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RESIDENCY STATUS AND CIVIL RIGHTS OF PALESTINIAN REFUGEES IN ARAB COUNTRIES

ABBAS SHIBLAK

Three durable solutions to refugee situations are widely recognized worldwide: repatriation to the country of origin, rehabilitation in the country of first asylum, and resettlement in a third country having the capacity and willingness to absorb the refugees. In the case of the Palestinians, the largest single refugee group, none of these options is available. Given Israel's refusal to comply with UN Resolution 194 of 1948, which established the principle of repatriation and/or compensation, and the Arab states' unwillingness to accept the permanence of the status quo involving hundreds of thousands of refugees on their soil, the Palestinian refugees have been left in limbo for some fifty years.

Some scholars and politicians, especially in Israel, have maintained that the Palestinian refugee issue would gradually be eliminated, if it had not already been resolved, in Arab host countries.¹ This view rests on two main assumptions. First, that the Palestinian refugees would melt readily into the surrounding Arab societies by virtue of their shared language, history, culture, and, for the most part, religion. The second assumption is that the United Nations Relief and Works Agency

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for Palestine Refugees (UNRWA), established in 1949 to alleviate the refugee crisis, would be able through economic assistance to integrate the refugees into the countries of first asylum and to provide, as Adelman argues, “a long term interim solution which would, in effect, be a durable solution, even if in many or most cases, political integration into the country of asylum cannot be achieved.”² The last five decades have proved these assumptions wrong. The Palestinian refugees have increased in number and seem to have become even more alienated and marginalized than before. A distinct Palestinian identity is stronger than ever in the Arab host societies. And UNRWA has not only been unable to provide a durable solution but is threatened with dismantlement.

This paper discusses the conditions of Palestinian refugees in their Arab environment with particular focus on their residency status and civil rights. It also examines the legal framework which, by determining to a large extent the degree of integration or exclusion of the refugees in the host societies, has profound policy implications on any future settlement.

The Legal Framework and the Issue of Protection

While UNRWA was created to carry out, “in collaboration with local governments the direct relief and works program recommended by the Economic Survey Mission” at the time, it was not empowered to guarantee the safety, security, or legal and human rights of the refugees. These responsibilities were left to the host countries, in theory committed to international and Arab codes of conduct.

But because the Palestinian refugees had a UN agency exclusively devoted to their relief, at the international level they were not covered by the 1951 Convention Relating to the Status of Refugees. Article 1D stipulated that the convention should not apply to those persons who at the time were receiving protection or assistance from organs or agencies of the United Nations other than the UN High Commissioner for Refugees (UNHCR). As a result, Palestinian refugees registered with UNRWA and residing in its area of operation lack both the special protection provided for in the convention and the international protection provided by UNHCR.

Because Palestinian refugees had the UNRWA they were not covered by the 1951 Convention Relating to the Status of Refugees.

This exclusion was unfortunate, because the convention’s protections are far-reaching and extensive. It prohibits the expulsion of refugees for reasons other than national security and public order (Article 32) and mandates that the refugees’ freedom of movement should not be restricted. With regard to economic and social rights such as employment, labor legislation, and social security, refugees under the

convention are in many respects on the same footing as the host country's nationals. The convention also provides that contracting states shall, as far as possible, facilitate the assimilation and the naturalization of the refugees. Of the Arab countries, only Egypt (not in UNRWA's area of operation) ratified the convention, although as will be seen it did not observe its provisions.

Article 1D of the 1951 convention also proved a serious obstacle for Palestinian refugees who had resided in one of UNRWA's areas of operation and then attempted to seek asylum and protection as refugees elsewhere. A number of Western governments, for example, interpret the article very restrictively, maintaining that Palestinians previously resident in one of UNRWA's areas of operation cannot benefit from the 1951 convention unless they can prove either that UNRWA had ceased to assist them or that they were no longer allowed to stay in the area concerned.³ Consequently, very few Palestinians have been able to obtain full refugee status in Europe or North America.

