



On the Occasion of the 50th anniversary of the Statelessness Convention, **BADIL reiterates the Palestinian people's right to a nationality**

This year marks the 60th anniversary of the UN Convention relating to the Status of Refugees (1951 Convention) and the 50th anniversary of the Convention on the Reduction of Statelessness (Statelessness Convention). The 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness are important legal tools in the protection of stateless people in order to prevent and reduce statelessness all around the world. Nevertheless, "as of 2 June 2011, only 66 states are parties to the 1954 Convention, while only 38 are party to the 1961 Convention".¹ This indicates weak protection for populations who are rendered most vulnerable to abuse due to their lack of nationality.

Statelessness

Statelessness refers to the condition of an individual "who is not considered as a national by any state under the operation of its law".² Nationality affords persons with a legal bond with the state, as well as a sense of identity. Most importantly, nationality enables individuals to exercise a wide range of rights, as it is the legal basis that makes civil and political rights actionable. In a post-Westphalian context wherein human rights obligations and duties are imposed upon states and citizens as opposed to persons most effectively exercise rights, those persons without a state are subject to the greatest abuses and enjoy the least privileges.

It follows, therefore, that the denial of nationality can have a hugely negative impact on the life of the individual concerned.³

In recognition of this reality, the Universal Declaration of Human Rights declares that "everyone has a right to nationality."⁴ In simple terms, that means that every individual, wherever he or she happens to be in the world, is entitled to the legal bond of nationality with a State. By corollary, the international community has made it clear that states have an obligation under international law to prevent individuals from becoming stateless.⁵

Stateless Palestinians: refugees, undocumented persons, temporary residence and other conditions of precarious status

It should be noted that while stateless persons are often also refugees, the two statuses are distinct. Both categories of persons do, however, fall within the jurisdiction of the UNHCR.

The single largest group of stateless refugees in the world are Palestinian refugees. By the end of 2008, there were over seven million displaced Palestinians who represent 67 percent of the entire Palestinian population worldwide. The majority of these people are stateless.⁶ In addition to its magnitude, the uniqueness of Palestinian statelessness is also characterized by its duration. It stretches as far back as 1948. Accordingly, statelessness has "dominated and shaped the lives of four generations of Palestinian refugees since their exodus in 1948."⁷

¹ UNHCR website at: (<http://www.unhcr.org/pages/4a2535c3d.html>).

² Article 1 of the 1954 Convention relating to the Status of Stateless Persons.

³ See UNHCR, "Protecting the Rights of Stateless Persons", September 2010 at: (<http://www.unhcr.org/4ca5941c9.html>).

⁴ Article 15 of the Universal Declaration of Human Rights.

