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Palestinian Human Rights Organization - PHRO

In partnership with

Lebanese Association for Human Rights & Lebanese Center for Human Rights

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Organizes a Dialogue Seminar on

The Right to Work for Palestinian Refugees in Lebanon

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Concept Paper¹ titled

Palestinian Refugees: Work Rights and Human Security

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¹ Draft paper, not to be quoted without the permission of the author

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Since their independence, Arab States have been governed by states of emergency and exception. The state formation in this region has witnessed a production of different forms of citizenship, refugeeness, and statelessness. Cases of severe poverty coupled with recurring outbursts of state repression, conflict and displacement, and spaces of exception (as detention camps of Iraqi refugees and Palestinian refugee camps dated since 1948), as well as military global and local insurgencies and resistance. Despite their substantial divergences, along a continuum, they exhibit different points along the passage from the rule of law to the “law of rules”.

This politics has major consequences on migrants, refugees and transmigrant. This paper argues that while these three categories of subjects have sought either a simple citizenship or a flexible citizenship, the nation-states have created inflexible policies towards them. The extensive employment of power mechanisms such as states of exception and bio-politics has led to the exclusionary process of groups and populations from the domains of legality and citizenship, a process which entails a multifaceted intervention designed to expel, screen, scrutinize and discipline those perceived as constituting “risk populations” and sets in motion a complex machinery of risk management strategies.

Refugee problem in the region

The borders between states in the Arab East were historically porous so that refugees were able to move quite easily. Waves of refugees were received as temporary groups and able to be managed with a discretionary toleration regime: 800,000 Palestinians, one million Iraqis in the 90s and 2.4 million Iraqis since 2003, one million of Sudanese since 90s. Since the Arab nation-states cannot stop the waves and managed quite well the emergency situation,. they were incapable to deal positively with them when these refugees become trapped in protracted displacement. These states push them to the marginality and exclusion from the right to have a right, to paraphrase Arendt (1985). Nation-states are often composed of authoritarian or security regimes that formulate a tough definition of who is inside or outside the nation. This way produce a mass of non-citizens (Shiblak, 2008), such as 200,000 Kurds in Syria, many thousands of bidoon [stateless Bedouins] in Kuwait, 200,000 stateless kids from Egyptian mothers and Gulfian fathers, many thousands Gazian refugees in Jordan. It is more than amazing to know that while Barak Obama succeed to become president of the USA while his half-brother is still struggling in Egypt because of his status as illegal refugee there, though he got married with an Egyptian woman.

Although the construction of national identity in the region began during the British and French Mandate, the crystallization of this national identity - which occurred within a multilayered context of space and time - is a relatively recent phenomenon. Because of the relative tenuousness of this process of crystallization, the state in the Arab world became a nationalizing state. i.e., "after making Syria, Lebanon, and Jordan, ... it must make the Syrians, the Lebanese, the Jordanians ". The process of importation of state-formation (Badi, 2000) has a tremendous impact on identity formation. The citizenship relationship becomes an exclusionary force that embodies the techniques and processes by which states secure their legitimacy in the eyes of the people they govern. Citizenship process becomes not part of the process of democratization and creation of citizens but struggles that are at the heart of state legitimization strategies, including the formation and transformation of political identities and communities; the distribution and redistribution of rights, responsibilities and resources; and negotiations over representation and participation (Nanes, 2008).

The way the nation is formed has not brought about the deconstruction of **primary allegiances**, such as tribes and sects, but has sometimes accommodated them and other times, juxtapose with and reinforce them. The construction of the nation and nationalism often were based on **enmity** and **unicity** (uni-allegiance).

