



Legal Q&A: Yarmouk

“Yarmouk has come to symbolize the severe human suffering experienced by civilians in the Syria conflict. It symbolizes the recurring dispossession and displacement of Palestinian refugees for more than six decades.”

Pierre Krähenbühl, Commissioner General for the United Nations Relief and Works Agency

What were the living conditions like in Yarmouk preceding the Syrian civil war?

Yarmouk, a densely-populated residential area located approximately 8km south of the centre of Damascus, is home to the largest Palestinian refugee community in Syria. Before the civil war some 180,000 Palestinian refugees and several hundred thousand Syrian nationals lived in Yarmouk.¹ Living conditions in Yarmouk were superior to other Palestinian refugee camps in neighbouring countries with Yarmouk more closely resembling a residential district rather than a refugee camp. Palestinian refugees were integrated and respected within Syria’s social fabric, with literacy and numeracy rates among Palestinians in Yarmouk among the highest not just in Syria, but across the Arab world.²

Law 260/1957 adopted by the Syrian Government on the 7th October 1956, grants Palestinian refugees similar status as Syrian citizens.³ They have almost the same rights and duties as Syrian citizens, except citizenship and political participation.⁴ Palestinian refugees in Syria have equal rights with Syrians in many areas, for example in the areas of labour and employment, trade,

1 Amnesty International, ‘Squeezing the Life out of Yarmouk: War crimes against besieged civilians’ (2014) <<http://www.amnestyusa.org/sites/default/files/mde240082014en.pdf>>

2 BBB News ‘Profile: Yarmouk Palestinian refugee camp’ (7 April 2015) <<http://www.bbc.co.uk/news/world-middle-east-20773651>> accessed 25th May 2015

3 BADIL Resource Center for Palestinian Residency and Refugee Rights, ‘Refugee & IDP Rights’ <<http://www.badil.org/en/refugee-a-idp-rights>> accessed 23rd May 2015

4 Askem Khalil, ‘Palestinian Nationality and Citizenship: Current challenges and future perspectives’ (Euro-Mediterranean Consortium for Applied Research on International Migration “CARIM” Research Report, 2007/07) <<http://cadmus.eui.eu/bitstream/handle/1814/8162/CARIM%20RR-2007-07.pdf?sequence=1>>



and military service.⁵ Palestinian refugees are also able to maintain their right to Palestinian nationality.⁶

When did the Syrian civil war start and how have Palestinian refugees in Syria been affected?

In March 2011, pro-democracy protests began in the Southern city of Deraa, which was met by excessive force by Syrian government security forces. The unrest triggered nationwide protests and an escalation of violence which descended into a civil war and humanitarian crisis. The humanitarian crisis has been described as the world's largest since World War II⁷.

Palestinian refugees have been particularly affected by the civil war in Syria. 64 per cent of registered Palestinian refugees have been displaced, with 280,000 Palestinian refugees internally displaced and a further 80,000 displaced abroad. A total of 560,000 registered Palestinian refugees are in need of humanitarian assistance.⁸

How has the Syrian civil war affected the Palestinian refugees and Syrians living in Yarmouk?

Yarmouk's close proximity to Damascus has made it a key battleground for both rebel groups and government forces. In late 2012, the opposition Free Syrian Army established a presence in Yarmouk and clashed with government forces and members of the Popular Front for the Liberation of Palestine (PFLP).⁹ On 16 December 2012, government forces retaliated by aerial bombardment, killing 10 civilians, and imposed a siege that has remained in place ever since. The siege has severely restricted residents' movement in and out of Yarmouk and access to functioning state services.¹⁰

5 Nabil Mahmoud as-Sahly, 'Profiles: Palestinian Refugees in SYRIA' (1999) <<http://www.badi.org/en/al-majdal/item/518-profiles-palestinian-refugees-in-syria>> accessed 25th May 2015

6 Ibid.

7 http://ec.europa.eu/echo/files/aid/countries/factsheets/syria_en.pdf

8 United Nations Office for the Coordination of Humanitarian Affairs, 'Syria Crisis: About the Crisis' (2015). <<http://www.unocha.org/syrian-arab-republic/syria-country-profile/about-crisis>> accessed 15 June 2015

9 Amnesty International, n 1, p 7

10 Nidal Bitari, 'Yarmuk Refugee Camp and the Syrian Uprising: A View from Within' (2013) 43(1) Journal of Palestine Studies <http://www.palestine-studies.org/jps/fulltext/162936> accessed 7 June 2015



As of 1 April 2015, approximately 18,000 Yarmouk residents remain trapped under siege in Yarmouk, including 3,500 children; forced to live in the wreckages of their homes.¹¹ This amounts to approximately ten percent of the pre-conflict Palestinian refugee population in Yarmouk. There are thousands of Yarmouk's residents wounded, maimed, or victim to illness, and unable to access medical treatment. It was reported in April 2014 by Amnesty International that no surgeons remained at Palestine Hospital.¹² Without access to humanitarian aid, Yarmouk's residents are on the brink of starvation, forced to forage for any food that they can find.¹³ International aid groups have been able to do very little because entering and leaving the camp is stringently controlled and at times, strictly prohibited.

