Volume 1*, U.N. Doc. A/364 (Sept. 3, 1947) (noting majority of committee member states approved of partition).

2 MARK TESSLER, HISTORY OF THE ISRAELI-PALESTINIAN CONFLICT 259 (1994) (indicating acceptance of partition proposal by Jewish Agency); THE ISRAEL-ARAB READER 65 (Walter Laquer & Barry Rubin eds., 6th rev. ed. 2001) (same).

League and the Arab Higher Committee.[3] Two stages of fighting ensued. The first, beginning with the passage of Resolution 181, was a guerrilla war between the Arab Liberation Army[4] and the Haganah and Jewish paramilitary groups.[5] The second stage began immediately after the British Mandate ended, when the armies of Egypt, Syria, Jordan, and Iraq and a number of Arab Legionnaires invaded the newly declared state of Israel.[6] When the fighting ended more than a year later, Jewish forces controlled the territory that became the state of Israel, Jordan occupied the West Bank and East Jerusalem, and Egypt held the Gaza Strip.[7]

During this time, under circumstances that are still in dispute, between 520,000 and 800,000 Arabs fled or were expelled from Israel and an unknown number of Jews were expelled from East Jerusalem, the West Bank, and Gaza.[8] The Jewish refugees were absorbed by

---

[3] HOWARD M. SACHAR, A HISTORY OF ISRAEL FROM THE RISE OF ZIONISM TO OUR TIME 298 (2003) (describing initial Arab response to partition); TESSLER, *supra* note 2, at 259, 261 (same); THE ISRAEL-ARAB READER, *supra* note 2, at 65 (same).

[4] The Arab Liberation Army, raised for the purpose of preventing implementation of Resolution 181, consisted of a number of indigenous Arabs and a much larger number of foreign volunteers. Most of these volunteers were from Syria and Egypt, but some came from European countries as well. SACHAR, *supra* note 3, at 299–300 (estimating total number of troops at 14,000); *see also* TESSLER, *supra* note 2, at 263 (estimating 6000 to 7000 foreign volunteers).

[5] The Haganah, the official Jewish defense force, operated under the auspices of the Jewish Agency, *see* Jewish Agency for Israel, History, http://www.jafi.org.il/about/history.htm (last visited Feb. 7, 2006), although unofficial militias such as the Etzel (also know as Irgun) and the Lech'i (also known as Stern) were active as well. *See* TESSLER, *supra* note 2, at 207. At the outbreak of hostilities there were an estimated 24,000 Haganah troops (21,000 of which were partially trained reserves), 5000 Etzel members, and 800 to 1000 Lech'i. SACHAR, *supra* note 3, at 300.

[6] SACHAR, *supra* note 3, at 315–19; TESSLER, *supra* note 2, at 263. Sachar estimates this combined force at 32,500 men. SACHAR, *supra* note 3, at 317.

[7] TESSLER, *supra* note 2, at 263–64, 265 map 4.5.

[8] *See* SACHAR, *supra* note 3, at 334 ("After the hostilities ended, the United Nations placed the number of Arab fugitives from Israeli-controlled territory at approximately 720,000 (the Jews listed the number as 538,000)."); MidEastWeb for Coexistence, The Palestinian Refugees, http://www.mideastweb.org/refugees1.htm (last visited Jan. 31, 2006) ("Estimates vary from about 520,000 (Israeli sources) to 726,000 (UN sources) to over 800,000 (Arab sources) . . . .").

Some sources claim that the flight of Arab refugees was due mainly to their unavoidable proximity to military conflict, *see* ARIE LOVA ELIAV, LAND OF THE HART: ISRAELIS, ARABS, THE TERRITORIES, AND A VISION OF THE FUTURE 59 (Judith Yalon trans., Jewish Publ'n Soc'y of Am. 1974) (1972), calls by Arab leaders for temporary evacuation, *see* JOSEPH B. SCHECTMAN, THE REFUGEE IN THE WORLD: DISPLACEMENT AND INTEGRATION 195–98 (1963), or the collapse of Arab political institutions, *see* SACHAR, *supra* note 3, at 331–32. Others allege that these refugees were intentionally forced out by Jewish forces, *see* ILAN PAPPÉ, THE MAKING OF THE ARAB-ISRAELI CONFLICT 1947–1951, at 89–94 (1992), or fled following reports of atrocities committed by paramilitary groups, *see* BENNY MORRIS, THE BIRTH OF THE PALESTINIAN REFUGEE PROBLEM, 1947–1949, at 94 (1st paperback ed. 1989).

Israel and soon became citizens of that state. Some of the Arab refugees were absorbed by the surrounding states, while others eventually resettled in third states or repatriated to Israel. However, many of these refugees, as well as their descendants, are still confined to refugee camps or are otherwise relegated to the status of stateless persons by the host states in which they reside, nearly sixty years after leaving their territory of origin.[9]

This Note argues that customary international law (CIL) obligates states of first refuge[10] to integrate long-term refugees living within their borders and that certain host states have not satisfied this obligation with respect to Palestinian refugees. Part I of this Note explains how judicial bodies identify principles of CIL based on state practice and the acceptance of such practice as law. Part II argues that the vast majority of nations not only integrate long-term refugees in practice, but also acknowledge a legal obligation to do so, suggesting that the principle of long-term refugee integration is binding under CIL. Part III then evaluates the extent to which host states for Palestinian refugees have complied with this CIL principle, ultimately concluding that states in the region continue to prevent this long-term refugee population from achieving successful integration.

There is widespread agreement that the Jewish refugees were forcibly expelled or fled to preserve their lives. *See, e.g.*, ARTHUR KOESTLER, PROMISE AND FULFILLMENT: PALESTINE 1917–1949, at 223–24 (1949) (giving example of Jewish settlement abandoned for fear of atrocities); *cf.* RONY E. GABBAY, A POLITICAL STUDY OF THE ARAB-JEWISH CONFLICT: THE ARAB REFUGEE PROBLEM (A CASE STUDY) 87–88 (1959) (describing brutality of Arab attacks on Jewish communities); MidEastWeb for Coexistence, *supra* ("Jews fled from areas conquered by Arabs without exception, or were escorted out as in the old City of Jerusalem."). *See generally The British Record on Partition*, THE NATION, May 8, 1948, at 1, *available at* http://emperor.vwh.net/history/br-role.pdf (arguing based on secret British Intelligence reports that Britain was complicit in Arab attacks on Jews).

This Note takes no position with respect to this debate because the initial cause of a refugee problem is immaterial from the standpoint of international law; the duties imposed on host states apply regardless of whether refugees were intentionally forced out or left of their own accord. *See infra* text accompanying notes 42–43 (revealing that application of terms "refugee" and "Palestine refugee" do not depend on cause of departure from territory).

[9] One-third of the refugees registered with the United Nations Relief and Works Agency for Palestine Refugees (UNRWA) continue to live in "temporary" refugee camps. *See* UNRWA, Where Do the Refugees Live?, http://www.un.org/unrwa/refugees/wheredo.html (last visited Nov. 20, 2005).

[10] International law places primary responsibility for the care of refugees on the states into which they initially flee. *See* Convention Relating to the Status of Refugees art. 32, July 28, 1951, 19 U.S.T. 6259, 189 U.N.T.S. 137 [hereinafter Refugee Convention], *as amended by* Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 267. This Note refers to states of first refuge as "host states."

I

ESTABLISHING PRINCIPLES OF CUSTOMARY INTERNATIONAL LAW

A CIL principle exists where: (1) state practice generally conforms to the principle, and (2) state actors accept that the practice is mandated by law.[11] In order to evaluate whether a principle qualifies as CIL, one must understand how institutions charged with interpreting and applying that body of law actually establish the existence of such principles. In determining whether the first element is satisfied, courts and tribunals examine "reports of actions taken by states"[12] and national "laws and judicial decisions,"[13] balancing evidence of practice that conforms to the principle with evidence of nonconforming practice.[14] In determining whether the second element[15] is satisfied, courts and tribunals look to sources such as multilateral

---

[11] PETER MALANCZUK, AKEHURST'S MODERN INTRODUCTION TO INTERNATIONAL LAW 39 (7th ed. 1997) ("[International] custom is constituted by two elements, the objective one of 'a general practice,' and the subjective one 'accepted as law.'"); *see also* RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 102(2) (1986) [hereinafter RESTATEMENT] (defining CIL as "a general and consistent practice of states followed by them from a sense of legal obligation"); Note, *The Offences Clause after* Sosa v. Alvarez-Machain, 118 HARV. L. REV. 2378, 2394 (2005) (noting that Congress examines evidence of state consent, participation, and "consensus of legal obligation" when evaluating CIL claims).

[12] MALANCZUK, *supra* note 11, at 39; *see, e.g.*, Ware v. Hylton, 3 U.S. (3 Dall.) 199, 229 (1796) (Chase, J., seriatim) (discussing British persistence in capturing belligerent goods in face of decision by Russia and seven other states to "adopt a more liberal practice"); *id.* at 254–56 (Paterson, J., seriatim) (relating failed attempt by King of Spain to seize French property while at war with France); Military and Paramilitary Activities (Nicar. v. U.S.), 1986 I.C.J. 14, 108 (June 27) ("There have been in recent years a number of instances of foreign intervention [by one state] for the benefit of forces opposed to the government of another state."); Asylum (Colom. v. Peru), 1950 I.C.J. 266, 277 (Nov. 20) (noting "a large number of particular cases in which diplomatic asylum was in fact granted and respected").

[13] MALANCZUK, *supra* note 11, at 39; *see, e.g.*, The Paquete Habana, 175 U.S. 677, 694–95, 700 (1900) (discussing English government orders, decisions of French prize tribunals, and pronouncements made by Japanese prize courts); *Ware*, 3 U.S. at 281 (Wilson, J., seriatim) (making reference to domestic codes of European countries).

[14] *See* MALANCZUK, *supra* note 11, at 42 ("A practice can be general even if it is not universally accepted; there is no precise formula to indicate how widespread a practice must be, but it should reflect wide acceptance among the states particularly involved in the relevant activity."); RESTATEMENT, *supra* note 11, § 102 (same); *see also* MALANCZUK, *supra* note 11, at 42–43 ("[G]eneral practice does not require the unanimous practice of all states or other international subjects. This means that a state can be bound by the general practice of other states even against its wishes if it does not protest against the emergence of the rule . . . .").

