

CHAPTER – VII

CONCLUSION

Statelessness is a phenomenon as old as the concept of nationality. Until the beginning of the twentieth century. However, statelessness was a limited phenomenon and consequently did not disturb international life. However, soon after the First World War this problem assumed alarming proportions compelling the international community to initiate serious deliberations on this issue. While statelessness has long been recognized as an important problem in international law, the desire of states to exercise control over stateless persons in their jurisdiction has prevented effective action. The indifference of national government and inaction of the international community has affected a large number of persons who are particularly vulnerable to oppression because they lack the protection afforded by rights of citizenship. The stateless persons are denied vehicle for access to fundamental rights, access to protection and access to expression as persons under the law. A person may be stateless at birth in the sense that he has not acquired nationality at birth according to law of any state or he may become stateless, subsequent to his birth by losing his nationality without acquiring another. A stateless person can not be benefited from the law of diplomatic protection of nationals abroad in as much as such protection is available with certain minor exception, only if he has nationality.

More important a stateless persons cannot travel internationally as he is usually without passport which serves not just as an identification document but also as guarantee on the part of issuing state to other states that it will accept the passport holder back into its territory in the event of his being expelled or deported. It is even more important that every country is obliged to receive its national if they wish to return to their native country.

Although, many refugees are stateless, statelessness is not the essential quality of refugees, who is defined in accepted international usage as a person who for political reasons has been driven from his country of origin or who fears the political consequences of his return. He may be stateless or although not technically denationalized, may have lost the protection of his government by refusing to return home when it is possible was presented. As a person without government protection, he losses the advantage of international rights which depend for enforcement on the action of his home government. Furthermore, the stateless person who is not national of any state is denied many of the privilege of citizen, granted reciprocally through treaties. Such treaty gives the citizens of one state privileges in other states party to the treaties, including right to work, the benefit of social insurance and right to education.

Refugee may also be defined as an involuntary migrant, a victim of politics, war and natural calamity. In a restricted sense, refugees may be defined as persons who have left the territory or state of which they are nationals and no longer enjoy the effective protection of the state. A

considerable majority of stateless persons are at present refugees. These refugees are de-jure stateless persons if without having been deprived of their nationality they no longer enjoy the protection and assistance of their national authorities. Their legal status is determined by the legislation of the receiving state and with some exceptions, is equal to the legal status of its own nationals.

Like refugees, the stateless persons no longer enjoy the protection and assistance of their national authority. Refugees have right to return to their original homeland but stateless person can not return to their homeland as they have no country to take them back, nor to issue travel documents for them to visit other foreign countries. Both refugees and stateless persons have right to form non-political and non-profit making association and trade union but only refugees have right to vote in favor of any political party.

Several factors lead to statelessness, which are more or less similar in all parts of the world. Some of the principal factors are; wars, revolution, political warfare, separatist and secessionist movement.

In the West Asian region the problem of statelessness is very acute. The problem emerged during the process of creation of Israel on a part of Palestine. Hundreds of thousands of Palestinian Arabs fled their homes as a result of the creation of the Jewish State. The Palestinian exodus began soon after the UN Partition Plan and continued even after the Armistice Agreements were signed between Israel and Arab States in early and mid 1949. The exodus is classified into three phases. The first phase started from

November 29, 1947 to mid March 1948, the second phase from late March to May 15, 1948 and third phase started from May 15, 1948 onwards. Here all but most of the biased of Zionist works agree that expulsion became standard policy and was carried out systematically. Over 750000 Palestinian Arabs who lived in the area that came under Israel control were displaced in the course of fighting both before and after 14 May, 1948 and became refugee in Jordan, Gaza Strip, Syria and Lebanon. By the end of 1948 war hundreds of thousands of Palestinian refugees were living in orchards, barns and caves, convents, army barracks and other places of shelters provided by charitable organizations. The 1948 war not only assured the existence of Jewish State but it also enabled this state to extend its boundaries well beyond those laid down by the UN Partition Resolution in 1947. This increased the size and created rooms for Jewish immigration and greater physical security. In 1948 Israel signed Armistice Agreement and with Arab countries that shared its borders. These agreements which put end to the war left many issues unsettled. Israeli territory expanded from 56.4% of Palestine allotted to it under the UN Partition Plan to 77.4% within 14 months of foundation of Jewish state. The armistice agreements while acknowledging territorial changes said nothing about the refugee. A UN Resolutions of December 1948 had ruled that those Palestinians wishing to return and live at peace with their neighbours should be allowed to do so. After the creation of Israel, the Israeli army continued to attack Arab villages, blew up houses and indiscriminately killed men, women and children. The

majority of the original population of the country was forcibly displaced and uprooted by a militant minority of foreign origin. Jewish terrorism and intimidation played a major role in the exodus of Palestinians from their homes in the newly created state of Israel.