Other instruments relevant to the status of the Palestinian refugees include the UN Universal Declaration on Human Rights (1948), the Convention Relating to the Status of Stateless Persons (1954), the International Covenant of Civil and Political Rights (1966), and the International Covenant on Economic, Social, and Cultural Rights (1966). These instruments clearly outline the human and civil rights of Palestinian and other refugees. While most Arab host governments have officially accepted these covenants, they have failed to abide by them and to integrate their provisions in their national laws.

At the Arab level, the original response of host Arab states to the Palestinian influx was to offer refuge and protection based on the assumption that the refugees' stay would be temporary and that some kind of solution would be found by the Palestine Conciliation Commission. When a solution did not materialize, it became necessary to define the status of the Palestinian refugees. Two main principles, not necessarily compatible, seem to have influenced the attitudes of host Arab states in this respect.

The first was to express solidarity with and sympathy toward the refugees. This was illustrated in the willingness, at least in theory, of the Arab governments to give the Palestinians residency, though not political rights on the same footing as their own citizens. This policy was encapsulated in the Casablanca Protocol which the League of Arab States adopted in 1965. The protocol referred in particular to the rights of Palestinian refugees to work and to enjoy freedom of movement and full residency rights. The Casablanca Protocol was followed by numerous collective and individual resolutions taken by Arab states reiterating the same positions.

The second principle was to emphasize the preservation of Palestinian identity by maintaining their status as refugees, which would pre-

vent Israel from evading responsibility for their plight. Thus, until recently, Arab governments refused as a matter of principle to contribute officially to the UNRWA budget.⁴ They formally resisted resettlement or naturalization as a solution to the refugee problem. The exception was Jordan, which granted the Palestinian refugees Jordanian nationality. Most host Arab states, including Egypt, Lebanon, Syria, Iraq, and more recently Yemen, issued the Palestinians with special Refugee Documents (RDs). However, with the rise of the Palestinian national movement and the perhaps inevitable confrontation with the host countries, commitment to provide secure and permanent residency status to the Palestinian refugees waned. Most of the Arab states do not now appear to uphold this principle, and many, such as Lebanon and the Gulf states, never fully implemented the 1965 Protocol in the first place. Others, such as Egypt, did so inconsistently.⁵

Residency Status: A Case of Uncertainty

One of the main obstacles to establishing civil rights of the Palestinian refugees in host Arab states is the absence of clear and well-defined legislation regulating their status. Palestinian affairs are governed by ministerial decrees or administrative orders, which allow differing interpretations and abuses of power and can easily be reversed in response to changing political conditions.

The dispersal of the Palestinians in 1948 deprived them of the basic right of citizenship. Arab states do not grant foreigners full residency status, which includes either naturalization or permission to remain indefinitely. As for the progeny of foreigners, neither prolonged stay nor birth in the country is considered a valid basis for claiming residency or nationality. In the case of the Palestinians, most countries have special provisions prohibiting naturalization on political grounds and in accordance with Arab League resolutions. Furthermore, marriage to a female citizen of a country does not constitute grounds for naturalization or special residency rights either for the husband who is not a national or the resulting children. Very few Palestinians in Syria and Egypt managed to obtain citizenship, and those who did were mainly from families who had settled there before 1948. In Saudi Arabia and other Gulf states, few families were granted nationality as acknowledgment of their long and special service to these countries. In Lebanon, about fifty thousand Palestinians, mainly Christians or those having family connections, acquired Lebanese nationality in the 1950s and 1960s.

Thus, the majority of the Palestinians, except for those in Jordan, have RDs. But RDs in most Arab states do not confer secure residency status. In Egypt, for example, even RD holders who were born in Egypt or who have lived there most of their lives have no automatic right to leave or

reenter the country, but must renew their visas every six months to three years, depending on the category; an RD holder whose return visa has expired during a sojourn abroad will almost certainly be refused reentry. Since the late 1970s, a number of "privileges" until then enjoyed by Palestinian RD holders in Egypt were revoked: visas are no longer renewed free of charge, and the RD holder, like other foreigners, must show proof of having changed money and spent a minimum of \$180 in hard currency per family per month. Those who fail to comply risk deportation.

