

Stateless Palestinians

by Abbas Shiblak

Palestinians are the largest stateless community in the world. Statelessness has dominated and shaped the lives of four generations of Palestinian refugees since their exodus in 1948.

One of the main objectives of the Zionist scheme in Palestine was eradication of Palestine from the map, both as a political entity and a basis of nationality. Today more than half of the eight million or so Palestinians are considered to be *de jure* stateless persons. These fall broadly into three categories:

- holders of the 'Refugee Travel Document' (RTD) issued by Syria, Lebanon, Egypt, Iraq and some other Arab countries
- holders of nationalities of convenience – mainly temporary Jordanian passports
- holders of the Palestinian passport issued by the Palestinian Authority (PA) which is considered as a travel document pending formation of a fully-fledged Palestinian state.

All persons legally resident and registered, born or naturalised in Palestine under the British Mandate (1919-1948) were British Protected Persons, holders of British (Palestine) passports. Citizenship in both Jewish and Arab states – proposed by the Partition Plan set out in UN Res. 181 in 1947 – was meant to be granted to all inhabitants. However, when Britain promptly ended its mandate on 15 May 1948, it was left to the successor state, Israel, to determine entitlement to nationality.

Israeli policy has been, and still is, is to reduce the number of Palestinian Arabs while increasing the number of Jewish immigrants, who, it must be remembered, were the minority, even in the areas originally demarcated for the Jewish State under the Partition Plan. To ensure Judaisation, Israel issued three laws within four years of its foundation: the Absentees' Property Law, the Law of Return and the Israel Citizenship Law. These nullified the rights of the displaced

non-Jewish population to return to their homes while endorsing the right of any Jew – regardless of place of origin – to unrestricted immigration and automatic citizenship.

Similar policies were pursued following occupation of the West Bank in 1967. In defiance of international law, Israel considers all Palestinians inhabitants of the occupied Palestinian territory (OPT) as non-citizens and foreign residents. The 250,000 Palestinians who happened to be outside the OPT when they were occupied were not allowed to return. Israeli military rule (the ironically-named Civil Administration) issued a series of orders withdrawing IDs from thousands of Palestinians as a result of the expiry of exit visas they were required to obtain each time they travelled abroad. Israel's illegal annexation of East Jerusalem in 1967 and the Golan Heights in 1981 led to the application of Israeli civil legislation in these occupied territories. Their residents found themselves declared to be permanent residents – but not citizens – of Israel. The Israeli Ministry of the Interior has complete discretion over approval of citizenship applications. Israel has employed a 1974 regulation as a 'legal' instrument to deprive many Jerusalemite Arabs of their IDs and residency rights if they are absent from the city for more than seven years, have acquired other citizenship or been granted permanent residency rights elsewhere. This can only be described as administrative 'ethnic cleansing'.

Arab policies maintain status quo

Arab governments have consistently focused on keeping alive the issue of Palestinian displacement and preventing primary responsibility being shifted from the source

country (Israel) to host states. Two main principles – set out in an Arab League protocol signed in Casablanca in 1965¹ – have determined the treatment of Palestinian refugees in host Arab states: granting Palestinian refugees full citizenship rights – but denying them naturalisation – and issuing them with Refugee Travel Documents (RTD) in order to maintain their refugee status.

The pan-Arab national brotherhood of the 1950s and 1960s has faded away, to be replaced by a self-centred agenda of fragmented, sub-national states and narrow interests. Syria is the only country that upholds its commitment. Some states, including Lebanon and Saudi Arabia, expressed reservations in 1965 and have showed no interest in applying the Protocol. Egypt, once fully committed, has effectively withdrawn from the Protocol.² On more than one occasion rifts between the leadership of the Palestine Liberation Organisation and Arab governments have resulted in collective punishments being imposed on ordinary Palestinians. Palestinians were expelled en masse from Kuwait in 1991 and from Libya in 1995. Palestinians in Iraq have recently had to endure acts of vengeance including killings, evacuation and deportation.

Institutional discrimination against Palestinian refugees in Arab countries has had a devastating impact on the lives and well-being of entire communities. The legal status, residency and civil rights of Palestinian communities in the Arab World are increasingly uncertain, particularly in Lebanon and Egypt where they are denied rights to secure residency, employment, property, communal interaction and family unification. Procedures to allow non-residents to apply for naturalisation in Lebanon, Egypt and Saudi Arabia do not apply to stateless Palestinians.

Palestinian refugees in Jordan, the largest community in any of the host countries, have Jordanian nationality but are denied equal political participation and subjected to subtle forms of discrimination. Jordanian authorities refuse to offer

naturalisation to those Palestinians who at the time of their displacement in 1967 did not hold Jordanian passports. Some 60,000 stateless Palestinians, mainly from Gaza and original holders of Egyptian RTDs, were allowed to stay but have been denied any civil rights and most are confined to a camp near the northern city of Jarash.