The Arab-Israel conflict of June 1967 once more threw West Asia tension into sharp relief and escalated the problem of statelessness in West Asia still further. During the war Israel occupied all the territories commonly referred to as West Bank and Gaza Strip. In the aftermath of the June war no less than 300,000 Palestinian who had been living in the West Bank and Gaza Strip were exiled. Most fleeing West Bank residents relocated on the East Bank, although some of those displaced persons continued on to second settlements areas mostly in Lebanon. Whereas just before the June War, some 63% of all Palestinian still lived in Palestine, by the end of 1967 this percentage had dropped to only 50%. The losses were experienced primarily on the West Bank and secondarily in Gaza. The immediate effect of 1967 war was an increasing the dispersion of the Palestinian population. While the East Bank of Jordan received the largest number of new expellees about 5% of the population scattered in other Arab countries. Some were refugees from 1948 war who had been living in camps the newly Occupied Territory, who were forced to flee for the second time in their lives. Thousand of other left as the military occupation and the expansions of the Jewish settlements deprived them of their homes and livelihoods and left them vulnerable to economic stagnation and political oppression.

In the beginning the Arab States tried to help the refugee as best as they could but the number of destitute was so enormous that they finally referred the problem to the UN in late 1948. The UN Mediator Count Bernadotte appealed to Israel to accept repatriation of some of the refugees, but Israel rejected the Bernadotte proposal on the ground that it could not accept the refugee back in view of the continuance of the state of war.

The situation created two distinct problems, the problem of emergency relief and the problem of permanently, re-establishing the homeless people. A relief programme was initiated under the supervision of a UN Director of Disaster and Relief and with the assistance of the World Health Organization (WHO) and other specialized Agencies of the United Nations. The Disaster Relief Project initiated by Count Bernadotte was soon replaced by United Nations Relief for Palestine Refugees (UNRPP), established under a General Assembly Resolution on November 19, 1948 in which the Secretary General of the UN was requested to take all necessary steps to extend aid to Palestinian refugees and to establish such administrative organization as may be required for this purpose, inviting the assistance of several governments, the specialized agency of the UN, and other voluntary agencies. On 11 December, 1948, the UN passed another resolution GA Resolution 194 (III) and established a Conciliation Commission and instructed it, to take steps to assist the Government and authorities concerned to achieve a final peace settlement of all questions outstanding between them and to "facilitate the repatriation, resettlement and economic

and social rehabilitation of the refugees and payment of adequate compensation to them. In November 1949 the Conciliation Commission recommended setting of special agency known as the UNRWA to take over the function of UNRPR.

The Arab State which gave refuge to the Palestinians have adopted varied approach in dealing with the problem of stateless Palestinian. Jordan approached the refugee problem in a manner that was abhorred by her Arab neighbours. Jordan's King Abdullah envisaged a settlement with Israel as a method of improving his country economic outlook and as opportunity to open up new development possibilities by means of the assistance obtained from the UN towards the rehabilitation of the refugees. Therefore, in 1950, after annexing the Arab occupied portion of Palestine West of Jordan river, King Abdullah willingly integrated its native and refugee populations into his kingdom on the basis of constitutional representative government and equality of rights and duties of all citizens. But the Palestinians had no loyalty for the Hashemite Kingdom and neither intellectual, emotional or ideological attachment to monarchical rule. The Palestinians characterized King Abdullah's annexation of West Bank as a calculated scheme executed with Zionist approval.

With the advent of the Palestinian guerilla movement in late 1960's, Palestinians started to acquire great power and influence within Jordan and began to develop a state within a state over which the Jordanian monarchy had virtually to control. Thus Palestinians were free to attack Israeli troops in

the West Bank without restraint, and cross border attacks by both Israelis and Palestinian guerillas became more frequent. The growing military might of the Palestinian guerillas was perceived as a source of threat by the Jordanian monarch and in September 1970 King Hussain ordered his army to move against the Palestinian guerillas. In ten days of intense fighting, thousands of Palestinians were killed and the guerilla movement in Jordan was crushed. Within a year of "Black September", virtually all the Palestinian fighters had been expelled from Jordan and forced to seek refuge in neighbouring Arabs countries like Lebanon and Syria.