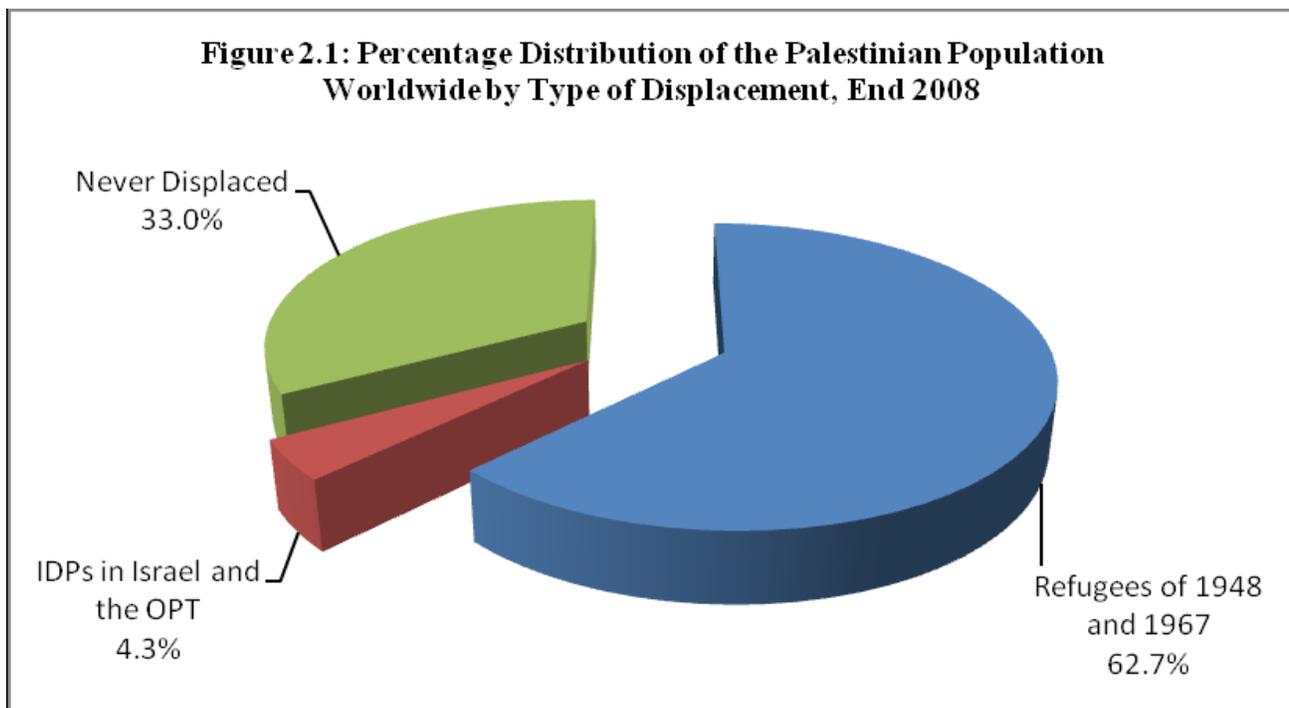
⁵ See UNHCR, "Preventing and Reducing Statelessness", September 2010 at: (<http://www.unhcr.org/4ca5937d9.html>).

⁶ BADIL Resource Center, Survey of Palestinian Refugees and Internally Displaced Persons 2008-2009 (2009), pp.56.

⁷ Abbas Shiblak, "Stateless Palestinians", *Forced Migration Review Issue 26* (2006) at: (<http://www.fmreview.org/FMRpdfs/FMR26/FMR2603.pdf>), p. 1.

Stateless Palestinians fall broadly into six categories:

- 1) Holders of the Palestinian “passport” issued by the Palestinian Authority (PA) which is legally/politically “only” considered a travel document;
- 2) Palestinians who exceed their time allowed on their visas and live without valid documents in PA controlled areas in the Occupied Palestinian Territory;
- 3) Owners of the ‘Refugee Travel Document’ issued by Syria, Lebanon, Egypt, Iraq and some other Arab countries;
- 4) Owners of passport of convenience – mainly temporary Jordanian passports;
- 5) Palestinian inhabitants of Jerusalem who carry the Jordanian passport of convenience or an Israeli *laissez passer*;
- 6) Thousands of undocumented refugees in Lebanon, Syria, Iraq, Kuwait and other Gulf States whose documents were not renewed by the host countries that issued them.⁸



Case Studies of Statelessness: Iraq, Syria, and East Jerusalem (Categories 3 and 5)

IRAQ

Thousands of stateless Palestinians fled to Iraq in several waves of forced migration, first after the creation of the state of Israel in 1948; again after the 1967 Arab-Israeli War; and most recently after the 1991 Gulf War when thousands of Palestinians were forced to leave Kuwait.⁹ Successive Iraqi governments have not granted Palestinians refugee status or citizenship, and have barred them from owning houses or land.¹⁰ However, prior to the 2003 US Iraqi invasion, Palestinians enjoyed relatively good access to services, which cultivated resentment amongst Shia groups who did not enjoy similar privileged treatment.¹¹

⁸Ibid.

⁹ Amnesty International, *Iraq: Human Rights Abuses Against Palestinian Refugees* (Oct. 1, 2007), available at <http://www.amnesty.org/en/library/asset/MDE14/030/2007/en/fdd375f1-d393-11dd-a329-2f46302a8cc6/mde140302007en.html> (last visited Sept. 4, 2011).