[15] The second element is often referred to as "*opinio juris*." *See* MALANCZUK, *supra* note 11, at 44 (defining "*opinio iuris*" [alternate spelling] as "a conviction felt by states that a certain form of conduct is required by international law").

treaties[16] and United Nations resolutions,[17] and may even "infer" *opinio juris* from state practice alone.[18]

The International Court of Justice (ICJ), a principal organ of the United Nations,[19] is one institution that determines whether state practice and *opinio juris* are sufficient to constitute CIL.[20] If states generally act in conformity with a certain principle, the ICJ will find that state practice supports the principle's inclusion within the body of CIL. In *Nicaragua v. United States*, for example, the ICJ rejected the idea that "for a rule to be established as customary, the corresponding practice must be in absolutely rigorous conformity with the rule."[21] Rather, *general* compliance was enough to establish state practice.[22]

---

[16] *Id.* at 40 (noting that, unlike bilateral treaties, multilateral treaties "may definitely constitute evidence of customary law"); *see, e.g.*, *Ware*, 3 U.S. (3 Dall.) at 229 (Chase, J., seriatim) (concluding that 1780 agreement between Empress of Russia and seven western powers did not alter prevailing CIL); North Sea Continental Shelf (F.R.G./Den./Neth.), 1969 I.C.J. 3, 46 (Feb. 20) (finding that Article 6 of Geneva Convention on the Continental Shelf was not expression of *opinio juris*); *Judgment of the International Military Tribunal for the Trial of German Major War Criminals: The Law of the Charter* [hereinafter *Nuremberg Judgment*], *in* The Avalon Project at Yale Law School (William C. Fray & Lisa A. Spar project dirs., 1996), http://www.yale.edu/lawweb/avalon/imt/proc/judlawch.htm (stating that Kellogg-Briand Pact expressed CIL principles and discussing several preceding treaties in support).

[17] MALANCZUK, *supra* note 11, at 52–53; *see, e.g.*, Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. 226, 242 (July 8).

[18] MALANCZUK, *supra* note 11, at 44 ("[T]he modern tendency is not to look for direct evidence of a state's psychological convictions, but to infer *opinio iuris* indirectly from the actual behavior of states."). This tendency, while classified as "modern" by Malanczuk, can be seen in decisions reaching back at least as far as the early eighteenth century. *See, e.g.*, *Nuremberg Judgment*, *supra* note 16; *The Paquete Habana*, 175 U.S. 677; *Ware*, 3 U.S. (3 Dall.) 199. In this context it should also be noted that some courts and tribunals are less rigorous than others in structuring their analysis of state practice and *opinio juris*, often failing to identify which element is being evaluated or collapsing these distinct elements into a single discussion.

[19] U.N. Charter art. 7, para. 1, arts. 92–96, *available at* http://www.un.org/aboutun/charter/.

[20] Statute of the International Court of Justice art. 38(1)(b), June 26, 1945, 59 Stat. 1031, 1055, 1060 (including international custom, "as evidence of a general practice accepted as law," among its sources of law); *see, e.g.*, *Legality of the Threat or Use of Nuclear Weapons*, 1996 I.C.J. at 253 ("[T]he substance of [customary international] law must be 'looked for primarily in the actual practice and *opinio juris* of States.'" (quoting Continental Shelf (Libya v. Malta), 1985 I.C.J. 13, 29 (June 3))); *North Sea Continental Shelf*, 1969 I.C.J. at 43 ("State practice . . . should have been both extensive and virtually uniform . . . and should moreover have occurred in such a way as to show a general recognition that a rule of law or legal obligation is involved."); *see also* Nuclear Tests (Austl. v. Fr.), 1974 I.C.J. 253, 305–06 (Dec. 20) (Petrén, J., separate opinion) ("If a State which does not possess nuclear arms refrains from . . . acquir[ing] them and if that abstention is motivated . . . by a conviction that such tests are prohibited by customary international law, the attitude of that State would constitute an element in the formation of such a custom.").

[21] Military and Paramilitary Activities (Nicar. v. U.S.), 1986 I.C.J. 14, 98 (June 27).

[22] *See id.* ("It is not to be expected that in the practice of States the application of the rules in question should have been perfect, in the sense that States should have refrained,

By contrast, in the *Asylum* case, the ICJ rejected Colombia's claim that CIL permitted it to grant asylum to a Peruvian fugitive over Peru's objections.[23] The court noted that "particular cases in which diplomatic asylum was in fact granted and respected" were accompanied by a great deal of "uncertainty and contradiction."[24] With so much "fluctuation and discrepancy" in state practice, the court found that state practice did not generally conform to the principle of fugitive asylum and, therefore, could not be considered a binding principle of CIL.[25]

The ICJ will find *opinio juris* only when many states have repeatedly supported the principle and few have consistently opposed it. In its advisory opinion in *Legality of the Threat or Use of Nuclear Weapons*, for example, the ICJ found that CIL does not prohibit the threat or use of nuclear weapons under all circumstances.[26] The court acknowledged the "consistent practice of non-utilization of nuclear weapons by States since 1945"[27] and noted that several General Assembly resolutions had sought to prohibit states from using nuclear weapons under any circumstances.[28] More significant, however, was the fact that many states had voted against the adoption of those resolutions and had strongly and consistently opposed the principle that threatening or using nuclear weapons was impermissible, following instead a policy of nuclear "deterrence."[29] Therefore, the court found *opinio juris* insufficient to support a principle of CIL that would forbid a state from threatening or using nuclear weapons in all circumstances.

Other international tribunals also consider whether state practice and *opinio juris* are sufficient to constitute CIL. For example, the Nuremberg Tribunal included two previously unidentified CIL principles in its charter: "crimes against peace" and "crimes against humanity."[30] The defendants argued that because "no sovereign

with complete consistency, from the use of force or from intervention in each other's internal affairs.").

23 Asylum (Colom. v. Peru), 1950 I.C.J. 266, 288 (Nov. 20).

24 *Id.* at 277.

25 *Id.*

26 *See* Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. 226, 266 (July 8).

27 *Id.* at 253.

28 *Id.* at 254–55.

29 *Id.* at 255.

30 Charter of the International Military Tribunal art. 6(a), Aug. 8, 1945, 59 Stat. 1546, 82 U.N.T.S. 279 (identifying crimes against peace as "planning, preparation, initiation or waging of a war of aggression"); *id.* art. 6(c) (defining crimes against humanity as "murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population . . . or persecutions on political, racial or religious grounds . . . whether

power had made aggressive war a crime at the time the alleged criminal acts were committed," the prohibition on crimes against peace constituted an *ex post facto* law.[31] In determining whether a principle prohibiting aggressive war had been established as CIL, the Tribunal looked to multilateral treaties for support.[32] As the Tribunal noted, the Kellogg-Briand Pact had renounced war "as an instrument of national policy" and committed states to resolving disputes peaceably,[33] the Geneva Protocol had declared that "a war of aggression . . . [is] an international crime,"[34] the League of Nations had announced that wars of aggression were "an international crime,"[35] and the Sixth Pan-American Conference had resolved that "war of aggression constitutes an international crime against the human species."[36] Based on these international agreements, the Tribunal concluded that CIL prohibited aggressive war at the time the defendants allegedly committed their acts.[37]

---

or not in violation of the domestic law of the country where perpetrated"). The third area within the Tribunal's jurisdiction, "war crimes," *see id.* art. 6(b), was already well established as a forming part of CIL.

31 *Nuremberg Judgment*, *supra* note 16.

32 *Id.* (noting that CIL may be found "in the customs and practices of states" and that "in many cases treaties do no more than express and define . . . principles of law already existing").

33 Renunciation of War as an Instrument of National Policy (Kellogg-Briand Peace Pact or Pact of Paris), Aug. 27, 1928, 46 Stat. 2343, 94 L.N.T.S. 57. The treaty had been ratified by Germany and sixty-two other nations by the start of World War II. *Nuremberg Judgment*, *supra* note 16.

34 Protocol for the Pacific Settlement of International Disputes (Geneva Protocol), preamble, *in Records of the Fifth Assembly*, LEAGUE OF NATIONS O.J., Special Supp. 23, at 498 (1924). Germany was not a member of the League of Nations in 1924 and, although the Protocol was signed by each of the League's forty-eight members, it was never ratified. The Nuremberg Tribunal nevertheless held that "[a]lthough the Protocol was never ratified, it was signed by the leading statesmen of the world, representing the vast majority of the civilised states and peoples, and may be regarded as strong evidence of the intention to brand aggressive war as an international crime." *Nuremberg Judgment*, *supra* note 16.

35 *Nuremberg Judgment*, *supra* note 16; *see also* Assembly, *Declaration Concerning Wars of Aggression*, League of Nations Doc. A.109.1927.IX (1927). Germany had by this time become a member of the League and had voted in favor of the resolution. *See Nuremberg Judgment*, *supra* note 16.

36 *Nuremberg Judgment*, *supra* note 16; *see also* Resolution on Aggression, 6th Int'l Conf. of Am. States (Havana) (Feb. 18, 1928), *microformed on* The International Conferences of American States, 1889–1928 (James Brown Scott ed., 1931). Twenty-one states signed this resolution. Germany, not being an American republic, was not among them. *See Nuremberg Judgment*, *supra* note 16.

37 *Nuremberg Judgment*, *supra* note 16 ("The prohibition of aggressive war demanded by the conscience of the world, finds its expression in the series of pacts and treaties to which the Tribunal has just referred."). Notably, no more than sixty-three states were party to any of the treaties or resolutions that the Tribunal identified as expressing the "conscience of the world." *See supra* notes 33–36.

