

The lost tribes of Arabia

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It is difficult to give precise figures of the number of stateless persons in the Arab region. Most countries in the region do not publish figures on the number of stateless communities in their midst. However, it is widely recognised that the number of stateless people in the Arab region is one of the highest in the world.

Exclusion and inclusion had been part of the process of state formation in the Arab region that took place when Ottoman rule ended and the European colonial powers divided up the Ottoman inheritance directly after the First World War. The emerging new sub-national states of Arabia cut through nomadic or semi-nomadic societies. The extended Bedouin tribes had for centuries moved with their animals without check points or border crossings.

Passports and identity documents were not only unknown but also undesirable devices brought by men with blue eyes, who wore trousers and funny hats. Many were suspicious of the new ways and chose not to have their names registered, or simply did not bother to do so as their way of life maintained the same rhythm it had always had. Even years after the newly born states were established, the Bedouin were still able to function as free and full citizens of these states. Papers did not have the meaning they have now and consequently thousands of people fell through the net and remained undocumented. The indigenous stateless communities in the Gulf region, today called the 'Bidoon', an Arabic word which means 'without [nationality]', are largely the victims of this process.

Foreign intrusion and armed conflict led to wide-ranging displacement and consequently to large numbers of stateless communities. The Arab-Israeli conflict has produced one of the largest refugee stateless communities in the world today as a result of the mass movement of Palestinians to other states after the 1948 and 1967 wars. More recent conflicts in Lebanon, Iraq, the Gulf region, the Horn of Africa and Western Sahara have generated a substantial amount of displacement

and statelessness, though on a smaller scale than that of the Palestinians.

The rise of pan-Arab nationalism, the political turbulence that has swept the region in the last few decades and ethnic and religious tensions have led to further exclusion and marginalisation of minorities and deprivation of citizenship, as in the cases of the Kurds of the Levant and the Shiites in Iraq and parts of eastern Arabia.

Control of nationality

A chain of out-of-date laws that still regulate various aspects of citizenship such as immigration, the status of refugees, the status of women and the rights of children are to a large extent responsible for generating and maintaining the phenomenon of statelessness in the region. In their efforts to assert their authority, most of the emerging states seem to have adopted a narrow concept of citizenship and restrictive nationality laws. Citizenship is largely conceived of as granted by the head of state and not as a fundamental right. There is, in most cases, no jurisdictional mechanism therefore to challenge the executive order to deprive someone or a group of people of their citizenship.

Most of the countries in this region adopted rigid criteria to grant their nationality based only on the principle of *jus sanguinis* through the male line, the husband or father. Children therefore inherit statelessness from their stateless fathers. Women have no rights in most of these countries to pass on their nationality, if they have one, to their stateless children. Most of these countries are not party to the 1951 Refugee Convention and almost none is party to the 1954 and 1961 Conventions on the Status of Stateless Persons.

Thus, there is no way to grant citizenship to immigrants or refugees in these countries. Naturalisation of foreigners and citizens of other Arab states is either prohibited by law or very restricted and left to the discretion of the rulers without clear criteria. Even where they have adopted some of the relevant international conventions or even inserted provisions into domestic laws, there is always a large gap between what the law says and its application. The most striking example perhaps is the persistence in ignoring the right of children to have citizenship among most of these states, which are all party to the Convention on the Rights of the Child.

A large but unknown number of *de facto* stateless individuals have been denied passports or the ability to travel by the authorities in their country because of their political or human rights activities. There is evidence to suggest that this is a widespread phenomenon in most Arab states. It is common practice that political opponents who live abroad are denied renewal of their passports (as are, usually, their family members).

Unlike in liberal democracies where social and economic rights derive from residency rather than nationality, in most developing countries and certainly in the Arab region, nationality is the key for other rights. Being stateless has a negative effect on all aspects of one's life, including the right to freedom of movement, to work, to access public services, to own property, to have a driving licence, to register a marriage, birth or death, or sometimes to have any identity document at all. Deprived communities can be a destabilising factor in any society, which can lead to further conflicts among states, as the case of the Palestinians and the Sahrawi or the Shi'ites deported from Iraq have proved.