¹⁰ *Id.*

¹¹ *Id.*

According to the UNHCR, 34,000 Palestinians lived in Iraq before the 2003 American invasion. Since the invasion, many have faced harassment, threats of deportation, arbitrary detention, torture and murder, while the Baghdad Palestinian neighborhoods, namely al-Hurriyya and al-Baladiyyat, have been attacked. The UNHCR estimates that since the 2003 invasion, 21,000 Palestinians have fled the country. Reports suggest that by the end of 2009, only 13,000 Palestinians remained in Iraq.¹²

Hundreds of Palestinians attempted to flee Iraq and cross into Jordan after the invasion. Jordanian authorities admitted only 386 Palestinian refugees who were married to Jordanian nationals, while refusing entry to other stateless Palestinians from Iraq.¹³ Those who were able to enter Jordan were housed in al-Ruweished camp 50 km from the border, but remained in what was intended to be a temporary camp for four years. UNHCR wanted to close the camp in 2006 due to the harsh conditions but no country would take the stateless refugees.¹⁴ Eventually, Canada and New Zealand took a total of seventy-six refugees, leaving ninety-seven to eventually be resettled in Brazil in 2007.¹⁵

Another group of 180 Palestinians fled Baghdad in 2006 and went to the Iraq-Jordan border only to be refused entry, leaving them stranded at the border until Syria agreed to take them two months later. Today there remain 400 stranded Palestinians in al-Tanf camp located between Syria and Iraq, otherwise known as “no man’s land”, and about 1,550 in al-Waleed camp in Iraq 3 km from the Syrian border.¹⁶

The stateless Palestinian has no choice but to be shuffled between borders, left to languish in crude camps for years in no man’s land borders between nations, with no country to take them or protect them since they are already stateless and more vulnerable.

Abu Mohammed who lived in al-Tanf camp between 2006 and 2010 and has survived harsh conditions including extreme temperatures, sandstorms, floods and difficult access to medical services, stated “I am very happy that this is finally over. We have been waiting for this for such a long time and yet we are anxious about what’s next. We have suffered a lot and have been forced to leave with no document in hand after living 60 years in Iraq. We just want a place that welcomes us and recognizes us as human beings.”¹⁷

The following story of a young Palestinian refugee growing up in Basra is illustrative of the hardships endured by stateless Palestinians in Iraq:

My family is originally Palestinian from Haifa. My grandparents (from both sides) were born in Haifa, which is now part of Israel. In 1948, during the conflict that followed the 1947 United Nations General Assembly Resolution 181 (11) ‘Future Government of Palestine’ (also called the Partition Plan for Palestine), my grandparents, on both sides, left for safety to Basra, Iraq. For 6 months they were in flight because of the violence and death that broke out in the Haifa region. Then they moved to Baghdad, Iraq.

I call myself a Palestinian Iraqi female. I used to hold an Iraqi document that allowed me to legally live in Iraq and other countries, including the UAE – United Arab Emirates. This document was valid for me and my family until 2006. That was when the new Iraqi Government took over. It was this government that decided not to renew our document. Why?

Because our family suddenly became the wrong (Sunni Muslim) religion. As a result of this action my family and I became stateless.

¹² Al-Awda California, *Factsheet: Palestinians in Iraq* (Dec. 2, 2009), available at <http://al-awdocal.org/iraq-facts.html> (last visited Sept. 4, 2011).

¹³ Amnesty International, *Iraq: Human Rights Abuses Against Palestinian Refugees*, *supra* note 9.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

Let me give you some of my history: My dad (born in Haifa) and my mother (born in Baghdad) met in Baghdad in 1977. After marrying they moved to the UAE where I, and my 3 sisters, were born. My dad was an electrical engineer who worked in the UAE Ministry of Information and Culture. My mother worked for the UAE Ministry of Health.

We had a very normal and good life until 1989 when my dad discovered that he has lung cancer. He was in and out of hospitals for treatment for almost 10 years. In 1997, my father passed away. It was then our lives started to be really bad.

We had to move from our big house to a small house, 60km away, losing many of the privileges we had from my dad's job. Having nothing except faith that one day I'll achieve something, I continued to work and study toward my university degree.