The Palestinians who took refuge in Lebanon lived in legal void. They were neither citizen nor were they classified as foreigners. Ninety percent of the Palestinian refugees in Lebanon were Muslim and this proved to be a source of great worry for the Lebanese Government. If the Lebanese government had officially sanctioned their permanently residence, the delicate balance between Christians and Muslims which determined the countries political system would have been upset permanently residence. The first two decades of exile in Lebanon were marked by economic exploitation political and social marginality and officially sanctioned repression. Social and political control over Palestinians by the Lebanese government was maintained through a variety of measures: Work permits requirement, the presence of Lebanese police and intelligence force in the camps. The government response to political expression and activity was often arrest. Palestinians were subject to restrictions on their travel abroad

and within Lebanon. The refugees were placed under the jurisdiction of the section of the Ministry of Interior, called the General Bureau of Palestinian Affairs. The General Bureau, in conjunction with the religious courts of each sect governed personal status matters such as marriage, divorce, custody and inheritance. Within the camps the Lebanese police and Lebanese intelligence exercised strict control over the population, contemplating to prevent any form of political expression. Such measure not only discriminated against the poorer Palestinians who sought refuge in Lebanon but also made it difficult for broken families to be reunited with their kin and kith. Palestinians Christians were also separated from their Muslim compatriots, movements from one camps to another or from camp to the city was forbidden without express permission from the government authorities. In Lebanon, because of official restriction on their employment, refugees often provided black market labour at wages below the minimum established by government.

Towards the end of the 1960s refugee camps became centers of political and social unrest. In December, 1968, the Israelis reacted to the military operations of Palestinian guerrillas from South Lebanon with a surprise attack on Beirut airport and Israeli airborne troops destroyed the greater part of Lebanon's civil aviation fleet. This first retaliation on Lebanese territory gave a foretaste of the problems raised by the new guerrilla activity of the Palestinians, who were now operating from Lebanon without the permission or even the knowledge of the Lebanese army. The Palestinian

resistance movement established its open, armed presence in the camps in Lebanon in 1969 after a year long series of battles with the Lebanese army. Concomitantly, the Lebanese authorities withdrew from the camps.

The sizable Palestinian presence in Lebanon contributed heavily to government immobilism as Lebanese political groups became increasingly polarized. Most Muslim supported the Palestinians and wanted the army to prevent Israeli attacks on southern Lebanon and on the Palestinian camps. Most Christians wanted government to restore sovereignty to Lebanon and control the Palestinians who seemed to form a state within a state.

Growing polarization ultimately plunged the country into a bloody civil war in April 1975. As the Lebanese state collapsed, Israel stepped up its intervention in Lebanon and invaded the country twice, once in 1978 and again in 1982. Approximately 60,000 Palestinians were left homeless as a result of the Israeli invasion of 1982. After their camp homes had been destroyed, they took shelter in apartment garages, storefronts, unfinished apartment buildings and shelters built from scrap. With the signing of the Taif Agreement (1989) and the return of civil harmony to Lebanon, some attempts have been made to rehabilitate the Palestinian camps in the South Lebanon.

In the Syrian Arab Republic, the overall size of the Palestinian community is smaller than the number of Palestinians in the other Arab state and regions bordering Israel. Palestinians have not been given citizenship and cannot travel abroad. In Syria, where economic restriction and controls of socialist government make free enterprise difficult, business minded

Palestinians were much more restricted in money making. There were thus fewer gaps in the social structure of the Syrian Palestinian community. The high number of Palestinian refugees who found works in the building trade was direct result of official government policy which aimed to channel Palestinian labour. While some refugees still complains that they are discouraged from taking more advanced jobs or from finding more amenable professions in the service sector, others have accepted the opportunities because of need to support large families or to finance high cost of education.