Concerning the enmity of the other, the other is often defined ethnically, racially, and also culturally. Refugees and stateless people become in this construction the scapegoat of the nations. In Jordan, Syria and Egypt, refugees experience numerous difficulties when attempting to participate in political activities and are widely considered to be interfering in internal and local affairs. Mourid Barghouthi noted in his biography, for example, that "the stranger is the person who renews his Resident Permit. He fills out forms and buys the stamps for them. He has come up with evidence and proofs. [...] He does not care for the details that concern the people of the country where he finds himself or for their 'domestic' policy. But he is the first to feel its consequences. He may not rejoice in what makes them happy but he is always afraid when they are afraid. He is always an 'infiltrating element' in demonstrations, even if he never left his house that day" (1998: 3)

Regarding unicity, migrants are not encouraged (and are sometimes hindered) from declaring allegiance to either their countries of origin or their host countries (Hanafi, 1997: 13; 2001). In Jordan, for instance, it is strictly prohibited to raise any national flag in a demonstration, except the Jordanian one. This fact explains the manner in which some refugees are rather assimilated into their host societies (Palestinians or Sudanese in Egypt), while others retain a sense of unstated double identity, with sort of feeling of alienation.

While refugee survival becomes possible only through adopting a low profile and living in the peripheries of the society, some of them become active political agents for advancing the cause of their refugee-ness, and sometimes they are used as agents in proxy conflicts in the region.

Identity politics in the region has brought relentless waves of violence. The idea that socio-economic and civil rights should be given only to nationals is clear in the discourse of the sweeping majority of the interviewees that interviewed in the last few years in Lebanon, Jordan, Syria and Egypt. I will use as an example the Lebanese debate about giving the Palestinian refugees who have lived there for 60 years and for more than three generations the rights to work and to own immovable property . This debate reveals that even the educated people in Lebanon have a very chauvinistic conception of rights. This is an excerpt from an interview I conducted in October 2008 with an influential officer of Lebanese government, pro-March 14th coalition:

- Me: Do you believe in giving the Palestinian the right to work?
- Interviewee: But they are working.
- Me: Working in manual jobs and in the informal economy, underpaid and without any social security system. What about professional jobs, such as: medicine, accounting, engineering, nursing etc.
- Interviewee: Well, how do you want us to let them work when our graduates are emigrating to the Gulf because they don't find jobs.
- Me: Studies I did show clearly that the number of Palestinian professionals are relatively small and they would not constitute a serious threat to the Lebanese in the labor market. At the same time, their work is very important in generating entrepreneurial activities.
- Interviewee: We cannot interfere with the business of the professional associations (al-naqabat al-mihaniyya) who don't accept the Palestinians.
- Me: But it is the responsibility of the political body. Parliament could request a change in the bylaws of the professional associations as these bylaws are approved by them.

- Interviewee: Look! I am in favor of improving the humanitarian situation of the Palestinians here, but not for giving them full access to the labor market.
- Me: Humanitarian aid is usually for the people in emergency situations during the conflict. A solution, however, should be more sustainable. So they are bodies to be fed and sheltered. They have no rights.
- Interviewee: Why do you want rights for this people? The poor are everywhere like in Akkar.
- Me: But these people have full rights, while Palestinians don't. There is a difference between being entitled to rights and barring access to them, and being categorically discriminated against.
- Interviewee: Please don't use the word discrimination. They are not; they don't have any rights. They are just temporary refugees here.
- Me: But according to the Refugee Convention of 1951, refugees should have the right to work and to own immovable property. So Palestinians are treated as foreigners and not as refugees.
- Interviewee: They are refugees, and also foreigners.
- Me: But do you admit that this status of semi-refugee and semi-foreigner leads to poverty and urban squalor in the camps and contributes in creating a generation without any attachment to the Lebanese society?
- Interviewee: Palestinians are responsible for their situation. They participated in the civil war, and then with their militias, they made the camps into what they are today.
- Me: Yes, but they were denied the right to work and to own property before the civil war. Maybe the discrimination was one of the factors of the war.
- Interviewee: Please again don't use the word discrimination. We should be careful about how to treat the Palestinians; the opposition will consider it *tawteen* [resettlement and naturalization].
- Me: Do you yourself consider it *tawteen*?
- Interviewee: No but the others will. This is why for now it is better to work on improving the situation of the Palestinians and to solve the security problems of the camps.