It was like that. I worked as my sisters finished high school. Two of them got married, as I and the youngest stayed home continuing to work and study.

In 2006, when our documents were no longer valid, everyone in my family was suddenly not legal anymore in the UAE (or any other country for that matter). We started to look for a legal way out.

During this time, one of my sister's had gone to Syria after she and her husband, and his family, were forced to flee Iraq. After starting a small business between Iraq and Syria my brother-in-law was bombed on the road one day. We don't know who did this to him. My sister was pregnant at the time, with a son, and she fled quickly alone to Cyprus applying for asylum there. Since November 2008 my sister and her son have been living in Cyprus. In 2008, I applied for asylum, in Norway, for myself and my family. But we were refused legal permissions.

In the process I applied with the UDI – the Norwegian Directorate of Immigration. We were refused after 22 months of waiting. I appealed the decision, but it was rejected. Why?

For two reasons: Because our 1948 document of permissions from Iraq had been discontinued. Also, because we came to Norway, not from Iraq, but via the United Arab Emirates. Because of this, were not considered war victims.

Even though our family had been running from war for generations. To find assistance, I tried to contact the Palestinian Embassy and the Iraqi Embassy in Stockholm. My mother, my younger sister and I wanted to see if there was any way that we could just go back to where we had lived before. We wanted to do this before we were rejected again by the Norwegian government, but both embassies told me, "It's not possible," we could not return to the UAE or to Iraq legally.

The Palestine Embassy informed us that they could not help us because we were not part of a Palestinian family coming from Gaza. The Iraqi Embassy told us that no one could return back to Iraq once they had stayed over 6 months outside the country.

Even on making contact with the UNHCR – United Nations Refugee Agency to ask for help, they offered us little options, saying we should apply to live in UNHCR camps in Turkey or Syria.

On the Second of August 2011, our new appealed case answer came with a new and final rejection and the decision were issued by the Norwegian Immigration Appeals Board. We are not sure what is next with us, we were adviced to contact the Palestinian Embassy in Oslo trying to get valid passports and go back to UAE.

The solution we were given is totally absurd specially that I'm Palestinian and not an Emarati, plus even if I wanted to go back UAE is not giving any work visas or permit to Palestinians, My mom soon to be 60 and according to UAE labor law 60 is the retirement age and no one shall obtain work visa at this age, I'm not sure why the case handler didn't depend on the latest land-info report that recommended strongly approving Palestinian Iraqis as refugees?

We feel we have been left with no life. We have no passports. No way of legal travel. No valid residency. No official recognition from the countries of our past. No recognition inside the country of our future – Norway where we now live.

Now our future is vague. We are adrift, in pain, with no legal place to go. We are stateless and paperless

I'm currently working hard to help myself and family to settle down in a country that I Can call home without fearing being deported....

SYRIA

According to UN figures, 472,109 Palestinian refugees reside in Syria. They are constituted of refugees who fled the 1948 war and their descendants. Today they live in sprawling, under-serviced camps.¹⁸ The current unrest and violent government repression in Syria has been particularly difficult for the already vulnerable stateless Palestinian refugees living there. Syrian government shelling upon residential areas that began in August of this year, forced half of the Palestinian population, or 5,000 refugees, in El Ramel Camp in Latakia to flee.¹⁹

Residents of Ramel have said that Syrian security forces organized a cleanup operation in preparation for an upcoming U.N. delegation visit to hide crimes committed in Latakia, and witnesses also reported children being forced to put flowers on the tanks while being filmed by Syrian state-run TV.²⁰ Palestinian refugee Mohammed Fallakha describes the fear he and his family felt, forcing them to flee, "We wanted to leave so that our kids wouldn't hear the gunshots. We hid in our house, and when there was a break in the fighting, we went to the stadium. We stayed there for three days and then came back."²¹

JERUSALEM

Palestinian refugees in Jerusalem ("Jerusalemites") do not have Israeli citizenship but instead permanent residency, and are thus stateless persons. Israel granted permanent residency status only to those physically present in East Jerusalem after the 1967 war.²² Israel offered East Jerusalemites citizenship through the Israeli Citizenship Law of 1952, but only under stringent conditions, including: proving residency in Israel for three out of five years preceding the application, knowledge of Hebrew, and declaration of allegiance to Israel. Many Palestinians either did not qualify for citizenship or refused it because of the then assumed temporary nature of the occupation and the political implications associated with accepting Israeli Citizenship.²³