The Palestinian in West Bank and Gaza Strip came under Israeli occupation after the 1967 war. The war extended Israeli military rule to the occupied areas of West Bank and Gaza Strip. Israel violation of human rights of the Palestinians increased and were intensified after June 1967. Israel was faced with a large Arab population in the territory under its control which was constantly challenging the occupation. Israel resorted to illegal and brutal means to spread terror, reduced opposition and force the submission of the civilian Arab population even though such means constituted grave violation of human rights. Several travels restrictions were placed on the Palestinian population. The Israeli authority rarely permitted Gazan to travel to West Bank and West Bankers to travel to Gaza. Travels restrictions were particularly severe for young Palestinian males, considered by the authorities to be security risks. Palestinian often do not travel abroad for fear of being denied re-entry to the Gaza Strip or the West Bank. Israeli authorities do not

permit adult Palestinian males traveling to Jordan to return less than nine months after leaving, yet generally forbid them from returning permanently, if they spend more than three years abroad. Israel uses an array of harsh measures against Palestinians in the Occupied Territories such as deportation, arbitrary arrest, policy of torture, demolition or sealing of houses, settlements of Jews on Palestinian land and denial of adequate water to Palestinians. Palestinian in the Occupied Territory have enjoyed since 1967, no rights and no representative institutions. There is no authority to which they can appeal, no protection which they can invoke. Their every movement action is subjected to the arbitrary authority of Israel Military Governor. They can be detained the intervention of any tribunal. Their houses and property may be destroyed, their land confiscated, their camps burnt and their trees cut down. Attempts made by Amnesty International, International Red Cross, by private organization or individuals or even by the formally constituted United Nations Special Committee to investigate Israeli practices in the Occupied Territory have met with no cooperation from the Israeli government.

In the Occupied Territories there is a surplus of unemployed or under employed labour among the Arab population. Thousands of Palestinian farms laborers also works on Israeli farms where they are under paid and are generally abused. The worst case of exploitation and abuse involve Palestinian children as young as eight and ten years old who work for Israeli's. All workers from Occupied Territories have to carry identity card,

which they are required to show on demand. They are in Israel only as migrants workers and must return to the Occupied Territories every night. There are estimated thirty thousands unorganized workers who gather every morning to go to work in Israeli farms. Forty percent of their wages is deducted for insurances funds, yet they are entitled to no benefits and do not receive any benefits. In short, in many respects, the workers of the territories are a treasure for the Israeli economy.

Arab labour was largely responsible for Jewish settlement in and around Jerusalem and Hebron and the wages they are paid are far below the minimum wages paid to Israeli labour. The Occupied Territories not only served as a source of cheap labour but also provide Israel with markets for its goods. Since the occupation, Israel has increased six fold its exports to the Occupied Territories making these territory the second largest market, second only to United States. In classical colonial fashion, the economy of occupied areas are distorted to serve Israeli interest. Palestinian agriculture also been distorted in addition to being to divested by massive land expropriation, expulsion and displacement. Palestinian crops have been destroyed by petrol, sprayed poison on fields, thereby, destroying many acres of wheat, barley, and olive groves.

The track record of the Palestinian Authority setup after the Oslo Accords in the field of human rights has been no better. Intolerant of internal opposition to it policy and under intense pressure from Israel and the US to combat terrorism, the PA conducts mass and often arbitrary arrest of

suspected militants and opponents of the peace process. By strictly limiting the boundaries of PA power, the Oslo Accord have denied the PA those power (e.g. sovereignty) to mobilize people around state building projects by maintaining effective control of the economy and pursuing unrestricted access to international markets. Yet the PA has been given all the powers and resources needed to physically punish its people.

The stateless Palestinians residing either in West Bank or Gaza Strip or in one of the front line Arab state have certain internationally protected rights. In general the rights of stateless persons are covered by 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 of the International Covenant on Economic, Social, Cultural Rights (1966). These instruments clearly deals with the Human and Civil Rights of Stateless Palestinian Refugees and other stateless person. While most host government have accepted these covenant, they have failed to abide by them and tend to apply their national laws.

Another instrument which deals with the basic rights of Palestinians is the Casablanca Protocol which the League of Arab States adopted in 1965. This protocol is related in particular to the rights of the Palestinian refugees to work, to enjoy freedom of movements and full residency status. Between 1970 and 1973, the UN General Assembly has also adopted a number of resolutions in which Palestinian rights are enumerated. These are: (a) The

Palestinian Arab constitutes a people who have inalienable right under the Charter of Universal Declaration of Human Rights. (b) The rights of newly displaced persons after 1967 to return immediately to their homes. (c) The people of Palestine are entitled to self-determination and equal rights. (d) The Rights of refugees to repatriation or compensation.