The priority for the United Nations Relief and Works Agency (UNRWA) remains the delivery of humanitarian aid and critical medical support to civilians within Yarmouk itself.¹⁴ UNRWA has highlighted that without access to Yarmouk, the most basic humanitarian needs of up to 18,000 Palestinian and Syrian civilians, including 3,500 children, continue to be left unmet.¹⁵

To support UNRWA's efforts to assist trapped Palestinian refugees in Yarmouk, the United Nations Security Council issued a three-point plan in April 2015: assistance for civilians in the camp, assisting those wanting to 'temporarily relocate' from the camp in accordance with international humanitarian law, and assisting residents who have already fled.¹⁶ UNRWA is working to establish distribution points to allow it to provide assistance to those still trapped in Yarmouk and also to enhance assistance to those who have fled to nearby areas.¹⁷ UNRWA is also currently appealing for a total of \$30 million USD for immediate life sustaining assistance to the 18,000 Palestinian refugees remaining in Yarmouk.¹⁸

11 Pierre Krähenbühl, 'Yarmouk: emergency call for funds', (2015) <http://www.unrwa.org/sites/default/files/yarmouk_emergency_call_for_funds.pdf> accessed 25th May 2015

12 Amnesty International, 'Briefing note on sieges across Syria' (16 April 2014) <http://www.amnesty.org.uk/sites/default/files/briefing_note_on_sieges_across_syria_-_16_april_2014.pdf> Last accessed 23rd May 2015>

13 Ibid.

14 Pierre Krähenbühl, n 44

15 UNRWA, 'Alleviating the suffering of displaced civilians from Yarmouk' (19 May 2015) <<http://www.unrwa.org/galleries/photos/alleviating-suffering-displaced-civilians-yarmouk>> accessed 24th May 2015

16 UN News Centre, 'Security Council 'deeply concerned' about humanitarian situation for refugees in Yarmouk camp' (20 April 2015) <http://www.un.org/apps/news/story.asp?NewsID=50636#_VWSghk_BzGc> accessed 24th May 2015

17 Ibid

18 UN News Center, 'Syria: UN agency appeals for \$30 million to help besieged civilians in Yarmouk camp' (17 April 2015) <http://www.un.org/apps/news/story.asp?NewsID=50616#_VX6hknNViko> accessed 15 June 2015



How is international humanitarian law engaged by the attacks on Yarmouk?

Palestinians and Syrians trapped in Yarmouk face sporadic bombing and shelling by the Assad government as it seeks to combat rebel groups, such as the Free Syrian Army, Jabhat al-Nusra and most recently, ISIL, that have taken up positions in the camp.¹⁹ Human rights groups have reported that assaults by the Syrian Government on Yarmouk have included indiscriminate and disproportionate aerial shelling and bombing, including the use of barrel bombs.²⁰ The Chair of the Independent International Commission of Inquiry on the Syrian Arab Republic has reported that this type of indiscriminate bombardment of civilian populated areas “has been a major component of the Syrian State forces strategy in the on-going conflict”.²¹

Indiscriminate aerial shelling and bombing on neighbourhoods like Yarmouk has damaged civilians objects including homes, medical facilities, schools, water and electrical facilities.²² A medical worker in Yarmouk has described that “the main injuries [in the camp] are caused by sniping and shelling...”.²³

Syrian government use of force clearly appears not to have distinguished between civilian or military objectives as required by international law.²⁴ The principle of distinction, under customary international humanitarian law, requires that all parties to any conflict must distinguish between civilians and combatants, and accordingly any attack must only be directed against combatants.²⁵ This fundamental principle of international humanitarian law also requires that parties distinguish between civilian objects and military objects.²⁶

¹⁹ Ibid.