In addition, national courts have historically looked to state practice and *opinio juris* when determining whether a CIL principle exists.[38] In *Ware v. Hylton*, for example, the U.S. Supreme Court considered whether a CIL principle prohibited Virginia's refusal to pay debts owed to subjects of Great Britain, recently an "enemy" nation.[39] Justice Paterson suggested that CIL prohibited the practice, arguing that "[c]onfiscation of debts is considered a disreputable thing among civilized nations of the present day; and indeed nothing is more strongly evincive of this truth, than that it has gone into general dessuetude."[40] Justice Wilson agreed, stating that in "every nation, whatever is its form of government, the confiscation of debts has long been considered disreputable . . . [and] not a single confiscation of that kind stained the code of any of the European powers."[41]

As the preceding discussion has illustrated, legal institutions evaluate CIL principles by examining state actions and domestic laws in order to balance conforming and nonconforming state practice, and by considering sources such as multilateral treaties to establish that states view a practice as legally obligatory. Using this analysis, Part II argues that CIL requires host states to integrate long-term refugees. Part II.A investigates state practice, while Part II.B examines *opinio juris*. Part II.C discusses possible exceptions to CIL and concludes that they are inapplicable to the principle of long-term refugee integration.

---

[38] U.S. courts, for example, have identified and applied the "law of nations" since the Founding. *See, e.g.*, U.S. v. Alvarez-Machain, 504 U.S. 655, 680 (1992) (observing that, under law of nations, one state "must not perform acts of sovereignty in the territory of another"); *Ex parte* Quirin, 317 U.S. 1, 27 (1942) (noting that "[f]rom the very beginning of its history this Court has recognized and applied the law of war as including that part of the law of nations which prescribes . . . the status, rights and duties of enemy nations as well as of enemy individuals"); The Paquete Habana, 175 U.S. 677, 708 (1900) (noting that prize courts apply law of nations in absence of any governing "treaty or other public act"); The Brig Amy Warwick (The Prize Cases), 67 U.S. (2 Black) 635, 645–46, 666, 670 (1862) (applying law of nations to determine whether high-seas captures were legitimate); Ware v. Hylton, 3 U.S. (3 Dall.) 199, 223–24, 255–56, 265–66 (1796) (discussing whether law of nations prohibited Virginia from refusing to pay debts owed to subjects of Great Britain); *see also* U.S. CONST. art. I, § 8, cl. 10 (giving Congress power to "define and punish . . . Offences against the Law of Nations").

[39] 3 U.S. (3 Dall.) 199 (1796).

[40] *Id.* at 255 (Paterson, J., seriatim).

[41] *Id.* at 281 (Wilson, J., seriatim).

II
INTEGRATION OF LONG-TERM REFUGEES AS A PRINCIPLE OF CUSTOMARY INTERNATIONAL LAW

Before presenting evidence of state practice and *opinio juris* in the realm of refugee integration, it is necessary to first establish the parameters of the issue. The United Nations High Commissioner for Refugees (UNHCR) defines a refugee as any person "outside the country of his nationality" who has a "well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion," if he were to return to his country.[42] Under the "operational definition" used by the United Nations Relief and Works Agency for Palestine Refugees (UNRWA), "Palestine refugees are persons whose normal place of residence was Palestine between June 1946 and May 1948, who lost both their homes and means of livelihood as a result of the 1948 Arab-Israeli conflict."[43] This Note uses UNRWA's definition when referring to Palestinian refugees, and the UNHCR definition when discussing other refugees.

One should also note that "integration" can encompass a variety of practices, which may differ from state to state. Full integration, however, requires host states to afford long-term refugees and their descendants the basic rights and privileges enjoyed by citizens.[44]

---

[42] UNITED NATIONS HIGH COMM'R FOR REFUGEES (UNHCR), CONVENTION AND PROTOCOL RELATING TO THE STATUS OF REFUGEES 16 (1996), *available at* http://www.unhcr.ch/cgi-bin/texis/vtx/protect/opendoc.pdf?tbl=PROTECTION&id=3b66c2aa10 (citing Refugee Convention, *supra* note 10).

There were nearly 9.7 million refugees registered in 2003, including approximately 428,000 Palestinians living in countries where UNRWA does not operate. UNHCR, STATISTICAL YEARBOOK 2003, at 15–16 (2005), *available at* http://www.unhcr.ch/cgi-bin/texis/vtx/statistics/opendoc.pdf?tbl=STATISTICS&id=42b017b34. Today, UNRWA operates in Lebanon, Syria, Jordan, the West Bank, and the Gaza Strip. UNRWA, Map of UNRWA's Area of Operations, http://www.un.org/unrwa/refugees/images/map.jpg (last visited Jan. 3, 2006).

[43] UNRWA, Who is a Palestine Refugee?, http://www.un.org/unrwa/refugees/whois.html (last visited Jan. 3, 2006). There were over four million Palestinian refugees registered in 2003. PUB. INFO. OFFICE, UNRWA HEADQUARTERS (GAZA), UNRWA IN FIGURES (2003) [hereinafter UNRWA IN FIGURES], *available at* http://www.un.org/unrwa/publications/pdf/uif-june03.pdf.

[44] *See* EUROPEAN COUNCIL ON REFUGEES AND EXILES, THE WAY FORWARD: TOWARDS THE INTEGRATION OF REFUGEES IN EUROPE 14 (2005), *available at* http://www.ecre.org/positions/Integration%20Way%20Forward.pdf (stating that refugee integration "relates both to the conditions for and actual participation in all aspects of the economic, social, cultural, civil and political life of the country of the host society"); HOME OFFICE (UK), INDICATORS OF INTEGRATION FINAL REPORT 5 (2004), *available at* http://www.homeoffice.gov.uk/rds/pdfs04/dpr28.pdf (providing definition of refugee integration which includes "achiev[ing] public outcomes within employment, housing, education, health etc. which are equivalent to those achieved within the wider host communities").

A. State Practice

1. State Practice Supporting Refugee Integration

The first component in the formation of CIL is state practice.[45] The general practice among host states is to integrate long-term refugees. Many states have enacted domestic citizenship laws that facilitate the integration of refugees, and states affected by long-term refugee crises consistently resolve those crises through integration.

a. Domestic Citizenship Laws

Most countries effectively integrate refugees through their domestic citizenship laws within a single generation. While not necessarily a prerequisite to integration, the willingness of states to provide refugees with citizenship displays a strong commitment to such integration. As such, these laws are evidence of state practice supporting the contention that long-term refugee integration is a CIL principle.[46]

There are two basic ways in which states confer citizenship. Some countries, referred to as *jus soli* states, grant citizenship to all children born within their territory, regardless of their parents' nationality.[47] The United States,[48] Brazil,[49] and Mexico[50] provide three examples, and there are at least forty-four others.[51] These nations, by definition, achieve refugee integration within a single generation.

---

[45] *See supra* notes 11–14 and accompanying text; *see also* MALANCZUK, *supra* note 11, at 39 ("The main evidence of customary law is to be found in the actual practice of states . . . .").

[46] MALANCZUK, *supra* note 11, at 39 ("[A] rough idea of a state's practice can be gathered . . . from a state's laws and judicial decisions . . . ."); *see also* RESTATEMENT, *supra* note 11, § 102(4) ("General principles common to the major legal systems . . . may be invoked as supplementary rules of international law . . . .").

[47] Ayelet Shachar, *Children of a Lesser State: Sustaining Global Inequality Through Citizenship Laws*, 8–13 (N.Y.U. Sch. of Law Jean Monnet Working Paper, 2003), *available at* http://www.jeanmonnetprogram.org/papers/03/030201.pdf.

[48] Immigration and Nationality Act § 301, 8 U.S.C. § 1401 (2000).

[49] Lei No. 818, de 18 de setembro de 1949, D.O. de 19.09.1949, *as amended by* Emenda Constitutional de Revisão No. 3, de 1994 (Brazil), *available at* http://legis.senado.gov.br/con1988/EMR3_07.06.1994/EMR3.htm (last visited Feb. 11, 2006).

[50] CONSTITUCIÓN POLÍTICA DE LOS ESTADOS UNIDOS MEXICANOS [CONST.], *as amended*, Artículo 30, Diario Oficial de la Federación [D.O.], 5 de Febrero de 1917 (Mex.).

[51] *See infra* Appendix, tbl.1 (compiling citizenship and naturalization data from INVESTIGATIONS SERV., U.S. OFFICE OF PERS. MGMT., CITIZENSHIP LAWS OF THE WORLD (2001), *available at* http://www.opm.gov/extra/investigate/IS-01.pdf).

Today the United Nations recognizes 191 states. United Nations, List of Member States, http://www.un.org/Overview/unmember.html (last visited Jan. 3, 2006). In 2001, the U.S. Office of Personnel Management surveyed 190 countries regarding their requirements for citizenship. *See* INVESTIGATIONS SERV., *supra*. Of these, 168 provided sufficient information to determine whether refugees would generally be able to obtain citizenship within one generation. *See infra* Appendix, tbl.1. These 168 countries made up approximately ninety-six percent of the world's population as of 2004. *See id. See generally* U.S. CENSUS

Other countries, known as *jus sanguinis* states, grant citizenship primarily to the children of their citizens and do not automatically confer citizenship on those born within their territory.[52] These countries generally achieve full refugee integration in less than one generation as well, often by permitting refugees to become naturalized citizens or by conferring citizenship on their children. In Hungary, for example, children born to stateless persons are automatically granted Hungarian citizenship,[53] and all refugees are eligible for citizenship after three years of residence.[54] Likewise, Singapore permits naturalization after ten years of legal residence,[55] while Namibia does so after five.[56] Of the 121 states that do not automatically grant citizenship to children born in their territory, seventy-one have citizenship laws that would allow the vast majority of refugees to gain citizenship within a single generation.[57]

In summary, at least 118 states have citizenship laws that virtually ensure the timely integration of refugee populations.[58] These domestic laws, as evidence of state practice, support the claim that CIL requires host states to integrate long-term refugees.

BUREAU, INTERNATIONAL DATA BASE SUMMARY DEMOGRAPHIC DATA (2005), http://www.census.gov/ipc/www/idbsum.html (providing population data for 227 states and territories).

52 Shachar, *supra* note 47, at 12. Some countries, such as the United States, grant citizenship both to children born within their territory *and* to the foreign-born children of their nationals. *See* 8 U.S.C. § 1401.

53 Act LV of 1993 on Hungarian Citizenship § 3(3), *available at* http://www.huembwas.org/New%20Consular/Consular/Citizenship%20En.htm (last visited Feb. 4, 2006) (translation of Act by Hungarian Embassy).

54 *Id.* at § 4.