Palestinians, Kurds, Bidoon and Sahrawi

Broadly speaking, the four main stateless communities in the region –

the Palestinians, the Bidoon of Arabia, the Kurds of Syria and the Sahrawi still living in exile in Algeria – are *de jure* stateless.

Almost half of the approximately 10 million Palestinians today are stateless holders of travel documents who live mainly in the Palestinian Authority (PA) controlled areas of the West Bank and Gaza Strip and in other countries of the Arab East. As long as there is no fully-fledged Palestinian state these communities will remain stateless under international law. This large stateless community has been taken care of by the specially constituted international relief agency UNRWA. It has thus long been considered as outside the mandate of UNHCR and dropped therefore from the list of stateless communities worldwide and from the international protection regime for refugees and stateless persons.

However, there is growing international awareness of the need to recognise the statelessness of Palestinian refugees and of the need to include them in the international protection regime. During the last few years, UNHCR has taken a step towards this by including within its protection Palestinian holders of travel documents outside UNRWA's areas of operation.¹

There are presently at least 500,000 stateless Bidoon in the Gulf States including Saudi Arabia. The largest group is in Kuwait, despite the flight of more than 100,000 of them during the Iraqi invasion of Kuwait in 1991 and the fact that afterwards the Kuwaiti authorities blocked their return. Security (which largely means the security of the ruling families), the desire to keep national wealth for the few in these oil-producing countries and in some cases the desire to keep the demographic balance in favour of the ruling families and against other religious or national groups remain the unspoken factors

behind inclusion and exclusion in most of these countries.

Rising nationalism under the Ba'athists led to thousands of Kurds in Syria – estimated at between 200,000 and 250,000 – being deprived of their nationality in the 1960s. The majority of these are still without a nationality despite recent signals from Syrian officials that the issue will be resolved. Ethnic and religious tension as a result of the Iran-Iraq war in the 1980s led to mass displacement, deportations and deprivation of



nationality for as many as 600,000 Iraqi Kurds and Shi'ites. The majority of them were allowed back after the fall of the old regime in 2003 but it is not clear in the present highly charged sectarian situation how many have regained their nationality.

Thousands of refugees who lack documentation have spilled out across the borders to the neighbouring countries from conflicts in the Horn of Africa and Sudan over the last three decades. And it is not clear how many Sahrawi out of an estimated 160,000 still living on the Moroccan-Algerian border have no nationality.

The future

Some of the Arab states have started to realise that they need to open up their restrictive nationality laws; the current situation is not only unrealistic in a rapidly changing world of pluralism but it is also essentially undemocratic and largely in breach of basic human rights. Saudi Arabia, among others in the Gulf, has inserted special provisions

into its laws to allow naturalisation of foreign professionals who have served the country. However, very few stateless persons will benefit from these new laws that are aimed at the rich and powerful. Other countries in the Gulf have moved to reduce the number of stateless Bidoon – officially described as the 'undocumented' – but many would not be able to meet the restrictive criteria required. Both Egypt and Morocco are trying to catch up with Tunisia in granting a mother's nationality to her stateless children. But it is a slow process and one that stops short of ending the plight of the present generations of stateless communities.

Bureaucratic inertia and the fact that the power to decide matters of citizenship lies with the executive rather than the courts still hamper the implementation of many changes in law. This is especially so in Egypt where stateless children of Egyptian

mothers are estimated to number more than 250,000. The United Arab Emirates took some steps recently to resolve the long-standing issue of its 'undocumented' residents but it is not clear how many will benefit due to the lack of transparency and any possibility of judicial review of the authorities' decision. There no indication yet that Kuwait is willing to change its ways and follow suit despite its promises to do so in the past.

It is also widely recognised that without a fully fledged Palestinian state and without peace and stability in the areas of conflict in this region, displacement and statelessness will keep spreading, bringing more misery and destabilisation to this region and undermining world peace.

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1. UNRWA assists refugees living in the Gaza Strip, the West Bank, Jordan, Lebanon and the Syrian Arab Republic.