In Lebanon, registration with UNRWA and receipt of UNRWA rations seem to be prerequisites for the issuance of RDs and permission to stay in the country. Those not registered with UNRWA since 1948 or who subsequently lost the right to receive UNRWA rations (some thirty thousand to fifty thousand persons) are under constant threat of deportation. Not long after the expulsion of the PLO in 1982, the Lebanese authorities embarked on a policy to reduce the number of Palestinian refugees in the country. About twelve thousand refugees, assumed by the authorities to have acquired residency or nationality overseas, mainly in Western countries, were taken off the registry in the following years. A diplomatic row broke out between Lebanon and Jordan in the early 1990s when Lebanon started expelling Palestinians to Jordan. New restrictions denying Lebanese RD holders entry without special permits obtained in advance were imposed during late summer of 1995 in order to keep out thousands of Palestinians with Lebanese RDs who had just been expelled from Libya.⁶

When Israel seized the West Bank and Gaza in 1967, close to 300,000 Palestinians were displaced as a result of the war (Palestinian sources estimate the number of the displaced persons and their descendants at over eight hundred thousand today). Those from Gaza—for the most part "second time refugees" who had fled or been driven out of what became Israel in 1948—face the greatest difficulties. Carrying Egyptian RDs but denied entry to Egypt, some eighty thousand fled to Jordan, where they remain stateless, mostly in the "Jerash Camp"; unlike the refugees that went to Jordan in 1948, they have never been given full residency rights. Most of the roughly thirty thousand stranded in Kuwait "with no place to go" after the exodus following the Gulf War were Gazans with Egyptian RDs; similarly, many of the five thousand Palestinian workers expelled from Libya last summer who became stranded at the Salloum camp on the Egyptian-Libyan border were Egyptian RD holders but were denied entry into Egypt.⁷

The Palestinians remaining in the occupied territories after the 1967 war, registered in the Israeli census of 1967, are considered "foreign residents" rather than citizens. An estimated 150,000 of these have lost their residency rights since 1967 as a result of Israeli restrictions, including time limits for reentry for Palestinians who leave the country.

Insecure residency status in the country of first refuge has become a major problem for those who left the occupied territories or Arab host countries for work in the Gulf states, Libya, or elsewhere. For the Gulf states, Palestinians are simply migrant workers required to return to their country of first refuge, whatever their status there. The sight of Palestinians, including children and old people, stranded in Arab airports and border crossings has become increasingly common. Political manipulation or deteriorating relations between the

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PLO and various host countries has led in the past to a total ban on Palestinians entering the country in question or even what amounts to mass deportation, as was the case in Kuwait following the Gulf War or, more recently, the sudden expulsion of Palestinian workers from Libya.

In Jordan, as mentioned, Palestinians (except for the 1967 refugees from Gaza) have enjoyed citizenship rights since 1948. But King Hussein's call for "administrative disengagement" from the occupied territories in 1988 created uncertainty and confusion. Under the new regulations following the move, the passports of Palestinian residents of the West Bank were made "temporary" and were henceforth considered by the Jordanian authorities to be travel documents rather than proof of citizenship. The new "temporary" passports were valid for two years (changed recently to five years), and visas became required to remain in Jordan. Some restrictions were even imposed on West Bankers already residing in Jordan—including deportees, those who stayed in Jordan after finishing their studies, etc.—who do not have access to what is called "family cards" entailing the right to work in the public sector, receive social benefits and government services such as schooling, and so on. Although these new regulations have not been fully implemented, they have caused considerable concern among this group, especially since the Oslo agreement was signed; some have complained of being deprived of citizenship rights in what they saw as an "unconstitutional" act.⁸ Meanwhile, Jordan has not yet responded to the request of the Palestinian Authority to agree on dual nationality for Palestinians who so desire it. Dual nationality among Arab states is not allowed in principle, and certainly it has special implications in the case of Jordan. In fact, since the Middle East peace talks started, the conditions of the Palestinian refugees in the surrounding Arab states have become increasingly untenable, with further restrictions being placed on Palestinians, leaving refugees feeling more insecure and uncertain.