The UN Convention of 1957 and 1967 Relating to the Status of Refugees also covers the Palestinians with the exception that those Palestinian refugees falling within the UNRWA mandate have been excluded from the jurisdiction of UNHCR. In effect, this meant that UNHCR does not concern itself with Palestinian refugees in Jordan, Lebanon, Syria, West Bank and Gaza Strip. It may assist Palestinian refugee outside the UNRWA mandate. This exception proved a serious obstacle for Palestinian refugees who have resided in one of the UNRWA area of operation and then attempted to seek asylum and protection elsewhere.

Seeking to lessen the plight of the Palestinian refugee and displaced persons, the General Assembly in 1949 established the United Nations Relief Agency for Palestinian Refugees (UNRWA). It is exclusively a refugee welfare organization, and designated as a temporary non-political organ of the United Nations General Assembly. UNRWA has been functioning in all the refugees areas of the West Bank, Gaza Strip, as well as in Lebanon, Syria and Jordan. It has become an established institution in its area of operation and plays an important role in the lives of Palestinian refugees. UNRWA is not only an agency which provides valued services in the field of

education, health and social welfare but is also the symbol of international commitment to the welfare of Palestinians and to a just resolution of their plight.

The signing of the Oslo Accord in September 1993 had profound impact on the work and responsibility of UNRWA. With the establishment of Palestinian Authority in Gaza Strip and Jericho and anticipated extension of self-rule to the rest of the West Bank, UNRWA entered a new era in its relationship with the Palestinian people. In mid 1993, UNRWA began to prepare a forward looking response to support the peace process in the changed environment which emerged in self-rule areas. Immediately, following signing of the Declaration of Principles, UNRWA made preliminary identification of projects that it could undertake to help improve social and economic conditions in the West Bank and Gaza Strip. At the same time it took steps to strengthen its administrative and managerial structure in the West Bank and Gaza Strip in order to ensure the timely implementation of projects.

UNRWA is run primarily on voluntary contribution made by donor governments. It has received contribution from about forty states. Ninety eight percent of the sums contributed have come from the USA, UK, Canada and France. This complicate the UNRWA's budgetary process because at the beginning of the year the Agency is not in a position to make an accurate estimate of its income for the rest of year. The budget, therefore, has to be based on assumptions, which may or may not turn out to be correct. Many

times during the last five decades the agency had faced acute financial crises and has barely managed to get by. The lives of the refugees are still clouded by economic insecurity and most families continue at the margin of subsistence. They still express their resentment at the hardship which they have endured over the last five decades and voice their aspirations to return to their previous homes.

The Oslo Agreement establishes hopes for a peaceful, eventually even a just solution. The agreement lays the foundation for a limited interim Palestine self-rule in those areas of Palestinian occupied by Israel since 1967. The agreement does not define the political nature or territorial extension of the future Palestinian entity, but entails stipulations with regard to mechanisms and deadlines for a step-by-step implementation of peace process. Contentious issues like Jerusalem, refugees, settlements and borders have been left for future talks but the political reality is that they have been on everyone's mind and have dominated the agenda all the way since 1993. Israeli occupation had not only strangled all normal economic and community activity, but even threatened the very existence of the Palestinian society in the remaining parts of Palestine. Through the settlement policies, the confiscation of land and water resources and a military regime that isolated the Palestinian population centers from each other and the world at large, Israel had created conditions that many Palestinian feared would end in a complete disintegration of identity and Palestinian society. The Oslo Agreement thus represents a starting point for a new Palestinian national

vitality. It is true that Israel has not irrevocably renounced its sovereignty over the Occupied Territories. There is still not much to indicate that Israel intends to surrender the real control over the Occupied Territories and still less to indicate that it will surrender the very Zionist System itself. The purpose of Palestinian self-rule from the Israeli point of view will remain to unburden Israel from the role of direct occupation; it hopes therefore, to transfer the politically and economically expensive tasks of maintaining peace and order to a Palestinian leadership which is loyal to Israel. However, having already recognized the principle of Palestinian national rights, it would become extremely difficult for Israel to prevent the emergence of a Palestinian political entity, which has the sympathy of the world in the years to come. The strength of the stateless Palestinian is that they have justice on their side simply because they have been deprived of fundamental rights. The accords thus represent a new beginning for the Palestinian peoples enduring struggle for a decent life among the nations.