55 SING. CONST. art. 123(c) (1999 reprint), *available at* http://statutes.agc.gov.sg/non_version/cgi-bin/cgi_getcont.pl?actno=1999-REVED-CONST&doctitle=CONSTITUTION%20OF%20THE%20REPUBLIC%20OF%20SINGAPORE%0a&date=LAtest&method=part.

56 NAMIB. CONST. art. 4(4) (1990), *available at* http://www.orusovo.com/namcon/.

57 *See infra* Appendix, tbl.1. Of the *jus sanguinis* countries, fifty-six permit the naturalization of those attaining a certain age and period of residency, or have special provisions granting citizenship to stateless children. *See id.* An additional fifteen have minimal requirements for citizenship that nearly all second-generation refugees would fulfill by adulthood (such as the ability to speak the language), or that conform to international refugee law (such as the lack of criminal activity). *See id.*; *see also* Refugee Convention art. 2, *supra* note 10 (noting duty of refugees to obey laws of host state). In twenty-two others, naturalization involves requirements that many refugees may not meet (such as good health or a means of support). *See infra* Appendix, tbl.1.

Incidentally, of those countries that do not allow naturalization within a single generation, three provide citizenship for refugee populations persisting beyond the second generation. *See infra* Appendix, tbl.1 (noting such provisions in laws of Andorra, Cambodia, and Germany).

58 This represents slightly more than seventy percent of the reporting states, encompassing seventy-eight percent of their combined population. *See infra* Appendix, tbl.1.

b. The Resolution of Refugee Crises in Practice

Historically, host states have resolved refugee crises by integrating refugees into the social, political, and economic life of their countries. During World War I, for example, 96,000 ethnic Bulgarian refugees fled from Greece to Bulgaria and 46,000 refugees of Greek ethnicity fled from Bulgaria to Greece.[59] In the peace treaty of 1919, Greece and Bulgaria each agreed to integrate those refugees living in their respective territories.[60]

A similar solution was implemented in 1923 when, following the Greek-Turkish War, the parties agreed to a compulsory population exchange.[61] About one million Turkish refugees (ethnic Greeks) fled to Greece and 400,000 Greek refugees (ethnic Turks) fled to Turkey.[62]

At the close of World War II, the Allies expelled fifteen million ethnic Germans from Czechoslovakia, Hungary, Austria, and the region of eastern Germany that became Polish territory.[63] West Germany integrated the survivors, who numbered around thirteen million.[64]

When the British withdrew from India in 1947, the Hindu-dominated Congress Party and the Muslim League agreed to the partition of the subcontinent into two states, India and Pakistan.[65] An estimated one million people were killed and some ten million refugees—

---

[59] *See* STEPHEN P. LADAS, THE EXCHANGE OF MINORITIES: BULGARIA, GREECE AND TURKEY 122, 592 (1932).

[60] Convention Respecting Reciprocal Emigration, Greece-Bulg., Nov. 27, 1919, 1 L.N.T.S. 68, 68–69 (implementing Article 56 of Treaty of Neuilly between Allied and Associated Powers and Bulgaria, *reprinted in* 2 CARNEGIE ENDOWMENT FOR INT'L PEACE, THE TREATIES OF PEACE, 1919–1923, at 1036 (1924)).

[61] Convention Concerning the Exchange of Greek and Turkish Populations and Protocol, Greece-Turk., art. 1, Jan. 30, 1923, 32 L.N.T.S. 75, 77.

[62] Niels Kadritzke, *Forgetting a Remembered History: Greece's Earthquake Diplomacy*, LE MONDE DIPLOMATIQUE, June 2000, at n.1, http://mondediplo.com/2000/06/06greece; *see also* Kalliopi K. Koufa & Constantinos Svolopoulos, *The Compulsory Exchange of Populations Between Greece and Turkey: The Settlement of Minority Questions at the Conference of Lausanne, 1923, and its Impact on Greek-Turkish Relations*, *in* 5 ETHNIC GROUPS IN INTERNATIONAL RELATIONS 275 (Paul Smith ed., 1991).

[63] *See* ALFRED M. DE ZAYAS, NEMESIS AT POTSDAM: THE EXPULSION OF THE GERMANS FROM THE EAST xix, xxv, 187 n.1 (3d ed., rev. 1988); EUGENE M. KULISCHER, EUROPE ON THE MOVE: WAR AND POPULATION CHANGES, 1917–47, at 282–86 (1948); *see also* Protocol of the Proceedings of the Berlin (Potsdam) Conference, U.S.-U.K.-U.S.S.R., § XII, Aug. 2, 1945, 3 Bevans 1207, 1220.

[64] *See* DE ZAYAS, *supra* note 63, at xix–xx. The subsequent demarcation of borders in Central and Eastern Europe followed this pattern on a smaller scale, with multiple population transfer agreements being concluded between states in the region. *See* KULISCHER, *supra* note 63, at 287–94.

[65] Legacy Project, The Legacy Events Index: India-Pakistan Partition, http://www.legacy-project.org/events/display.html?ID=10 (last visited Feb. 4, 2006).

Muslims, Hindus, and Sikhs—fled across the newly created border.[66] These refugees were soon integrated into their respective states.[67]

Beginning in 1948, and peaking in 1951, Islamic countries expelled roughly 850,000 Jews.[68] Israel integrated about 600,000 of these refugees, while Europe and the Americas integrated the remainder.[69]

These are just a few of the many crises that occurred during the twentieth century, producing millions upon millions of refugees.[70] Perhaps the best evidence of widespread refugee integration is that, with respect to the vast majority of conflicts ending a generation or more ago, the number of refugees still associated with those conflicts is negligible or nonexistent.[71] Host states have consistently integrated persistent refugee populations within a single generation, establishing a record of state practice that provides support for a CIL principle of long-term refugee integration.

2. *Contrary State Practice*

A small amount of nonconforming state practice will not prevent the establishment of a CIL principle when state practice generally conforms to that principle.[72] Nevertheless, this Note examines several

---

[66] *Flashback to India Partition*, BBC NEWS, Jan. 11, 2002, http://news.bbc.co.uk/1/hi/world/south_asia/1751044.stm; *see also* Legacy Project, *supra* note 65 ("Some 3.5 million Hindus and Sikhs moved from Pakistan into India, and about 5 million Muslims migrated from India to Pakistan.").

[67] *Cf.* INVESTIGATIONS SERV., *supra* note 51, at 94, 152 (discussing citizenship and naturalization laws in India and Pakistan).

[68] *See* Carole Basri, *The Jewish Refugees from Arab Countries: An Examination of Legal Rights—A Case Study of the Human Rights Violations of Iraqi Jews*, 26 FORDHAM INT'L L.J. 656, 659–60 (2003) (noting exodus of over 850,000 Jewish refugees); Ada Aharoni, The Boren Foundation, The Forced Migration of Jews from Arab Countries and Peace (2002), *available at* http://www.hsje.org/forcedmigration.htm (estimating 881,000 Jewish refugees).

[69] Malka Hillel Shulewitz & Raphael Israeli, *Exchanges of Populations Worldwide: The First World War to the 1990's*, *in* THE FORGOTTEN MILLIONS: THE MODERN JEWISH EXODUS FROM ARAB LANDS 126, 133 (Malka Hillel Shulewitz ed., 1999); Aharoni, *supra* note 68.

[70] *See generally* Nobelprize.org, Conflict Map, http://nobelprize.org/peace/educational/conflictmap/ (last visited Feb. 22, 2006) (providing interactive map of twentieth-century conflicts); UNHCR, Statistics, http://www.unhcr.ch/cgi-bin/texis/vtx/home?page=statistics (last visited Feb.22, 2006) (providing *UNHCR Statistical Yearbooks* for years 1994–2004).

[71] *See* UNHCR, STATISTICAL YEARBOOK 2003, *supra* note 42, at 19 (noting that currently existing significant refugee populations originated from following countries: Afghanistan, 2,136,000; Sudan, 606,000; Burundi, 532,000; Democratic Republic of the Congo, 453,000; Occupied Palestinian Territory, 428,000; Somalia, 402,000; Iraq, 369,000; Vietnam, 363,000; Liberia, 353,000; and Angola, 330,000).

[72] MALANCZUK, *supra* note 11, at 41–42 ("[A] large amount of practice which goes against the 'rule' in question [may] prevent the creation of a customary rule. . . . [But] a small amount of practice which goes against the rule in question [does] not prevent the

possible instances of contrary state practice to ensure that such practice is not so widespread as to challenge the supporting state practice discussed above.

In some cases of apparent nonconforming practice, close examination reveals that the state's conduct, while possibly in violation of international law, is not contrary to a CIL principle requiring host states to integrate long-term refugees. For example, Vietnamese asylum seekers detained while crossing into Thailand or Hong Kong are frequently restricted to closed camps for long periods of time while awaiting determination of their status.[73] While the conditions in which these individuals must live may in fact violate international human rights law, Thailand's detention program is not itself contrary to the principle of long-term refugee integration. Many countries restrict the movement of asylum seekers pending determination of refugee status to ensure that "economic migrants" and others posing as refugees do not remain in the country illegally. A state's obligations during this process are distinct from its duty to integrate long-term residents *already identified* as refugees.[74] Although Thailand has a "mixed" record as a host state,[75] programs that require asylum seekers to be held while their refugee status is being determined do not necessarily prevent integration of those found to be refugees.

In 2001, Australia determined that "boat people" and other unauthorized migrants could not claim refugee status.[76] In August 2001, a Norwegian ship rescued over 400 Afghans after their ship began sinking in Australia's territorial waters.[77] Australia refused to allow the ship to dock, setting off an international debate on the duties of

---

creation of a customary rule . . . ."); Military and Paramilitary Activities (Nicar. v. U.S.), 1986 I.C.J. 14, 98 (June 27) ("The Court does not consider that, for a rule to be established as customary, the corresponding practice must be in absolutely rigorous conformity with the rule. . . . [I]t [is] sufficient that the conduct of states should, in general, be consistent with such rules . . . .").

[73] *See* LAWYERS COMM. FOR HUMAN RIGHTS, INHUMANE DETERRENCE: THE TREATMENT OF VIETNAMESE BOAT PEOPLE IN HONG KONG 2 (1989); U.S. COMM. FOR REFUGEES, WORLD REFUGEE SURVEY 87, 96 (1995); U.S. COMM. FOR REFUGEES, WORLD REFUGEE SURVEY 81, 85 (1993).