Restrictions on Civil Rights

For some time, the Arab states on an individual basis had been annulling by administrative decree the rights accorded the Palestinians under the Casablanca Protocol; after the Gulf War, this trend culminated in the adoption by the host countries of Arab League Resolution 5093 officially revoking the protocol, which has been superseded by the internal laws of each host state.⁹ Restrictions in varying degrees involving residency rights, freedom of movement, employment, property ownership rights, and access to government services are now imposed on RD holders in all Arab countries. Indeed, education, health, and social benefits are increasingly being curtailed, if not denied outright, to Palestinians.

Freedom of Movement

At present, RD holders or Palestinians carrying "temporary" Jordanian passports are frequently denied entry visas to almost all Arab states. In the summer of 1994, Syria for the first time began denying entry to Palestinians from the occupied territories or to those holding temporary Jordanian passports. Palestinians with Arab or foreign passports have difficulty obtaining entry visas to the Gulf states, especially after the Gulf crisis. A lengthy and agonizing procedure is necessary for RD holders to enter Syria, Lebanon, and to a lesser extent Jordan. One of the most acute problems faced by RD holders is that most countries deny them entry unless their RDs are stamped with permission to return—permission which Egypt, for example, for the most part now denies. As of summer 1994, travel to Egypt by Gazans, who until the 1967 war were under Egyptian trusteeship, has been limited to students and medical patients with special permission. Palestinians in Iraq, like Iraqi nationals, are allowed to leave the country only two times a year, once for pilgrimage and the other time for a visit, and then only after receiving an exit visa. As for the Maghreb states (Algeria, Morocco, and Tunisia), Palestinian RD holders are not allowed entry without prior notification by PLO offices in these countries, a condition not always easy to meet. Moreover, these requirements appear now to be extended to all Palestinians, including those with Arab passports.

Employment

Palestinians living in Lebanon, Egypt, and more recently in Iraq are subject to the same employment laws applicable to foreigners, with no consideration given to birth in the country or length of stay. The Palestinians in Lebanon are excluded from certain professions and cannot seek employment without difficult-to-obtain work permits. This situation forces many Palestinians to work on the black market, where they are subject to exploitation.

As a general rule, labor laws in Arab states distinguish between “nationals” and “foreigners” with regard to equal opportunity and benefits. With stagnant economies and employment restrictions in most Arab countries, this leads to a high incidence of unemployment among Palestinians. A 1992 UNICEF sample survey of eight camps and five centers for *muhajjareen* (displaced persons) in Lebanon found that only 37 percent of the men aged fifteen to forty-nine and 8 percent of the women in the same age group were employed. While there are no official employment restrictions for Palestinians in Syria, they are subject to the same economic conditions as the rest of the population: The unemployment rate is estimated at around 30 percent. In Jordan, too, there is no explicit discrimination against Palestinians holding five-year Jordanian passports, but less than 10 percent of the 35,000 government employees are of Palestinian origin. Those with temporary Jordanian passports are not allowed to work in the public sector. The Gulf states, meanwhile, appear since the Gulf crisis to have embarked on an undeclared policy not to employ any more Palestinians.

Access to Government Services

With few exceptions, Palestinians in the Arab host countries are treated as foreigners and do not have access by right to government services such as education, health, and social benefits. Such access has been totally denied to Palestinians in Lebanon since 1948, in Egypt since 1980, and recently and to a lesser extent, in Jordan and Iraq. Indeed, Syria is the only Arab country where Palestinian refugees enjoy freedom of access to government services. In Lebanon, Palestinians are denied access not only to education and health services, but even to social security to which they contributed throughout their working lives; the justification given is that reciprocity arrangements must be established first with the country of origin. In Egypt, Palestinian children have not been allowed since the early 1980s to enter government schools without paying, like foreigners, high tuition fees. For higher education, payment must be in hard currency; those who were already at university when the new regulations came into effect could not graduate until they paid the new rates. In the Gulf states, those Palestinians who have managed to remain had access until recently to government services and were sometimes exempted from certain restrictions concerning visas and education. This seems to have changed over the last few years, however: While Palestinians, like other foreigners, still have access to health services in most Gulf states, their children for the most part are no longer allowed to attend government schools or higher education institutions. Nor are Palestinians employed by the government entitled to the same social benefits as nationals, even though they pay the same social contributions.