Unlike Israeli citizens who reside in Jerusalem, Palestinian permanent residents do not have the right to travel freely over Israeli borders, nor the right to vote in national elections, and are rarely able to pass their residency rights to their children. Exacerbating the inequitable conditions endured by stateless Palestinian Jerusalemites, Israel has initiated several policies aimed at solidifying statelessness among Palestinians in East Jerusalem by revoking their residency rights. These policies include the "center of life" standard that disallows Palestinian

¹⁸ UNHCR, *Syria: Palestinian Refugees Flee Port City Camp* (Aug. 27, 2011), available at http://www.unhcr.org/refworld/publisher_IRIN,,4e4e0d5b2,0.html (last visited Sept. 4, 2011).

¹⁹ BBC News, *Syria Unrest: Palestinian Refugees Flee Camp* (Aug. 15, 2011), available at <http://www.bbc.co.uk/news/world-middle-east-14533967> (last visited Sept. 4, 2011).

²⁰ LA Times, *Syria Accused of Covering Up Damage at Palestinian Refugee Camp* (Aug. 22, 2011), available at <http://articles.latimes.com/2011/aug/22/world/la-fg-syria-camps-20110822> (last visited Sept. 4, 2011).

²¹ Reuters, *Syria Rues Journalist Ban as it Loses Media War* (Sept. 1, 2011), available at <http://rt.com/news/syria-media-war-latakia-581/> (last visited Sept. 4, 2011).

²² HaMoked: Center for the Defense of the Individual and B'Tselem: The Israeli Information Center for Human Rights in the Occupied Territories, *The Quiet Deportation: Revocation of Residency of East Jerusalem Palestinians, Jerusalem, A Joint Report* (Apr. 4, 1997), available at http://www.hamoked.org/items/10200_eng.pdf (last visited Sept. 4, 2011).

²³ Israel Nationality Law 1952, s. 5(a).

permanent residents from not only obtaining dual citizenship in another country, something Israeli citizens are free to do, but also imposes an arbitrary standard within the exclusive scope of the Ministry of Interior. The Minister of Interior may revoke a Palestinian's residency status even if a Palestinian has spent some unspecified amount of time in another country, or for no reason at all.²⁴ Since 1995, the Ministry of Interior has revoked thousands of Palestinian East Jerusalemites residency statuses even when they have spent no time abroad. Israel revoked the residency rights of 4,577 Palestinians in 2008 alone.²⁵ Palestinians in East Jerusalem who do not have permanent residency are not allowed to stay in East Jerusalem, and are often expelled to the West Bank or Gaza, which is governed by Israeli military law, and where they continue to endure statelessness.

A 16 year-old stateless Palestinian Jerusalemite describes the racism and impossibly difficult life of a stateless Palestinian living within Israeli controlled Jerusalem:

We Jerusalem residents live under the threat of losing our Jerusalem ID cards if the Israeli authorities find out that we have a house in the Palestinian West Bank. In effect, this means we are not allowed to live in the West Bank. But it is not at all easy for us to buy or rent a property to live in inside Israel – the laws of the apartheid state of Israel make it extremely hard to obtain a permit to build a house, or renovate an already existing house anywhere. All around Eastern Jerusalem, residents struggle to obtain building permits to fit their new family members in, while a Jewish person can easily obtain a permit and build a whole residential compound to fit few family members. All of this, I believe, is a part of the plan to ethnically cleanse Jerusalem and Palestine of all Arabs, Muslims and Christians alike.

On the other hand, carrying the Jerusalem ID does not allow us to obtain any other worldwide nationality! If Israeli apartheid authorities find out that a person with a Jerusalem ID has a foreign passport (For example: Canadian or American), they will take away his ID, deport him, and confiscate his property.²⁶

Protection Gaps in Humanitarian Legal Provisions for Palestinians

Palestinian refugees as a result of the 1948 or 1967 Arab-Israeli conflicts are distinguished from all other refugees by being subject to the exclusive jurisdiction of the United Nations Relief Works Agency (UNRWA) as opposed to the UNHCR. This exclusion is codified in Paragraph 1 of Article 1D of the 1951 Convention.