Impact on Palestinians

The right to nationality is a fundamental human right. Article 15 of the Universal Declaration of Human Rights of 1948 declares that “everyone has the right to a nationality.” It is the right from which other rights and entitlements can flow – to education, medical care, work, property ownership, travel, state protection – in short, to full participation in a world composed of nation states.

Changing the status of people to non-citizens or threatening the security of their residency status with little or no consideration of the rule of law generates insecurity and has a devastating long-term social and psychological impact. Stateless communities are the first to pay the price for political instability and insecurity in the countries where they find themselves. Without access to education or employment, stateless communities are exposed to political manipulation, exploitation and poverty. The effect on host societies, the region and the world cannot be ignored. Impoverished and marginalised refugee communities – notably the Palestinians – constitute the major destabilising factor in the Middle East.

Statelessness is a major ‘push’ factor leading to large-scale irregular migration. There is a clear correlation between statelessness and asylum seeking in industrialised countries. The large numbers of stateless people from the region – Syrian Kurds, Kuwaiti ‘Bidoon’ stripped of nationality, denaturalised Iraqi Shiites and Palestinians – ready to risk their lives on the shores of the Mediterranean and South East Asia illustrate the strength of determination to escape the humiliation and uncertainty that statelessness brings. The majority of the estimated 200,000 Palestinians

living in Europe today are stateless holders of Lebanese and Egyptian RTDs or expired Israeli ‘laissez-passer’ documents. They sought asylum in Europe when their residency status in the host countries became increasingly insecure and, in most cases, they were denied the right to go back to these countries. Eighty per cent of the 80,000 stateless Palestinians thought to be in Germany are RTD holders from Lebanon.

The political argument commonly used by Arab regimes to justify discrimination against Palestinian refugees often conceals a sinister domestic agenda: maintaining a political system based on racism and sectarianism in which ‘outsiders’ are seen as security risks and fear is used to control people. Such policies have had the perverse effect of furthering a key Zionist objective by dispersing Palestinians even further away from their homeland. In recognition of the misery and hardship affecting his stateless compatriots, Palestinian President Mahmoud Abbas broke with the leadership’s long-established policy when, in July 2005, he welcomed the naturalisation of Palestinians “if any of the host countries choose to do so.” An opinion poll found most Palestinians agreed with him.

Protection and international law

The legitimacy of the decision taken in 1951 to exclude Palestinians from the international protection regime on the basis that they were already being assisted by UNRWA [see previous article] is being increasingly challenged by scholars, jurists and advocacy groups. There is wider awareness of the need to make the international refugee regime relevant for Palestinian refugees and to formally acknowledge the impacts of statelessness.³

Takkenberg notes that being a refugee, stateless, dispossessed, lacking the passport of a state, not having even the theoretical option of returning to one’s country – in other words, not having even the right to have rights – “has been at the very heart of the Palestinian refugee problem.” He argues that the element of statelessness has been more significant than the refugee

aspect in detrimentally affecting the position of the Palestinian people.⁴ Unlike other aliens, stateless Palestinians are not admissible in any other country. If expelled from a country they are at risk of finding themselves in ‘perpetual orbit’ as stateless individuals. It is worth noting that the deportation of stateless or other persons who will not be received elsewhere may raise issues under Article 3 of the European Convention on Human Rights. That is why Takkenberg and others have pointed out that when such protection or assistance has ceased for any reason, without the position of such persons being definitely settled in accordance with the relevant resolutions of the General Assembly of the United Nations, these persons shall, *ipso facto*, be entitled to the benefits of the Convention.

More significant perhaps is the position apparently adopted by UNHCR in October 2002 on the applicability to Palestinian refugees of Article 1D of the 1951 Convention Relating to the Status of Refugees. The refugee agency adopted the view that the Convention should apply to Palestinian refugees beyond the five areas of UNRWA operation – Jordan, Syria, Lebanon, the West Bank and the Gaza Strip.⁵

A sovereign Palestinian state within 1967 borders would act as a catalyst to resolve the refugee issue and put an end to Palestinian statelessness. Such an objective cannot be achieved without a regional framework based around a comprehensive peace settlement that includes all host Arab countries and which gives Palestinian refugees the options of repatriation, compensation and full citizenship rights in their countries of residence.

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1. www.badiil.org/Documents/Protection/LAS/Casablanca-Protocol.htm

2. www.fmreview.org/FMRpdfs/FMR20/FMR2013.pdf

3. www.badiil.org/Publications/Briefs/Brief-No-01.htm

4. Takkenberg, L (1998), *The Status of Palestinian Refugees in International Law*, New York, Clarendon Press

5. www.unhcr.org/cgi-bin/texis/vtx/publ/openssl.pdf?tbl=RSDLEGAL&id=3da192be4&page=publ