**Abstract**

Palestinian refugees constitute many different groups, depending on the status accorded to them in their places of residence. Thus, they may be considered as ordinary refugees, stateless, immigrants, permanent residents, or citizens of certain states. The feature they all share is their right of return to Israel according to international law. In this study, Palestinian refugees will be broken down into five groups:

• Palestinian refugees in the West Bank and the Gaza Strip;

• Palestinian refugees who acquired the nationality of another State;

• Stateless Palestinian refugees within UNRWA (United Nations Relief and Works Agency for Palestine Refugees) areas of operation;

• Stateless Palestinian refugees outside UNRWA areas of operation;

• Palestinians stripped of their nationality after 1925.

Palestinian refugees displaced from the parts of Palestine in which the State of Israel was established on 15 May 1948 are the largest category of Palestinians. Those refugees registered by UNRWA now number 4,820,229. Thousands of other refugees are not registered with the Agency. According to international law, these refugees have the right to return to Israel and become Israeli citizens. Israel will most likely continue to oppose the right of return to its territory. The State of Palestine has no obligation to admit these refugees, but it has a political duty to defend their rights.

In the State of Palestine, Palestinian refugees may have the right to opt for Palestinian nationality if they wish. The right of return of these refugees will not end after they acquire that nationality. Substantial numbers of Palestinian refugees have already acquired the nationality of other States and their refugee status is not denied. The right of return should not be confused with the refugee status granted by UNRWA or UNHCR, which is determined for the purpose of affording these agencies’ assistance. As an individual right, the right of return cannot be politically compromised. It may solely be surrendered by the will of the refugee concerned. Responsibility for the refugee issue lies with Israel and the international community. The Palestinian leadership can reach an agreement that does not include the right of return. The utmost that the State of Palestine can do is to grant refugees its nationality once the State is established, to protect them abroad, and to advocate their right of return to Israel.

The 1948 Palestinian refugees now residing in the West Bank and the Gaza Strip number 1,910,677. In practice, this group has similar local status to West Bankers, Jerusalemites and Gazans, as the case may be. Under the nationality law of the State of Palestine, this group should be granted Palestinian citizenship. The State would become, in a sense, like a host country for these refugees. The conferment of nationality on such a category would in no way, from a legal perspective, undermine their status. Israel would in any case continue to oppose their return, regardless of whether they acquired other nationalities. Thus, the acquisition of Palestinian nationality would not per se be a reason for ending this category’s refugee status. Indeed, most Palestinian refugees have already acquired the nationalities of other States, but they remain refugees in the eyes of international law. For example, Palestinian refugees in Jordan are assisted by UNRWA despite holding Jordanian nationality.

Palestinian refugees who have acquired the nationality of other States are, technically speaking, not refugees according to the 1951 Convention relating to the Status of Refugees, since such persons can be protected by the State that recognizes them as its citizens. Yet they should continue to be regarded as refugees for various purposes, particularly for the right of return to Israel and the right of compensation for property loss. The majority of these refugees are in Jordan, but substantial numbers live in other countries. True, in the States in which the 1951 Convention is applicable these refugees would not be considered as refugees in the eyes of local law and for the purpose of UNHCR protection; but they are still refugees pursuant to the international law of State succession, human rights law, humanitarian law, United Nations resolutions, and refugee law surrounding Article 1D of the 1951 Convention.

The State of Palestine has no legal obligation to confer its nationality on this group of refugees, since responsibility for granting them a nationality when they exercise that right lies with Israel. Nevertheless, given the Israeli refusal to grant its nationality to members of the group or to readmit them to its territory and given that the State of Palestine will be the guardian of the Palestinian people at large, these refugees may be given the choice of acquiring the nationality of the State of Palestine. Members of the group, after acquiring Palestinian nationality, may lose other nationalities where internal laws prohibit citizens from acquiring another nationality. For this reason, the right to Palestinian nationality should be accorded on a case-by-case basis and at the request of the person concerned. Thus, if a person did not wish to apply for Palestinian nationality, the State of Palestine should not, and in fact could not, impose its nationality on him/her. In such cases, the State of Palestine might, as an alternative, accord special treatment to these refugees based on their original link to Mandate Palestine. They might therefore be treated as Palestinian citizens in relation to entry, residency, elections, and employment, despite the fact that they lack Palestinian citizenship. If they acquired the nationality of the State of Palestine, they would effectively become dual/multiple citizens. The new State, with a view to preserving the rights acquired by Palestinians in various countries, may not oppose the principle of dual citizenship.