Family Reunification

As the most scattered group in the Arab world and the most vulnerable to bureaucratic fluctuations and changing political climates, Palestinians, especially RD holders, are deeply affected by laws concerning family reunification. The size of the problem is difficult to assess. However, some case studies give an indication of its nature and magnitude.

As a rule, women in Arab host countries do not have rights of family reunification if they are married to foreigners, including Palestinians. In Egypt, a family returning after several years working abroad can be split if the wife is an Egyptian national and the husband a Palestinian holder of an Egyptian RD: The husband and children will be refused entry if the husband's RD has not been stamped with a difficult-to-obtain return visa that must be renewed in person every six months. Palestinians from the Gaza Strip, barred from entering Egypt, cannot return to Gaza unless they are registered in Israel's 1967 census and have valid Israeli reentry visas. Families separated between Gaza and Egypt by the delineation of borders under the Israeli-Egyptian peace treaty of 1979 have no other means of communicating than through the fence erected at the time along the border at Rafah.

Most Gulf states require that a worker have a certain income level in order to bring his family into the country. In Saudi Arabia, the minimum is 4,000 Saudi riyals per annum (about \$14,000)—an income well above that of most Palestinians. In addition, children of Palestinian families, like other foreigners, are required to leave the country upon reaching adolescence, when their residence visa becomes independent of that of the householder. This frequently puts Palestinian families in an untenable situation, especially when the child is a girl or has nowhere to go, as is the case with most from the occupied territories.

This problem arises every time Palestinians confront a sudden and major upheaval. Large-scale splitting of families occurred following the military confrontation in Jordan in 1970 and after the expulsion of the PLO from Lebanon in 1982. Cases of split families were also reported after the expulsion of thousands of Palestinians from the Gulf states in the aftermath of the Gulf crisis.

Property Ownership

Nearly all Arab states restrict Palestinian property ownership. Some restrictions are part of general rules regulating property ownership rights by foreigners. In the Gulf, no foreigners are allowed to own property. In Lebanon, special provisions in the law prohibit Palestinian RD holders from owning property. In some exceptional cases it is possible to buy a personal residence, but the procedure is expensive and takes years. Even countries where Palestinian refugees in principle enjoy full residency rights, such as Syria, have restrictions that prevent them from owning property except for a personal residence and then after follow-

ing certain procedures. In the case of Iraq, the deeds remain in the name of the treasury and not in that of the Palestinian purchaser. Additional restrictions imposed recently make it virtually impossible for all non-Iraqis living in Iraq, including Palestinians, to buy new property. Palestinians holding temporary passports in Jordan are subject to new regulations for buying property similar to those pertaining to foreigners.

In Egypt, special regulations introduced in the early 1980s, with retroactive effect, ended previous Palestinian ownership of agricultural land. Palestinians who owned land were required by law to terminate their rights within five years or face seizure of the land by the government.

Conclusion

To understand the Palestinian conviction that stability and security can come only with a Palestinian state, one need only look at the two dimensions of refugee experience: life under Israeli occupation and life in the Arab diaspora. Long years as a stateless people in a world of borders, passports, and parochial forms of nationalism have made Palestinian refugees more determined than ever to retain their national identity in a sovereign state of their own. In addition, without a collective regional approach and a thorough-going revision of present legislation on citizenship and residency rights, there can be little hope for the economic development, openness, and democratization that alone can create a truly peaceful Middle East.

NOTES

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4. C.A. Rubenberg, "Palestinians in Lebanon: A Question of Human and Civil Right" *Arab Studies Quarterly* 6, no. 3 (1984), pp. 194-221.
5. League of Arab States, various memos; and Palestinian Committee for Human Rights, "Report on Palestinian Community in Egypt," *Haqa'iq Weekly*, no. 246, 11-17 May 1990.
6. See Document B1 in *JPS* 25, no. 2 (Winter 1996), pp. 145-46.
7. Under Arab and international pressure, Libya allowed most to return at the end of October 1995.
8. I. Bakr, "Sovereignty and Abrogation of Nationality in Jordan" (unpublished paper, Amman, 1995) in Arabic.
9. League of Arab States, 1991, Resolution 5093, CSPHAC.