

No place to go: statelessness in Israel

Oded Feller

Only in the past few years has Israel acknowledged that there exists a problem of stateless persons living in Israel; however, this has not prompted the state to recognise the distress of stateless people or to develop appropriate solutions.

Israeli law grants Jews preferred and almost exclusive status with regard to entry into the country. The Interior Minister has extremely limited authority when it comes to restricting an individual who complies with the criteria of the law from immigrating to Israel. On the other hand, the law allows the Interior Minister almost unlimited discretion in granting entry visas to non-Jews, and does not lay down criteria for issuing or refusing to issue these visas. In practice, most foreign nationals cannot acquire permanent Israeli residency status without the authorisation of the Interior Ministry, which only grants residency permits in a very limited number of cases.

The result is an immigration policy that violates human rights in general,

and most particularly the right not to be discriminated against on the basis of race. This rigid policy also underlies Israel's approach to non-Jewish stateless people.¹

According to Israeli law, stateless persons reside in Israel illegally. They are at risk of being arrested and held in detention as illegal residents. As a result of their lack of formal status, they are not entitled to work. They do not have access to national health insurance nor are they entitled to receive social services. They do not hold identification documents, and are therefore not allowed to drive, cannot open a bank account and have difficulties contracting marriages. If they leave Israel, they will not be allowed to return. There are between a few hundred and

a few thousand stateless persons currently residing in Israel.

Immigrants who lost their former citizenship

Three individuals who were citizens of the former Soviet Union but did not acquire citizenship in any of the states established after its break-up were arrested as illegal residents and thereafter held in detention. They were subsequently released a few months later when it became apparent that there was nowhere to deport them to. They remained in Israel without any legal status. In its response to a petition to grant them permanent residency status in Israel, the Interior Ministry claimed that the condition of statelessness is not a humanitarian consideration obliging the state to grant legal status to a person.

Later the Court of Administrative Affairs ruled that the Interior Ministry must encourage stateless persons to appeal to the Ministry to formalise

their status prior to being detained, since – if it is impossible to deport them from Israel in any case – it is pointless to detain them. The Court instructed the Interior Ministry to establish a procedure for dealing with cases of statelessness, in the framework of which stateless people would be granted temporary stay permits, and to define the level of cooperation expected from stateless persons in order to determine whether they could be repatriated to their countries of origin.

In response, the Interior Ministry has introduced a procedure for examining stateless people's applications for status – but only after the stateless person has been arrested. In other words, in order to secure a temporary stay permit, the stateless person must first be arrested and imprisoned and subsequently endure lengthy bureaucratic processes. These include being asked to produce documents from their country of origin, some or all of which they will not possess and will not be able to obtain. Furthermore, the procedure explicitly applies to people who previously held citizenship in other countries, and therefore does not provide a solution for stateless people who were born in Israel, such as the stateless Bedouin residents.

Stateless Bedouin

As a result of the disorder in the registration process during the

British Mandate and the early years of the State of Israel, and also due to the Arab Bedouins' difficulties in accessing the relevant authorities, some of the Bedouin residents of the Negev region of southern Israel were not registered and never received legal status in Israel. There exists no official estimate of the total number of stateless people from the Azazma tribe but human rights organisations estimate that a few hundred currently live in the Negev region.

The Interior Ministry refuses to provide services to the stateless members of the tribe or to resolve their problem of statelessness in a systematic manner. Over the years, the Interior Ministry has agreed to examine a number of individual requests for status on a case-by-case basis. This individual process is complicated and entails many bureaucratic burdens and expensive service fees. In addition, stateless persons – who do not hold identification documents – are required to prove their identity through a judicial process, an expensive process which necessitates hiring the services of a lawyer, gathering testimonies, paying fees and managing a complicated legal process.

Statelessness from birth

When a child is born to an Israeli father and a non-Israeli mother whose legal status in Israel has not yet been

formalised, the Interior Ministry demands that the father undergo a DNA paternity test to confirm that he is the biological father of the child. The parents must bear the costs of the legal proceedings and DNA testing themselves and until the conclusion of this process the child remains stateless and is not entitled to health services or social rights.

Children of permanent residents of Israel who are not citizens – primarily children of Palestinians who live in East Jerusalem – do not automatically receive legal status at birth. The child will acquire legal status in Israel if he or she is born in Israel to a parent who is a permanent resident and whose 'centre of life' is in Israel. It is the responsibility of the parents to submit a request for their child to be recognised as a resident, and to prove where the child was born and where the child's and parents' centre of life is. It can take months or even years for the application to be processed due, among other reasons, to the multiple and exhaustive bureaucratic procedures.²

If the child is born outside Israel – usually in the occupied Palestinian Territories – the parents must submit a request for family reunification in order to obtain legal status in Israel for their child. This request is subject to the provisions of the law which bars Palestinians from acquiring permanent status in Israel. As a result, in many cases the child is not entitled to receive health and social services; the most the child can hope for is a permit to reside in Israel with their family.

Israel's rigid immigration policy vis-à-vis non-Jews does not make any exceptions for stateless persons. Israel must recognise the distress of stateless persons and take action to develop appropriate solutions with transparent and public guidelines, while simplifying the cumbersome bureaucracy that currently prevails.

Oded Feller (oded@acri.org.il) is an attorney at the Association for Civil Rights in Israel (www.acri.org.il).

1. Any substantive discussion on the issue of stateless persons in Israel must extend to stateless persons in the Occupied Territories. However this article will only focus on stateless people living within Israel.

2. See Elodie Guego "Quiet transfer" in East Jerusalem nears completion' at <http://www.fmreview.org/FMRpdfs/FMR26/FMR2612.pdf> in FMR 26 on 'Palestinian displacement: a case apart?'

Bedouin protesting against house demolitions in the Negev.



Shabtal Gold