Most Stateless Palestinian refugees who reside in the UNRWA areas of operation and do not possess the nationality of any State are to be found in Lebanon and Syria. A smaller number are to be found in Jordan. Acquisition of the nationality of the State of Palestine by these refugees is more urgent than for other categories of Palestinians. They can thus be protected by the State of Palestine, participate in referenda and vote, and be elected to representative bodies. This group would most likely continue to receive UNRWA’s assistance, as the Agency does not make its services conditional on nationality status. There are millions of ‘Palestine Refugees’ who are still receiving such assistance despite being holders of Jordanian, Lebanese, Syrian and other nationalities. There is no legal reason why the Agency would cease to offer its assistance if such refugees become Palestinian citizens.

In addition to the general category of stateless Palestinians in UNRWA areas of operation, there is a group of Palestinian refugees whose residency is deemed to be illegal by the host governments and who are not registered by the Agency. The members of this sub-category of stateless Palestinians are commonly known as ‘non-recognized’ refugees. The sub-category exists mainly in Lebanon but some of its members are also to be found in other States such as Syria and Jordan. In Lebanon alone, such refugees number about 35,000. The most sustainable solution for them is to acquire a nationality. The State that is obliged to grant its nationality to all the 1948 refugees, including this sub-category, is Israel. Alternatively, the State of Palestine might confer its nationality on them based on humanitarian grounds. The State would be bound to return only those persons who left the West Bank or the Gaza Strip, namely the 1967 refugees.

The mere fact of acquiring the nationality of the State of Palestine does not necessarily entail a person’s automatic return to that State, especially if Israel retains control over the Palestinian border. The Palestine Liberation Organization may reach bilateral agreements with Lebanon, Syria and Jordan to continue hosting refugees until such time as they are able to return to their original places of habitual residence in Israel, not only to the State of Palestine. Legally speaking, return to the State in the West Bank and the Gaza Strip does not constitute an exercise of the right of return. Hence, the State of Palestine would have virtually the same standing as one of the refugee host countries.

Palestinian refugees who do not hold the nationality of any State and who reside outside UNRWA areas of operation are treated by States in various ways depending on the States’ local laws and their political stance vis-à-vis the Israeli-Palestinian conflict at large. The acquisition of a nationality affects refugee status in the jurisdiction of some States or leads to the termination of UNHCR protection. But acquiring a nationality does not affect the right of return, as just mentioned. Thus, the granting of Palestinian nationality would be equivalent to the acquisition of the nationalities of other States. Again, a State in the West Bank and the Gaza Strip is not the territory to which the 1948 refugees have the right of return.

The nationality of Palestine’s natives who were residing abroad upon the enforcement of the 1925 Palestinian Citizenship Order and were denied the right to acquire Palestinian nationality at that time should be resolved. Theoretically, this category may opt for the nationality of any State created in Mandate Palestine: the State of Israel or the State of Palestine, depending on the applicant’s former place of residence. If persons belonging to this category habitually resided in the parts of Palestine in which Israel was established, they should be allowed to return to Israel and to acquire its nationality. Alternatively, they might acquire the nationality of the State of Palestine like other Palestinian refugees. If members of this category habitually resided before 1948 in the areas of Mandate Palestine that now constitute the West Bank or the Gaza Strip, they should be granted, as a matter of right, the nationality of the State of Palestine. The nationality law of that State might take the provision of the 1954 Jordanian Nationality Law relating to such emigrants as a precedent.