[74] Preapproval policies "must balance the responsibility to treat bona fide refugees with dignity and respect and the need to limit the incentives to apply for those who are not genuine," while post-approval policies "need to address issues regarding the integration of refugees into the host society." Susan F. Martin & Andrew I. Schoenholtz, *Asylum in Practice: Successes, Failures, and the Challenges Ahead*, 14 GEO. IMMIGR. L.J. 589, 614 (2000).

[75] Refugees International, Thailand, http://www.refugeesinternational.org/content/country/detail/2894 (last visited Feb. 16, 2006); *see also infra* Appendix, tbl.1.

[76] *See* Mary Crock, *In the Wake of the Tampa: Conflicting Visions of International Refugee Law in the Management of Refugee Flows*, 12 PAC. RIM L. & POL'Y J. 49, 49 (2003).

[77] *Id.* at 49–50 n.1.

states to open their borders to those seeking asylum.[78] While Australia's actions may have been a violation of the duty to accept refugees found within its "territory," the incident does not touch on the principle of long-term refugee integration. Since Australia did not consider these asylum seekers to be refugees and, hence, did not permit them to land, there was no opportunity for them to become long-term refugees.[79] Australia does, in fact, integrate refugees that have been admitted onto its shores.[80]

In other cases of apparently contrary practice, a state may not begin immediate refugee integration where the refugees in question are likely to soon return to their state of origin.[81] This does not pose a challenge to a CIL principle mandating long-term refugee integration; if the refugees can be safely returned within a single generation, they likely could not be considered "long-term" refugees. For example, during the Kosovo crisis,[82] several states set up temporary protection regimes, under which they suspended refugee-status determination and granted temporary protection to all asylum seekers.[83] Temporary protection was preferred in this case because the refugee crisis was perceived as a short-term problem.[84] If this practice appears to under-

---

78 *Id.* at 56–61 (reviewing debate over Australia's actions).

79 Instead, New Zealand agreed to accept most of these refugees in order to alleviate the crisis. *Id.* at 51–52.

80 The Australian-born children of non-citizen permanent residents and all Australian-born children who live in the country until age ten are automatically granted Australian citizenship. Citizenship Act, 1948, § 10(2) (Austl.), *available at* http://www.comlaw.gov.au/comlaw/Legislation/ActCompilation1.nsf/0/894EE9440ED55DE0CA256F71004DDA6F/$file/AusCitizenship1948.pdf. Foreign-born individuals are eligible for naturalization after two years of residence. *Id.* § 13(1)(e).

81 Since many refugees express a desire to return to their states of origin, host states understandably attempt to facilitate this desire when there is a realistic possibility of repatriation within a short period of time. *See* Joan Fitzpatrick, *Temporary Protection of Refugees: Elements of a Formalized Regime*, 94 AM. J. INT'L L. 279, 299–300 (2000); Vic Ullom, *Voluntary Repatriation of Refugees and Customary International Law*, 29 DENV. J. INT'L L. & POL'Y 115, 139–40 (2001).

82 Serbian forces expelled nearly one million Albanians from Kosovo in March 1998. U.S. DEP'T OF STATE, ETHNIC CLEANSING IN KOSOVO: AN ACCOUNTING 7 (1999), *available at* http://www.state.gov/www/global/human_rights/kosovoii/pdf/kosovii.pdf.

83 *See* SECRETARIAT OF THE INTERGOVERNMENTAL CONSULTATIONS ON ASYLUM, REFUGEE, AND MIGRATION POLICIES IN EUR., N. AM. & AUSTL., REPORT ON TEMPORARY PROTECTION IN STATES IN EUROPE, NORTH AMERICA, AND AUSTRALIA 78–79, 118 (1995).

84 The Security Council passed multiple resolutions calling for repatriation of Albanians to Kosovo. S.C. Res. 1239, ¶ 4, U.N. Doc. S/RES/1239 (May 14, 1999); S.C. Res. 1203, ¶ 12, U.N. Doc. S/RES/1203 (Oct. 24, 1998); S.C. Res. 1199, ¶¶ 4–5, U.N. Doc. S/RES/1199 (Sept. 23, 1998). Indeed, this was one of the explicit objectives underlying the NATO military campaign. N. Am. Treaty Org. (NATO), NATO's Role in Relation to the Conflict in Kosovo (July 15, 1999), http://www.nato.int/kosovo/history.htm. In fact, most of the Albanian refugees ultimately did return to Kosovo. CONG. RESEARCH SERV., LIBRARY OF CONG., KOSOVO: REFUGEE ASSISTANCE AND TEMPORARY RESETTLEMENT 2 (1999), http://www.globalsecurity.org/military/library/report/crs/RS20154.pdf (noting that 770,000

mine the principle of refugee integration, it is only because there is no concrete rule to determine the point at which a refugee situation becomes "long-term." It seems clear, however, that a few years would not constitute a long-term refugee situation, whereas one lasting longer than a single generation certainly would. The nations that extended temporary protection to Yugoslavian refugees during the Kosovo crisis all integrate refugees within one generation.[85]

In evaluating state practice, one must weigh practice that conforms to a principle against practice which is contrary to that principle. It is clear from both the historical resolution of refugee crises and domestic citizenship laws that the general practice among host states is to integrate long-term refugees. Furthermore, most instances of apparent nonconforming state practice are not, in fact, contrary to a principle mandating long-term refugee integration.

*B. Perception of Legal Duty (*Opinio Juris*)*

Opinio juris is the second component of CIL.[86] Through treaties and conventions, states may assert the existence of CIL principles and express their intention to codify these principles.[87] Indeed, the vast majority of states are party to multilateral agreements acknowledging the legal obligation to integrate refugees. For example, 136 countries have ratified the U.N. Convention Relating to the Status of Refugees (Refugee Convention).[88] The Refugee Convention mandates that a

refugees had repatriated). Unfortunately, returning Albanians subsequently expelled an estimated 103,000 Serbs. U.S. DEP'T OF STATE, *supra* note 82, at 15. Both these Serbian refugees and the remaining Albanian refugees have today either been integrated by their host states or given asylum in third countries. *See supra* note 71 and accompanying text (indicating that Serbians and Albanians no longer make up significant number of refugees).

[85] *See infra* Appendix, tbl.1.

[86] *See supra* notes 11, 15–18 and accompanying text.

[87] *See supra* note 16 and accompanying text; RESTATEMENT, *supra* note 11, § 102(3) (stating that multilateral agreements are evidence of CIL "when such agreements are intended for adherence by states generally and are in fact widely accepted"); *see also id.*, § 103 cmt. c (stating that resolutions of international organizations are used to pronounce states' views on issues of international law).

[88] Refugee Convention, *supra* note 10. The Refugee Convention does not apply to refugees under the "protection or assistance" of a separate U.N. body. *Id.* art. 1, § D. Thus, Palestinian refugees within UNRWA's area of operations were initially excluded from its protections. *See* Lewis Saideman, *Do Palestinian Refugees Have a Right of Return to Israel? An Examination of the Scope and Limitations of the Right of Return*, 44 VA. J. INT'L L. 829, 859 (2004); Susan Akram, *Palestinian Refugee Rights: Part One—Failure Under International Law* (2000), http://www.palestinecenter.org/cpap/pubs/20000728ib.html. However, the substantive provisions of the Refugee Convention become applicable to refugees previously excluded under article 1, section D when "such protection *or* assistance has ceased for any reason." Refugee Convention, *supra* note 10, art. 1, § D (emphasis added). While UNRWA still provides humanitarian assistance, its protective

state may not treat refugees differently from its own nationals in a variety of areas, including religion, access to courts, rationing, elementary education, and public relief.[89] Although it does not specifically require host states to naturalize refugees, the Refugee Convention does state that "[c]ontracting States shall as far as possible facilitate the assimilation and naturalization of refugees . . . [and] shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings."[90] In codifying the obligation to treat refugees as nationals in a variety of areas and to facilitate naturalization, the Refugee Convention constitutes *opinio juris* in support of a CIL principle requiring refugee integration.

Similarly, 145 countries are party to the International Covenant on Economic, Social and Cultural Rights (ICESCR). Among other rights, the ICESCR guarantees the right to work, access to healthcare and education, and the ability to take part in the cultural life of the state.[91] The codification of these rights in the ICESCR indicates that *opinio juris* supports a principle of CIL requiring refugee integration.

One hundred forty-six nations are party to the International Covenant on Civil and Political Rights (ICCPR). The ICCPR guarantees, among other rights, freedom of movement, freedom to choose where to live, the right to privacy, the right of peaceful assembly, freedom of association, the right of children to acquire nationality, and equality before the law.[92] Unlike the ICESCR, the ICCPR contains no "devel-

---

role ended in 1952. *See* Saideman, *supra*, at 860–61; Akram, *supra*. Therefore, the Refugee Convention should now protect Palestinian refugees regardless of whether the Convention expresses general principles of CIL. Saideman, *supra*, at 861; Akram, *supra*. *But see* UNHCR, *Note on the Applicability of Article 1D of the 1951 Convention Relating to the Status of Refugees to Palestinian Refugees*, 14 INT'L J. REFUGEE L. 450, 453–54 (2002) (asserting that receipt of "protection or assistance" depends on whether one is inside UNRWA's area of operations).

89 Refugee Convention, *supra* note 10, arts. 4, 16, 20, 22(1), 23.

90 *Id.* art. 34.

91 International Covenant on Economic, Social and Cultural Rights (ICESCR), G.A. Res. 2200A (XXI), arts. 6, 12–13, 15(a), U.N. Doc. A/6316 (Dec. 16, 1966), *available at* http://www.ohchr.org/english/law/pdf/cescr.pdf.

While the ICESCR prohibits states from applying its provisions in a manner that discriminates against non-citizens, it makes an exception for developing countries, which "with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals." *Id.* art. 2(3). However, one cannot extend this argument to noneconomic rights such as freedom of movement, the right to purchase whatever private goods and services are offered to the public at large, and participation in the cultural life of the nation.