²⁰ Euro-Mediterranean Human Rights Network, ‘Syria: Urgent call to protect civilians caught between fires in besieged Yarmouk Camp’ (2015) <<http://euromedrights.org/publication/syria-urgent-call-to-protect-civilians-caught-between-fires-in-besieged-yarmouk-camp/>>

²¹ Paulo Sergio Pinheiro, ‘The use of barrel bombs and indiscriminate bombardment in Syria: the need to strengthen compliance with international humanitarian law’, (Statement presented at Geneva side event 12 March 2015) <<http://www.ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/CoISyriaIndiscriminateBombardment12032015.pdf>>

²² Ibid

²³ Amnesty International, ‘Syria: Barrel bombs and sniper attacks compound misery of civilians besieged in Yarmouk’ (8 April 2015) <<https://www.amnesty.org/en/latest/news/2015/04/syria-barrel-bombs-and-sniper-attacks-compound-misery-of-civilians-besieged-in-yarmouk/>> accessed 7 June 2015

²⁴ Jean-Marie Henckaerts and Louise Doswald-Beck (eds), ‘Red Cross study, Customary International Humanitarian Law: Volume 1: Rules’ (2005) Rule 11, page 38-40 (“ICRC Customary IHL Study”) <<https://www.icrc.org/eng/assets/files/other/customary-international-humanitarian-law-i-icrc-eng.pdf>>

²⁵ ICRC Customary IHL Study, Rule 1, page 5-8

²⁶ ICRC Customary IHL Study, Rule 12, page 40-43



Alongside the principle of distinction, customary international humanitarian law prohibits disproportionate attacks that “cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated”.²⁷

In April 2015, ISIL, in alliance with the Al-Queda linked Jabhat Al Nusra, attacked and seized Yarmouk, killing at least 18 civilians, including a 12 year old girl.²⁸ Residents of Yarmouk told human rights groups that the government responded by dropping some 25 barrel bombs on civilian populated areas.²⁹ On 1 April 2015, the Palestine Hospital was targeted and struck by a missile, injuring at least six medical personnel.³⁰ On 4 April 2015, the predominately civilian neighbourhoods of Palestine Street, Mansoureh Street and Matryrs’ Cemetery were struck, reportedly causing a number of casualties and injuries.³¹ These areas are predominately made up of civilian homes, schools and health care facilities. These attacks raise serious concerns that they were committed in serious violation of the international humanitarian principles of distinction and proportionality.

Indiscriminate attacks that cause the deaths of civilians, or attacks that cause excessive incidental civilian death or injury because they are disproportionate, constitute war crimes under customary international law.³²

International law requires that all parties to any armed conflict take all necessary precautions to prevent civilian casualties.³³ This includes taking precautions to protect civilian populations and objects from the dangers arising from military operations.³⁴ No apparent precautions have been taken by Syrian armed forces or rebel groups to protect civilians in Yarmouk from the dangers caused by the armed conflict.

27 ICRC Customary IHL Study, Rule 14, pages 48-49

28 Amnesty International, ‘Press Release: Syria: 12-year-old girl among at least 18 civilians killed in Yarmouk’ (8 April 2015) <<http://www.amnesty.org.uk/press-releases/syria-12-year-old-girl-among-least-18-civilians-killed-yarmouk>>

29 Ibid

30 Euro-Mediterranean Human Rights Network, n 14; Amnesty International, n 20

31 Ibid

32 ICRC Customary IHL Study, Rule 156, page 601

33 ICRC Customary IHL Study, Rules 15 – 21, pages 51-67

34 ICRC Customary IHL Study, Rule 22, page 68 – 71



What is the humanitarian impact of the siege on Yarmouk and are the international law prohibitions on collective punishment and starvation engaged?

Since April 2013, electricity has not been supplied to Yarmouk, which has significantly affected functioning of hospital and medical facilities. Since July 2013, except for a few occasions, all people, food and goods, including medical supplies, have been prevented from entering or leaving Yarmouk because of a siege imposed by the Syrian armed forces.³⁵

As of 25 February 2014, 194 civilians in Yarmouk are reported to have lost their lives, with 128 of these deaths caused by starvation.³⁶ Poverty and hunger have become so widespread and access to medical treatment is almost completely impossible.³⁷ Of the 194 deaths, 51 died because of a lack of medical care. In December 2013 and January 2014 three women and five newborn babies died because the hospital was unable to give them the medical treatment they needed.³⁸ Amnesty International reported in April 2015 that “for civilians still trapped in Yarmouk life is an agonizing struggle for survival”.³⁹

State practice establishes as a rule of customary international law that parties to an armed conflict must allow and facilitate the unimpeded passage of humanitarian relief.⁴⁰ The Fourth Geneva Convention requires States to “allow the free passage of all consignments of medical and hospital stores” intended only for civilians and “the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases”.⁴¹ Common Article 3 to the four Geneva Conventions, which applies to situations of non-international armed conflict, provides that “an impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict”.