The exception to this is found in Paragraph 2 of Article 1D, or Article 1A(2). This exception, or inclusion clause, provides that any refugee who ceased to receive protection or assistance from UNRWA for any reason is entitled to protection from UNHCR as an *ipso facto* matter.

While the UNCHR's Revised Note on the matter should have settled the confusion over the interpretation of Article 1D, several states continue to misinterpret the Article, often for political reasons, and to subject Palestinian refugees who are also stateless to the evidentiary requirements of the Article 1A(2) test.

This is particularly troubling for Palestinian refugees who are also stateless because as described by Abbas Shiblak, "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."²⁷

²⁴ HCJ 282/88, *'Awad v. Minister of Interior* (June 5, 1988), par. 1.

²⁵ HaMoked & B'Tselem, *The Quiet Deportation: Revocation of Residency of East Jerusalem Palestinians, Jerusalem*, supra note 22; HaMoked: Center for the Defense of the Individual, *Written Submission for Consideration Regarding Israel's Third Periodic Report to the UN Human Rights Committee* (July 2010), available at http://www2.ohchr.org/english/bodies/hrc/docs/ngos/Hamoked_Israel99.pdf (last visited Sept. 4, 2011).

²⁶ +972 Magazine, *East Jerusalem Teenager on Life as a Stateless Palestinian* (June 13, 2011), available at <http://972mag.com/palestinian-teenager-on-being-a-stateless-east-jerusalemite/> (last visited Sept. 4, 2011).

²⁷ *Ibid.*

This is exacerbated by the absence of an institution charged with protecting the rights of Palestinian refugees. The United Nations Conciliation Commission for Palestine (UNCCP) was created alongside UNRWA and together the agencies would provide protection and assistance, respectively, to Palestinian refugees. Due to the lack of political will, the UNCCP was unable to advance Palestinian rights to repatriation, compensation, and return, and dissipated in the 1950s. Since then, Palestinian refugees have lacked an adequate protection schema to advance their rights. While UNHCR's 2009 Revised Note on Article 1D works to bridge the geographical scope of protection afforded to Palestinians not residing within UNRWA's areas of operation, it does not suffice to replace the UNCCP. To date, "no international agency is currently recognized as having a mandate to intervene on behalf of Palestinian refugees to represent their interests in international fora, or to protect their human rights against infringement by states, or to facilitate and promote rights-based durable solutions to their refugee situation."²⁸

Concluding remarks

The lack of implementation of the 1954 Stateless Convention together with the lack of consensus about the proper interpretation of Article 1D of the 1951 Refugee Convention, has resulted in the non-implementation of its provisions and the referral of Palestinian refugees to status determination under the criteria of Article 1A(2). This unsettled situation has resulted in a protection gap, which renders Palestinian refugees and stateless persons with inadequate legal protection.²⁹

On occasion of the 50th Anniversary of the Statelessness Convention, BADIL urges

Member States of the UN to:

- 1) Ratify the Convention and incorporate it into domestic law;
- 2) Use the 1954 Stateless Convention as a tool for effective protection of stateless Palestinian refugees by implementing the Protection Standards of the Convention.
- 3) Recognize the particular status and protection rights, under international refugee and human rights law, of Palestinian refugees as a group.

The UNHCR to:

- 4) Continue to work to close the protection gap that exists for those refugees who fall outside the scope of UNRWA's jurisdiction and UNHCR's protection by affirming the meaning of its Revised Note on the interpretation of Article 1D of the 1951 Convention to those States that misinterpret out of confusion, or worse, political considerations.

²⁸ BADIL Resource Center, Survey of Palestinian Refugees and Internally Displaced Persons 2008-2009 (2009), p. 105.

²⁹ See BADIL, "Closing Protection Gaps Handbook on Protection of Palestinian Refugees in States Signatories to the 1951 Refugee Convention", August 2005.