92 International Covenant on Civil and Political Rights (ICCPR), G.A. Res. 2200A (XXI), arts. 11(1), 17, 21–22, 24(3), 26, U.N. Doc. A/6316 (Dec. 16, 1966), *available at* http://www.ohchr.org/english/law/pdf/ccpr.pdf.

oping country" exception to the requirement that its provisions are to be applied "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."[93] The ICCPR is thus a strong expression of *opinio juris* in support of a principle of CIL requiring refugee integration.

In addition, 190 states have ratified the Convention on the Rights of the Child (CRC). Among the many rights that the CRC guarantees to all are the rights to access health care and education, full participation in cultural life, and freedom from arbitrary deprivation of liberty.[94] Like the ICCPR, the CRC prohibits state parties from applying its provisions in a discriminatory manner,[95] specifically stating that parties must ensure that child refugees "receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention."[96] The CRC, then, further expresses *opinio juris* in support of a CIL principle mandating refugee integration.

The multilateral conventions discussed above provide powerful evidence of *opinio juris*. These binding treaties, ratified by the vast majority of nations, acknowledge that the integration of long-term refugees is mandated by law.

C. *Possible Exceptions to Customary International Law*

There are two possible exceptions to most CIL principles. If a state can show that a contrary regional custom has developed or that it has attained persistent objector status, it may be exempt from following a principle of CIL that continues to be binding on states not similarly situated.

The doctrine of contrary regional custom holds that while general principles of CIL bind the international community as a whole, if a subset of that community has "customarily" adhered to a contrary principle, the general principle is not binding on the states in that region.[97]

---

[93] *Id.* art. 2(1).

[94] Convention on the Rights of the Child (CRC), G.A. Res. 44/25, arts. 24, 28, 31(2), 37(b), U.N. Doc. A/44/49 (Nov. 20, 1989), *available at* http://www.ohchr.org/engligh/law/pdf/crc.pdf.

[95] *Id.* art. 2.

[96] *Id.* art. 22(1).

[97] *See* North Sea Continental Shelf (F.R.G. v. Den., F.R.G. v. Neth.), 1969 I.C.J. 3, 113 (Feb. 20) (Ammoun, J., separate opinion) (noting that states claiming right to act contrary to CIL principle of "freedom of the high seas" based their claim on "historic title or on regional custom, which could not and cannot be prejudiced by the establishment of the [general] custom"); *see also* MALANCZUK, *supra* note 11, at 2 ("Regionalism tends to

In the Middle East, however, no contrary regional custom has been established that would prevent the application of the CIL principle of long-term refugee integration to Palestinian refugees. A contrary regional custom cannot exist unless states in the region follow the *same* contrary custom.[98] Since three of the states in the Middle East follow the same custom of refugee integration as does the international community as a whole,[99] no contrary regional custom can be said to exist.

Persistent objector status rests on the idea that, although principles of CIL are generally binding on all nations, a persistent objector state may, at least for a time, exempt itself from the application of certain CIL principles in specific circumstances.[100]

However, none of the host states for Palestinian refugees are eligible for persistent objector status. Egypt, Jordan, Lebanon, Syria, and Israel have all ratified the ICESCR, the ICCPR, and the CRC.[101] These multilateral agreements require states to treat refugees no differently than their nationals in a variety of areas and are incompatible with the prolonged refusal to integrate long-term refugees.[102] In addition, Egypt, Jordan, Syria, and Lebanon are all signatories to the Casablanca Protocol.[103] Although not a guarantee of naturalization, this convention does guarantee Palestinian refugees the right to work

---

undermine the universality of international law, but it is an important existing feature of the international system.").

98 *See North Sea Continental Shelf*, 1969 I.C.J. at 130–31 ("[W]hile a general rule of customary law does not require the consent of all States . . . it is not the same with a regional customary rule, having regard to the small number of States to which it is intended to apply."). Germany's rejection of an alleged regional custom at odds with the CIL principle of "freedom of the seas" prevented the ICJ from recognizing a contrary custom for the North Sea region. *See id.*

99 As discussed below, Israel and Syria have essentially upheld their obligation to integrate Palestinian refugees and Jordan has done so for the vast majority of those within its borders. *See infra* Part III(A), (B), (E).

100 *See* Fisheries (U.K. v. Nor.), 1951 I.C.J. 116, 131 (Dec. 18) (holding that if alleged principle had acquired CIL status, it would still be "inapplicable as against Norway inasmuch as she has always opposed any attempt to apply it to the Norwegian coast"); Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, 1996 I.C.J. 226, 312 (July 8) (dissenting opinion of Vice President Schwebel) (contending that threatening use of nuclear weapons "is not a practice of a lone and secondary persistent objector"); *see also* MALANCZUK, *supra* note 11, at 43, 47–48 (noting that state must have "expressly and consistently rejected the rule since the earliest days of the rule's existence; dissent expressed after the rule has become well established is too late to prevent the rule [from] binding the dissenting state").

101 OFFICE OF THE U.N. HIGH COMM'R FOR HUMAN RIGHTS, STATUS OF RATIFICATIONS OF THE PRINCIPAL INTERNATIONAL HUMAN RIGHTS TREATIES (2004), *available at* http://www.unhchr.ch/pdf/report.pdf.

102 *See supra* Part II(B).

103 Protocol for the Treatment of Palestinians in Arab States (Casablanca Protocol), Sept. 11, 1965, *translated in* LEX TAKKENBERG, THE STATUS OF PALESTINIAN REFUGEES IN

on an equal basis with citizens and to reside, enter, exit, and travel freely within the borders of the signatory states.[104] Since none of these actors has "expressly and consistently rejected" the principle of long-term refugee integration, they cannot legitimately claim to be persistent objectors.[105]

Part II presented evidence of state citizenship laws and the actual resolution of refugee crises, indicating that state practice generally conforms to the principle of refugee integration. It also discussed various multilateral treaties in which states acknowledged their acceptance of this practice as law. The two elements of CIL, state practice and *opinio juris*, are therefore satisfied. Thus, the principle that host states must integrate long-term refugees residing in their territory has the force of CIL. Part III now evaluates compliance with this principle among states hosting Palestinian refugees and concludes that several of these states have failed to live up to their obligations.

III
HOST STATES FOR PALESTINIAN REFUGEES AND THE PRINCIPLE OF LONG-TERM REFUGEE INTEGRATION

The treatment afforded Palestinian refugees differs greatly among host states.[106] Some states have actively encouraged integra-

---

INTERNATIONAL LAW, Annex 3, at 374–77 (1998) (unofficial English translation) (noting that Lebanon supported Protocol with reservations).

[104] *Id.* Jordan also signed a bilateral agreement with UNRWA that acknowledges its commitment to integrating Palestinian refugees within its borders. Agreement Between the Government of the Hashemite Kingdom of Jordan and UNRWA, Mar. 14–Aug. 20, 1951, 120 U.N.T.S. 394.

[105] *See* MALANCZUK, *supra* note 11, at 48.

[106] As of June 30, 2003, UNRWA had registered approximately 1.7 million refugees in Jordan; 390,000 in Lebanon; 400,000 in Syria; 650,000 in the West Bank; and 900,000 in the Gaza Strip. *See* UNRWA IN FIGURES, *supra* note 43.

While an in-depth discussion of the disputed territories is beyond the scope of this Note, their uncertain status and partial control by the Palestinian Authority (PA) raise complicated legal issues that merit further scholarship and bear brief mention here. One issue is whether CIL requires states to integrate long-term refugees residing in states or territories which they occupy. If so, Egypt and Jordan must answer for violations of this principle in Gaza and the West Bank from 1947 to 1956. Likewise, Israel would hold responsibility from 1956 until at least 1995, as discussed below. Similarly, Syria would be liable for the failure to integrate refugees residing in Lebanon from 1976 to 2005. *See* Tessler, *supra* note 2, at 494–95, 624, 626–27 (discussing Syrian occupation of Lebanon).

Another issue is whether the CIL principle identified in Part II is applicable to the PA, a non-state actor. Since the second round of Oslo Accords in 1995, the PA has exercised administrative control over more than ninety percent of the Palestinian population in the West Bank and Gaza. Palestinian National Authority, Oslo Peace Process, http://www.pna.gov.ps/Government/gov/oslo_peace_process.asp (last visited Jan. 18, 2006). Non-state actors may hold "legal personality" under international law. *See, e.g.*, Emily Ann Berman, Note, *In Pursuit of Accountability: The Red Cross, War Correspondents, and Evidentiary Privileges in International Criminal Tribunals*, 80 N.Y.U. L. REV. 241, 246 (2005) (noting

tion by granting refugees all the benefits and responsibilities of citizenship, while others provide them with few or virtually none of the rights enjoyed by the citizens of those countries.

A. *Palestinian Refugees in Israel*

Following the 1948 War, Israel was faced with both "external" refugees (Jewish refugees from East Jerusalem, the West Bank, and the Gaza Strip,[107] and Jewish residents of Islamic countries who were expelled just prior to the establishment of Israel and during the early years of the state's existence[108]) and "internal" refugees (displaced persons, mainly Arabs, who had to relocate from one part of Israel to another during the war[109]). In 1952, Israel granted citizenship to all individuals then residing within the borders of the state.[110] Refugees thus obtained the same rights to work, attend school, own property, obtain medical care, and access the political and legal systems as all other citizens. Israel has therefore fulfilled its obligations under the CIL principle mandating the integration of long-term refugees.

B. *Palestinian Refugees in Jordan*

At the close of the 1948 War, Palestinians made up approximately half of the combined population of Jordan and the West Bank.[111] Jordan granted citizenship to both refugee and non-refugee Palestinians who had taken up residence in Jordan between December

---

that Red Cross has legal personality). The PA possesses hallmarks of this status, including the ability to enter into binding agreements with state parties, *see* Interim Agreement on the West Bank and the Gaza Strip (Oslo II Agreement), Isr.-P.L.O., art. IX, Sept. 28, 1995, 36 I.L.M. 551, and likely should be held responsible for its failure to integrate refugees after 1995.

107 *See* TESSLER, *supra* note 2, at 276. While the exact number of Jewish refugees who entered Israel from these territories is not known, the West Bank contained a number of important Jewish population centers, and Jews made up a large percentage of the residents of East Jerusalem prior to the outbreak of the 1948 War. *See id.* Indeed, UNRWA's mandate, established by the United Nations General Assembly in 1949, initially included the care and protection of both Arab *and* Jewish refugees. TAKKENBERG, *supra* note 103, at 183.