35 Amnesty International, n 1, 7-9

36 Amnesty International, n 1, page 9-10

37 Nidal Bitari, n 10

38 Amnesty International n 1

39 Amnesty International n 28

40 ICRC Customary IHL Study, Rule 55 page 194

41 Fourth Geneva Convention, Article 23



In April 2015, the International Committee of the Red Cross (ICRC) reported they had not been able to access Yarmouk since October 2014.⁴² In June 2015, the ICRC reported they had accessed areas in rural Damascus, but not Yarmouk.⁴³ UNRWA provides humanitarian aid to civilians displaced from Yarmouk in neighbouring areas, but has been unable to access Yarmouk itself since 28 March 2015.⁴⁴

The Syrian government's prevention of humanitarian access to provide food, water and medical care in this way clearly appears to violate customary international law. The denial of humanitarian relief access to Yarmouk, if amounting to collective punishment, also constitutes a war crime.⁴⁵

Furthermore, customary international humanitarian law prohibits the use of starvation of the civilian population as a method of warfare.⁴⁶ Under the Rome Statute of the International Criminal Court (Rome Statute), “intentionally using starvation of civilians as a method of warfare” is a war crime in international armed conflicts⁴⁷ – but not for non-international armed conflicts. The intentional deprivation of access to food to a civilian population can amount to crimes against humanity under the Rome Statute – see more below.

The prolonged siege of Yarmouk, characterised by the disabling of basic amenities and services and the denial of access of humanitarian relief, has had the effect of starving the civilian population. This accordingly constitutes a prima facie violation of the prohibition of starvation under international humanitarian law.

⁴² International Committee of the Red Cross “ICRC”, ‘Syria: civilians in Yarmouk camp need immediate help’ (news release, 9 April 2015) <<https://www.icrc.org/en/document/syria-yarmouk-refugees>>

⁴³ ICRC ‘Syria: Access to stressed health-care system deteriorates’ (video, 18 June 2015) <<https://www.icrc.org/en/document/syria-access-stressed-health-care-system-deteriorates>>; ICRC, ‘Tens of thousands in dire need of basic services in Syrian town’ (news release 18 June 2015) <<https://www.icrc.org/en/document/tens-thousands-dire-need-basic-services-syrian-town>> accessed 25 June 2015.

⁴⁴ United Nations Relief and Works Agency, ‘SYRIA – Humanitarian Snapshot, May 2015’ (26 June 2015) <http://www.unrwa.org/sites/default/files/syria_pr_unrwa_snapshot_may_2015.pdf> accessed 7 July 2015

⁴⁵ ICRC Customary IHL Study, Rule 103, page 374-375; see also, Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Annex: Regulations Concerning the Laws and Customs of War on Land, 18 October 1907, Article 50; Geneva Convention Relative to the Treatment of Prisoners of War (Third Geneva Convention), 12 August 1949, 75 UNTS 135, Article 87; Geneva Convention Relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention), 12 August 1949, 75 UNTS 287, Article 33

⁴⁶ ICRC Customary IHL Study, Rule 53, page 186

⁴⁷ http://www.icc-cpi.int/nr/rdonlyres/ea9aef77-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf



Can there be individual criminal accountability for violations of international law in Yarmouk?

Customary international law requires individuals be held criminally responsible for war crimes. Trials at the International Criminal Tribunal for the Former Yugoslavia (ICTY) and International Criminal Tribunal for Rwanda (ICTR) confirm that individuals are criminally responsible for war crimes in non-international armed conflicts. The ICTY in the Tadic case specifically concluded that there was individual criminal responsibility for war crimes committed in non-international armed conflicts.⁴⁸ The UN Security Council, General Assembly and Human Rights Council have repeatedly recalled that there is individual criminal responsibility for war crimes committed in non-international armed conflict.⁴⁹ Individual criminal responsibility for war crimes committed by the Syrian armed forces and rebel groups in Yarmouk could apply to individuals at all levels of government and military.

The apparent indiscriminate and disproportionate attacks described above constitute ‘serious violations of the laws and customs applicable in an armed conflict not of an international character,’ and are classified as war crimes under Article 8 of Rome Statute. The attacks described above also appear to engage Article 7 of the Rome Statute, which provides that “the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population” may constitute crimes against humanity if committed “as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”.⁵⁰

⁴⁸ Prosecutor v. Dusko Tadic (Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction), IT-94-1, International Criminal Tribunal for the former Yugoslavia (ICTY), 2 October 1995.