I pointed out this excerpt because it can be considered typical of an interview with a Lebanese politician. What is very revealing is that in his discourse the notion of rights is absent, considering the population has lived there for 60 years. The envisaged solution is of a humanitarian and security nature. When the interviewee felt cornered by his own logic, he escaped by talking about *twateen*. Even a scholar very close to Hizbollah told me that the Lebanese climate is not ready for giving the Palestinians the right to work. For him “The March 14th coalition will badly interpret any call in this direction”. General Michel Aoun is a champion of talking about *tawteen*, which has been a common feature in his discourse in the last two years. He, like Ameen Jmael and Samir Gagaga, used this issue to mobilize their Christian community. The Lebanese politicians have succeeded in creating a climate in which *Tawtīn* is the scarecrow which has been used to generate a public phobia against granting basic rights to the Palestinians.² Any debate about civil and economic rights starts by affirming that the objective should not be *tawtīn* and ends with the same melody, to the point that rights come to be substituted with quick humanitarian or security solutions.

² See also Khalidi and Riskedahl, “The Road to Nahr al-Barid.”

Throughout this debate the individual Palestinian is invisible. The deployment of bio-politics by humanitarian organizations (regarding Palestinians as bodies to be fed and sheltered, *bare life* without political existence) is one end of the spectrum and the *tawtīn* discourse is the other end. For those participating in such a discourse, the Palestinians are mere figures, demographic artifacts and a transient political mass waiting for return. Between humanitarian discourse in the zones of emergency and protracted refuge on the one hand, and the *tawtīn* discourse on the other, the rights-based and entitlement approach for the Palestinians as individuals and collectives, as refugees with civil and economic rights, as well as the right to the city, is lost.

Conclusion: Rights and Human Security

The stability of the Arab states will remain jeopardize not by the massive presence of the refugees in the region but by the way the states in the region looks at the long-term refugee. Abbas Shiblak (forthcoming) eloquently noted: “The political argument commonly used by some Arab officials to justify the denial of basic rights is to preserve the identity of the refugees and to make sure that they will not permanently settle in Arab states. An argument which increasingly felt by the Palestinians that often conceals a sinister domestic agenda: maintaining a political system that is largely based on tribal and sectarian set up where ‘outsiders’ are seen as a threat and fear is used to control people”. Three levels of problem in this population politics: state of exception, the conception of the nation and the conception of the human rights. Let deal with them briefly.

The sovereign, according to Carl Schmitt and Giorgio Agamben (1997), has the capacity of proclaiming a state of exception. In such instances, he is no longer submitted to the provisions instituted by the constitution, which can be undermined or suspended. This temporary suspension becomes a new and stable spatial arrangement. The exception is thus becoming the rule, and, consequently, the populations' ontological status of legal subjects is suspended. The sovereign has the capacity to transform/naturalize whole chunks of the population, turning them into stateless refugees. If in Europe it was the far long time when many ethnic groups had been de-naturalized in the post-WWII era, in the region it is very recurrent policy. The decree of de-naturalization in 1988 of more than two million Palestinians living in the West Bank who were carrying Jordanian passports (Shiblak forthcoming),³ the massive expulsion of Palestinian refugees from Libya⁴ and Iraq⁵, and the absence of civil and socio-economic rights of Palestinian refugees in Lebanon are examples of the use of exception by a sovereign to suspend the status of the specific undesirable populace. Exception thus is applied either by decree or through the executive power. Egypt, for instance, allowed under certain conditions, the granting of nationality to newly born stateless children, but if the father is stateless Palestinian his children are excluded. The recent amendment of 2004 to the Egyptian nationality law of 1975 that makes it possible for the children of an Egyptian