108 *See supra* notes 68–69 and accompanying text.

109 TESSLER, *supra* note 2, at 281. The number of internal refugees is difficult to estimate, as it appears that accurate records were not kept. However, Palestinian organizations have reported that, as of 2000, approximately 250,000 internal refugees and their descendants were living in Israel, out of a total Israeli-Arab population of about 1,000,000. Salman Abu-Sitta, Palestinian Return Ctr., Where Are They Today?, http://www.prc.org.uk/data/aspx/d4/624.aspx (last visited Feb. 8, 2006).

110 Nationality Law, 5712–1952, 6 LSI 50 (1951–52) (Isr.); TAKKENBERG, *supra* note 103, at 183–84.

111 TAKKENBERG, *supra* note 103, at 155.

20, 1949 and February 16, 1954.[112] These individuals are today completely integrated and have risen to the highest echelons of Jordanian society and government.[113] However, Palestinians who arrived after February 16, 1954, including those fleeing the 1967 War, were not offered citizenship.[114] The United Nations designated this population as "displaced persons" rather than refugees,[115] and they generally are not regarded as refugees by those living in the region.[116] However, while its definition of a "Palestine Refugee" technically does not encompass Palestinians displaced in 1967, UNRWA does provide services to these individuals,[117] and they would certainly be considered "refugees" under UNHCR's definition of the term. Based on the foregoing, it seems that Jordan has fulfilled its obligation to integrate Palestinian refugees from the 1948 War, but has not yet done so with respect to refugees from the 1967 War.

C. *Palestinian Refugees in Egypt*

Egypt had become the state of first refuge for about 11,600 Palestinian refugees (excluding those residing in the Gaza Strip[118]) by the end of the 1948 War.[119] During Nasser's reign Palestinian refu-

---

112 Nationality Law No. 6 of 1954, art. 3 (Jordan), *available at* http://www.unhcr.org/cgi-bin/texis/vtx/home/opendoc.htm?tbl=RSDLEGAL&page=research&id=3ae6b4ea13 (last visited Feb. 3, 2006); *see* TAKKENBERG, *supra* note 103, at 155; Oroub El Abed, *Palestinian Refugees in Jordan*, at 3 (Feb. 2004), *in* UNIV. OF OXFORD, REFUGEE STUDIES CENTRE (2005), *available at* http://www.reliefweb.int/library/RSC_Oxford/data/FMO%20Research%20Guides/PalestiniansJordan.pdf.

113 TAKKENBERG, *supra* note 103, at 156; *see* El Abed, *supra* note 112, at 15–18 (noting equality of legal rights but asserting that discrimination makes public sector jobs difficult to obtain).

114 TAKKENBERG, *supra* note 103, at 156 (noting that these individuals do not have legal permission to work in Jordan, among other disadvantages).

115 *See* UNHCR, *supra* note 88, at 452 (discussing status of "Palestinians who are 'displaced persons' within the sense of UN General Assembly Resolution 2252 . . . and who have been unable to return to the Palestinian territories occupied by Israel since 1967"); G.A. Res. 2252 (ES-V), ¶ 6, U.N. Doc. A/RES/2252 (ES-V) (July 4, 1967) (endorsing efforts "to provide humanitarian assistance, as far as practicable, on an emergency basis and as a temporary measure, to other persons in the area who are at present displaced and are in serious need of immediate assistance as a result of the recent hostilities").

116 Netherlands Delegation, Council of the European Union, *Country Report on Palestinians in Syria*, at 7 n.1, 9 n.3 (2002), *available at* http://register.consilium.eu.int/pdf/en/02/st07/07295en2.pdf (last visited Feb. 11, 2006) (reporting that in Middle East, refugees from 1948 War are called *ladji'ien*, meaning "refugees," while displaced persons from 1967 are called *nazihien*, meaning "emigrants").

117 *See* UNRWA, Jordan Refugee Camp Profiles, http://www.un.org/unrwa/overview/qa.html (last visited Jan. 3, 2006) (classifying "persons displaced as a result of the June 1967 war" as UNRWA beneficiaries).

118 Unlike those in the Gaza Strip, Palestinian refugees residing in Egypt have never received protection or assistance from UNRWA. TAKKENBERG, *supra* note 103, at 150.

119 *Id.*

gees were treated equally with Egyptian nationals, but since the 1970s they have been predominantly dealt with under the laws applicable to non-refugee foreigners and integration has not taken place.[120] For example, Palestinians have difficulty obtaining permission to work in Egypt[121] and are generally not permitted to own property.[122] They do not have access to primary education, medical care, or social benefits provided to Egyptian citizens.[123] Those wishing to achieve higher education must pay their tuition in hard currency.[124] Residents who hold Egyptian passports or travel documents are permitted to exit and reenter the country, but these documents are not sufficient to establish legal residency.[125] While Egypt does grant temporary residence permits to most long-term residents, these permits are only valid for one to three years and Palestinians often have difficulty renewing them.[126] In order to renew their visas Palestinians must pay a fee and show proof that they have spent a minimum amount of Egyptian currency each month.[127] These conditions indicate that Egypt is not in compliance with the CIL principle obligating host states to integrate long-term refugees.

D. Palestinian Refugees in Lebanon

When Palestinian refugees began crossing the border during the 1948 War, the Lebanese government viewed them as a threat to the political and social stability of the country.[128] The majority of Palestinian refugees in Lebanon have the same legal status as non-refugee foreigners and have been prevented from achieving integration in various ways.[129] They must obtain special permission to own property and must apply for a work permit, often denied, in order to seek employment in a variety of sectors.[130] They are denied access to

---

120 *Id.* at 152–53; Oroub El Abed, *Palestinian Refugees in Egypt*, at 3 (July 2004), *in* UNIV. OF OXFORD, *supra* note 112, *available at* http://www.reliefweb.int/library/RSC_Oxford/data/FMO%20Research%20Guides/PalestiniansEgypt.pdf.

121 TAKKENBERG, *supra* note 103, at 153; *see also* El Abed, *supra* note 120, at 8.

122 El Abed, *supra* note 120, at 10.

123 Abbas Shiblak, *Residency Status and Civil Rights of Palestinian Refugees in Arab Countries*, J. PALESTINE STUD., Spring 1996, at 36, 43.

124 TAKKENBERG, *supra* note 103, at 153; Shiblak, *supra* note 123, at 43.

125 TAKKENBERG, *supra* note 103, at 153.

126 *Id.* at 152–53.

127 *Id.*; Shiblak, *supra* note 123, at 40.

128 TAKKENBERG, *supra* note 103, at 162.

129 *Id.* at 163–64; *see also* Shiblak, *supra* note 123, at 39 ("[A]bout fifty thousand Palestinians, mainly Christians or those having family connections, acquired Lebanese nationality in the 1950s and 1960s.").

130 TAKKENBERG, *supra* note 103, at 164; *see also* Wadie Said, *The Palestinians in Lebanon: The Rights of the Victims of the Palestinian-Israeli Peace Process*, 30 COLUM. HUM. RTS. L. REV. 315, 324 (1999) ("Unemployment is extremely high among the

government services such as education, medical care, and social benefits.[131] Although social security deductions are taken from the wages earned by Palestinians working legally in Lebanon, they are not eligible for social security benefits.[132] Lebanon issues travel documents to Palestinian refugees, but these documents often are not valid for return to Lebanon.[133] The harsh restrictions and government-imposed disadvantages suffered by the Palestinians in Lebanon indicate that the country is in violation of the CIL principle requiring integration of long-term refugees.

E. Palestinian Refugees in Syria

Shortly after the conclusion of the 1948 War, Syria passed laws giving Palestinians a status equal to that of Syrian nationals.[134] It is not necessary for Palestinians to acquire a permit in order to work, and they are permitted to own more than one commercial enterprise.[135] They may travel freely and settle anywhere in the country.[136] Palestinians are eligible to receive free secondary education from government schools and are granted equal access to Syrian universities.[137] Palestinians are still subject to certain restrictions with which Syrian nationals are not burdened. For example, Palestinians residing in Syria may not vote, and they are not permitted to own multiple homes.[138] In addition, despite the fact that they have not been offered citizenship, Palestinian refugees are subject to compulsory service in the Syrian army.[139] Nevertheless, Palestinian refugees in Syria enjoy equality with Syrian citizens in most aspects of their lives and have achieved a significant degree of integration.

Palestinians in Lebanon, who are legally permitted to work in very few industries in Lebanon without a work permit, which is rarely ever granted."); Shiblak, *supra* note 123, at 42 (noting complete exclusion of Palestinians from certain professions); *id.* at 44 ("In some exceptional cases, it is possible to buy a personal residence, but the procedure is expensive and takes years.").

131 Shiblak, *supra* note 123, at 43; *see also* Said, *supra* note 130, at 335 ("Palestinians are not allowed to use Lebanese government hospitals or other government related health services.").

132 TAKKENBERG, *supra* note 103, at 164; Shiblak, *supra* note 123, at 43.

133 TAKKENBERG, *supra* note 103, at 164–65.

134 Netherlands Delegation, *supra* note 116, at 17; TAKKENBERG, *supra* note 103, at 167–68.

135 Netherlands Delegation, *supra* note 116, at 18.

136 *Id.*

137 *Id.* at 17; TAKKENBERG, *supra* note 103, at 167–68.

138 Netherlands Delegation, *supra* note 116, at 18; TAKKENBERG, *supra* note 103, at 167–68; Shiblak, *supra* note 123, at 44–45.

139 Netherlands Delegation, *supra* note 116, at 18; TAKKENBERG, *supra* note 103, at 168.

CONCLUSION

As this Note has illustrated, CIL requires host states to integrate long-term refugees living within their borders. After evaluating the situation faced by Palestinian refugees today, it is clear that certain host states have failed to integrate this population in accordance with the obligations of CIL. While Israel and Syria have complied with CIL in this regard and Jordan is for the most part compliant, the other states in the region have integrated Palestinian refugees to a far lesser extent. Egypt and Lebanon have never extended equal rights to the vast majority of Palestinian refugees residing in their territories and, in many ways, have affirmatively prevented their integration into the economic, social, and political life of their countries. The failure of these states to integrate Palestinian refugees, after sixty years in limbo, constitutes a violation of the CIL principle requiring host states to integrate long-term refugees.