⁴⁹ See, e.g., UN Security Council Res. 771 (13 August 1992) UN Doc S/RES/771; UNSC Res. 780 (6 October 1992) UN Doc S/RES/780; UNSC Res. 794 (3 December 1992) UN Doc S/RES/794; UNSC Res. 808 (22 February 1993) UN Doc S/RES/808; UNSC Res. 814 (26 March 1993) S/RES/814; UNSC Res. 820 (17 April 1993) UN Doc S/RES/820; UNSC Res. 827 (25 May 1993) UN Doc S/RES/827; UNSC Res. 859 (24 August 1993) UN Doc S/RES/859; UNSC Res. 913 (22 April 1994) UN Doc S/RES/913; UNSC Res. 935 (1 July 1994) UN Doc S/RES/935; UNSC Res. 955 (8 November 1994) UN Doc S/RES/955; UNSC Res. 1009 (10 August 1995) UN Doc S/RES/1009; UNSC Res. 1012 (28 August 1995) UN Doc S/RES/1012; UNSC Res. 1034 (21 December 1995) UN Doc S/RES/1034; UNSC Res. 1072 (30 August 1996) UN Doc S/RES/1072; UNSC Res. 1087 (11 December 1996) UN Doc S/RES/1087; UNSC Res. 1193 (28 August 1998) S/RES/1193; UNSC Res. 1315 (14 August 2000) UN Doc S/RES/1315; UN General Assembly, Res. 47/121 (18 December 1992) UN Doc A/RES/47/121; UNGA Res. 48/143 (20 December 1993) UN Doc A/RES/48/143; UNGA Res. 48/153 (20 December 1993) UN Doc A/RES/48/153; UNGA Res. 49/10 (3 November 1994) UN Doc A/RES/49/10; UNGA Res. 49/196 (23 December 1994) A/RES/49/196; UNGA Res. 49/205 (23 December 1994) UN Doc A/RES/49/205; UNGA Res. 49/206 (23 December 1994) UN Doc A/RES/49/206; UNGA Res. 50/192 (23 February 1996) UN Doc A/RES/50/192; UNGA Res. 50/193 (11 March 1996) UN Doc A/RES/50/193; UNGA Res. 51/108 (12 December 1996) UN Doc A/RES/51/108; UNGA Res. 51/115 (7 March 1997) UN Doc A/RES/51/115

⁵⁰ UN General Assembly, ‘Rome Statute of the International Criminal Court’ (17 July 1998), Article 7



Can the International Criminal Court provide accountability for alleged serious crimes in Yarmouk?

Although Syria is not a state party to the Rome Statute, the civil war in Syria can be referred to the International Criminal Court (ICC) by the UN Security Council. In February 2013, the UN-appointed Commission of Inquiry on the Syrian Arab Republic concluded that the ICC is the appropriate venue to pursue accountability in Syria.⁵¹ On 22 May 2014, an attempt by the Security Council to refer the situation in Syria to the ICC was vetoed by China and Russia.⁵² The Security Council resolution, which was backed by the other 13 members of the Council, would have given the ICC the mandate to investigate the alleged serious crimes committed during the course of the conflict in Syria since March 2011, including in Yarmouk.

Has LPHR done any work on the situation in Yarmouk?

LPHR has sent two urgent actions letters to the UK Foreign Secretary concerning the situation in Yarmouk. The [first](#) was sent in December 2012 and the [second](#) in April 2015. Our last letter urged the UK government to take a lead role in the international community to ensure concerted intervention to protect the civilian population of Yarmouk in accordance with international law. The specific measures that LPHR requested be urgently undertaken are:

- ensure secure humanitarian access to Yarmouk for the purpose of facilitating life-saving assistance and an orderly and safe evacuation of civilians who wish to leave ;
- clearly demand that all parties respect and comply with their obligations under international humanitarian law and human rights law to ensure the protection of civilians in Yarmouk, including respect for the right to life; and
- secure legal accountability for any individual who commits war crimes.

The UK governments' response to our second letter can be viewed [here](#).

LPHR will continue to monitor and assess the catastrophic situation in Yarmouk.

LPHR gives special thanks to Daniel Lawrence and Jasmine Bugg for their excellent work preparing this Q&A.

⁵¹ <http://www.ohchr.org/EN/HRBodies/HRC/ICISyria/Pages/IndependentInternationalCommission.aspx>

⁵² <http://www.un.org/apps/news/story.asp?NewsID=47860#.VaASAPIViko>