³ King Hussein used Jordanian citizenship as way to gain influence among the stateless Palestinians and to exert pressure on the PLO. He offered for instance, the notables of Gaza Jordanian nationality in the late 1960's and early 1970's as part of his efforts to undermine the support base of the PLO. In a later stage when it became clear that the Palestinian National Council (PNC) was going to adopt a resolution in 1988 calling for the establishment of a Palestinian state in the West Bank (WB) and Gaza once Israel ends its occupation of these territories, the king issued a royal decree on 31 July surrendering his claim to the West Bank and severing legal and administrative ties with it. The nullification of the 1950 of the two sides of the river Jordan which was in fact imposed then on the Palestinians, initiated a major change in the legal status of WB residents. Article (2) of the royal decree stipulates: “*Every person residing in the West Bank before 31st July 1988 is to be considered a Palestinian, not a Jordanian citizen.*”. (Shiblak, forthcoming)

⁴ the mass expulsion of Palestinians in summer 1995 from Libya was due to the dissatisfaction by the Libyan leader with the Palestinian-Israeli peace agreement. (Shiblak)

⁵ Palestinians in Iraq have had to endure various sectarian acts of vengeance including killing, evacuation and deportation at the hands of armed militias. (Shiblak)

mother to receive Egyptian nationality, while it does not explicitly exclude those born to a stateless Palestinian father, the Ministry of Interior - whose procedures are left to its exclusive discretion - refuses to accept any application for naturalisation of children born to a stateless Palestinian father. The authorities do, however, accept applications if the father is a Palestinian bearing another nationality – i.e. Jordanian. (Shiblak forthcoming) In Lebanon, the authorities clearly stated when issuing the 1994 amendment to the nationality law which resulted in the naturalisation of over 100,000, foreigners, that Palestinians were to be excluded from this scheme. The row over this amendment that followed seems to be ongoing. It was reported recently that the Lebanese government may be forced to withdraw nationality from people, mainly Palestinians, ‘who may have slipped through the net in the process’.⁶ (Shiblak forthcoming)

The second point concerns the willingness of the sovereign to identify the state with a nation or with a religion. "Israel is a Jewish State", and "Jordan First"⁷ have raised the problem, in that critical segments of the population, through (forced or voluntary) migration, acquire another nationality, another allegiance, another home, and another homeland. The way the nation-state is defined becomes an exclusionary setting to those segments.

The third point concerns the question of who is the beneficiary of rights in the nation-state. The classical order of nation-state has developed rights for citizens but not for human beings. Hannah Arendt extraordinarily noted as early as the beginning of the 1950s that there is no place for the human being outside the nation-state (Arendt, 1985). There are *citizens'* rights but not *human* rights. To have rights, you must be a citizen. The refugees and the stateless do not have *rights to have a right*, but "benefits" and their ontological status is dependent on the disciplinary apparatuses of the police and security forces. This issue is not confined to the Middle East. More and more refugees are excluded from legal protections even in European countries, but are however subject to their bureaucratic power. There, refugees retain the vulnerability of their status even after acquiring nationality. Any criminal or other questionable activity puts them at risk of denaturalization. Arab bio-politics is concerned with population as a political and scientific problem, as a biological issue of the exercise of the government. But the bio-power does not act in the individual a posteriori, as a subject of discipline in the diverse forms of rehabilitation and institutionalization. Rather, it acts on the population in a preventive fashion. Because the insurgency/criminality should be prevented that population should be surveilled and some of them may be punished for preventive reason. It is a state of 'executive power' or policing, monitoring, or recording that constitutes the excess which is the reality of the norm. Some populations and categories in the Arab world thus become an objective matter to be administered, rather than potential subjects of historical or social action. This does not mean that subject cannot emerge and resist this sovereignty, but that sovereignty attempts to reduce the subjective trajectories of individuals to bodies.

Bibliography

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⁶ The Minister of Interior estimated that nationality had been withdrawn from around 4,000 naturalised persons, Al-Hayat Arabic daily 21/2004

⁷ "Jordan First" is a campaign asserting that Jordan's national interests must be prioritized over those of Palestine, Iraq. The declared objective is to closing the gap between communities, promoting national unity (through a collective, national, civic identity).