APPENDIX

TABLE 1: SUMMARY OF NATURALIZATION LAWS BY STATE

Code for naturalization requirements:

1 = Jus soli
2 = No additional requirements, or special provisions for stateless persons
3 = Minimal additional requirements
4 = Additional requirements, which some refugees may not meet
5 = Discretionary naturalization
6 = Naturalization generally unavailable or within narrow circumstances
7 = Insufficient information
† = Provisions for naturalization of refugee populations persisting for two generations

Country	Code	Other conditions for naturalization (not including age, length of residence, or renunciation of former citizenship)[i]	Pop. (x 1000)[ii]
Afghanistan	2		28,514
Albania	7		3,545
Algeria	2		32,129
Andorra	6†	"Andorran citizenship is very difficult to obtain" (Exception for child whose non-citizen parent was also born in Andorra)	70
Angola	2		11,521
Antigua & Barbuda	1		68
Argentina	1		39,145
Armenia	4	Able to communicate in Armenian, familiar with Constitution	2,991
Australia	3	Good character, basic knowledge of English	19,913
Austria	2		8,175
Azerbaijan	7		7,868

[i] INVESTIGATIONS SERV., U.S. OFFICE OF PERS. MGMT., CITIZENSHIP LAWS OF THE WORLD (2001).

[ii] U.S. CENSUS BUREAU, INTERNATIONAL DATA BASE SUMMARY DEMOGRAPHIC DATA (2005), http://www.census.gov/ipc/www/idbsum.html. This Appendix lists population figures for 2004, the last year for which fully updated demographic data was available.

Country	Code	Other conditions for naturalization (not including age, length of residence, or renunciation of former citizenship)	Pop. (x 1000)
Bahamas	3	Good character, knows language and customs	300
Bahrain	5	Permission from ruler	678
Bangladesh	6	Invest $5 million	141,340
Barbados	1		278
Belarus	2		10,311
Belgium	2		10,348
Belize	1		274
Benin	2		7,438
Bhutan	5	Permission of government	2,186
Bolivia	1		8,724
Bosnia & Herzegovina	7		4,346
Botswana	3	Good character, sufficient knowledge of Setswana	1,639
Brazil	1		184,101
Brunei	6	Marriage or adoption	365
Bulgaria	2		7,518
Burkina Faso	2		13,093
Burundi	2		7,516
Cambodia	4†	Knows language and culture, steady means of support, good moral character (exception for child whose non-citizen parents were also born in Cambodia)	13,396
Cameroon	2		16,637
Canada	1		32,508
Cape Verde	2		415

Country	Code	Other conditions for naturalization (not including age, length of residence, or renunciation of former citizenship)	Pop. (x 1000)
Central African Republic	1		4,172
Chad	4	Good health and morality	9,377
Chile	1		15,824
China	2		1,298,848
Colombia	2		42,311
Comoros	7		652
Congo, Democratic Republic of the	2		58,919
Congo, Republic of	2		3,502
Costa Rica	1		3,957
Côte d'Ivoire	2		16,945
Croatia	3	Proficient in Croatian, attachment to legal system and culture	4,497
Cuba	1		11,309
Cyprus	7		776
Czech Republic	3	Knowledge of Czech, no criminal convictions in past five years	10,246
Denmark	2		5,413
Djibouti	2		467
Dominica	7		69
Dominican Republic	1		8,916
Ecuador	1		13,213
Egypt	5	Presidential decree	76,117
El Salvador	1		6,588
Equatorial Guinea	1		518

Country	Code	Other conditions for naturalization (not including age, length of residence, or renunciation of former citizenship)	Pop. (x 1000)
Eritrea	4	Speaks Eritrean, adequate financial support, no criminal convictions	4,554
Estonia	3	Familiar with Estonian, not convicted of serious crime	1,342
Ethiopia	7		71,337
Fiji	2		881
Finland	2		5,215
France	1		60,424
Gabon	2		1,363
Gambia	1		1,549
Georgia	7		4,694
Germany	5†	Discretion of German Naturalization Authority (exception for child whose non-citizen parent has lived in Germany for eight years)	82,425
Ghana	5	Permission of Parliament	21,483
Greece	2		10,648
Grenada	1		89
Guatemala	1		11,735
Guinea	2		9,234
Guinea-Bissau	1		1,386
Guyana	1		763
Haiti	2		7,942
Honduras	1		7,007
Hungary	2		10,032
Iceland	4	Job or means of support	294
India	1		1,065,071

Country	Code	Other conditions for naturalization (not including age, length of residence, or renunciation of former citizenship)	Pop. (x 1000)
Indonesia	4	Knows Indonesian language and history, no criminal record, good mental and physical health, regular means of support	238,453
Iran	2		67,503
Iraq	7		25,375
Ireland	1		3,970
Israel	2		6,199
Italy	2		58,057
Jamaica	1		2,712
Japan	2		127,333
Jordan	2		5,611
Kazakhstan	2		15,144
Kenya	3	Good character, adequate knowledge of Swahili	32,982
Kiribati	2		101
Korea, North	2		22,698
Korea, South	5	Permission of Minister of Justice	48,426
Kuwait	5	Special act of government	2,258
Kyrgyzstan	2		5,081
Laos	5	Permission from National Assembly	6,068
Latvia	7		2,306
Lebanon	5	Decree from Lebanon Council of Ministers	3,777
Lesotho	1		2,039
Liberia	6	"[O]nly persons who are Negroes or of Negro descent shall qualify"	2,807
Libya	4	Good morality and mental health	5,632
Lithuania	2		3,608

Country	Code	Other conditions for naturalization (not including age, length of residence, or renunciation of former citizenship)	Pop. (x 1000)
Luxembourg	5	Granted through Legislature or subject to approval of Minister of Justice	463
Madagascar	4	Good character, good mental and physical health, no criminal convictions in past year	17,502
Malawi	6	"[O]f an African race or has Commonwealth or Malawian ties"	12,407
Malaysia	7		23,522
Maldives	5	Discretion of President of the Republic	339
Mali	2		11,126
Malta	2		397
Marshall Islands	2		58
Mauritania	2		2,999
Mauritius	1		1,220
Mexico	1		104,960
Micronesia	6	Child or spouse of citizen	108
Moldova	2		4,446
Monaco	2		32
Mongolia	5	Approval of President's Office	2,751
Morocco	5	Approval by Cabinet decree	32,209
Mozambique	2		19,112
Myanmar	6	"Acquisition of Myanmar citizenship by foreign nationals is limited"	46,520
Namibia	2		2,014
Nauru	2		13
Nepal	1		27,071
Netherlands	3	Able to speak Dutch	16,318
New Zealand	1		3,994

Country	Code	Other conditions for naturalization (not including age, length of residence, or renunciation of former citizenship)	Pop. (x 1000)
Nicaragua	1		5,360
Niger	1		11,810
Nigeria	4	Good character, familiar with Nigerian language and customs, means of support	125,744
Norway	3	Record of good conduct, owes less than 20,000 kroner in child support	4,575
Oman	6	Marriage or special decree	2,903
Pakistan	1		159,196
Palau	6	No opportunity for naturalized citizenship	20
Palestinian National Authority	7		3,636
Panama	1		3,090
Papua New Guinea	2		5,420
Paraguay	1		6,191
Peru	1		27,544
Philippines	4	Means of livelihood and permanent residence, familiar with customs and language	86,242
Poland	2		38,580
Portugal	4	Knowledge of Portuguese, good moral character and civil record, means of support	10,524
Qatar	4	Lawful means of living, good character, fair command of Arabic	840
Romania	4	Proficient in Romanian, pass test on culture and history	22,356
Russia	2		143,974
Rwanda	3	"[N]ot hostile to the democratic and republican ideals of Rwanda"	8,239
St. Kitts & Nevis	1		39
St. Lucia	1		164
St. Vincent & the Grenadines	1		117

Country	Code	Other conditions for naturalization (not including age, length of residence, or renunciation of former citizenship)	Pop. (x 1000)
Samoa	1		178
Sao Tome	2		182
Saudi Arabia	6	No automatic grant of right to apply for naturalization	25,796
Senegal	5	Permission of Department of Justice	11,426
Seychelles	2		81
Sierra Leone	4	Has observed laws, contributed to development of country	5,732
Singapore	3	Good character, knowledge of language	4,354
Slovakia	2		5,424
Slovenia	2		2,011
Solomon Islands	7		524
Somalia	7		8,305
South Africa	7		44,448
Spain	2		40,281
Sri Lanka	7		19,905
Sudan	4	Knows Arabic, good morality and health, committed no crimes	39,148
Suriname	7		437
Swaziland	4	Has contributed to the development of the country	1,138
Sweden	3	Has led a respectable life	8,986
Switzerland	4	Integrated into Swiss life, knows customs and laws, not a security threat	7,451
Syria	6	Marriage to a citizen	18,017
Taiwan	4	Good character, sufficient property or skill to make an independent living	22,750
Tajikistan	7		7,012
Tanzania	2		36,071
Thailand	4	Displayed good behavior, regular occupation, knowledge of Thai language	63,731

Country	Code	Other conditions for naturalization (not including age, length of residence, or renunciation of former citizenship)	Pop. (x 1000)
Togo	3	No criminal record	5,255
Tonga	5	Discretion of the King	110
Trinidad & Tobago	1		1,084
Tunisia	4	No criminal record, knowledgeable of Arabic, good health and character	9,975
Turkey	2		68,894
Turkmenistan	7		4,863
Tuvalu	1		11
Uganda	7		26,390
Ukraine	4	Able to function in Ukrainian, knowledgeable of Constitution	47,310
United Arab Emirates	2		2,524
United Kingdom	3	Good character, sufficient knowledge of English, Welsh, or Scottish Gaelic	60,271
United States of America	1		293,028
Uruguay	1		3,399
Uzbekistan	4	Gainful employment	26,410
Vanuatu	1		203
Venezuela	1		25,017
Vietnam	3	Knows Vietnamese	82,663
Western Sahara	7		267
Yemen	6	Special skills/talents needed by the country	20,025
Yugoslavia	7		10,826
Zambia	1		11,026
Zimbabwe	6	Skills needed by the country, relative of a citizen, or willing to invest money	12,084