

Immigration and Refugee Board of Canada

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Responses to Information Requests

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11 September 2014

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Egypt and Palestine: The status of a Palestinian with an Egyptian Travel Document for Palestinian Refugees in Egypt, including rights to residency, employment and education; ability to travel between Gaza and Egypt with this document (2009-2014)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Overview

Unprotected: Palestinians in Egypt Since 1948, a 2009 book co-published by the Institute for Palestine Studies (IPS) [1] and the International Development Research Centre (IDRC) [2], and authored by Oroub El-Abed [3], provides information about the situation of Palestinian refugees in Egypt (El-Abed 2009). In correspondence with the Research Directorate, the Director of the Fahamu Refugee Program in Oxford, UK [4], recommended El-Abed's book as a source of information that is still currently applicable (Director 30 Aug. 2014). In correspondence with the Research Directorate, El-Abed indicated that the situation for Palestinians in Egypt continues to be generally the same as that described in her book (El-Abed 29 Aug. 2014).

2. Status of Palestinians with an Egyptian Travel Document for Palestinian Refugees

In her book, El-Abed indicates that there are two types of the document entitled "Egyptian Travel Document for Palestinian Refugees": one for Palestinians residing in Egypt, and another for Palestinians who "never had" residency rights in Egypt (El-Abed 2009, Ch. 4).

According to El-Abed, the type of travel document for Palestinian residents of Egypt is "issued on the basis of a valid residence permit" and comes in different categories depending on the type of residence permit the Palestinian holds (ibid.). El-Abed indicates that there are five categories of residence permits depending on when the Palestinian (and his/her descendants and offspring) arrived in Egypt, with different renewal periods as follows:

- A. Arrival before 1948; renewable every five years, or ten years if proof of ten-year continuous residency in Egypt can be provided
- B. Arrival in 1948; renewable every five years
- C. Arrival in 1956; renewable every three years
- D. Arrival in 1967; renewable every three years
- H. Arrival after 1967; renewable every three years (can vary according to the conditions of entry into Egypt) (ibid.)

According to El-Abed, resident permits and travel documents for Palestinians who arrived before 1967 (categories A, B, and C) are issued by the Department of Immigration, Passports, and Nationality at the Mugamma, while those who arrived after the 1967 war, mainly from Gaza (categories D and H) are issued by the AOGG [Administration Office of the Governor of Gaza] (ibid.).

El-Abed explains:

Regulations governing the travel documents are strict. To ensure re-entry into Egypt, the Egyptian travel document holder with a valid residency permit who is travelling or residing abroad must either return to Egypt every six months or provide the Egyptian authorities in advance with proof of employment or of current enrollment in an educational institution abroad. In such cases, a one-year return visa may be granted. No extension or renewal can be granted through Egyptian embassies abroad. Any delay beyond the stipulated deadline can result in denial of entry or deportation. (ibid.)

Similarly, in correspondence with the Research Directorate, a clinical professor of law at Boston University, who specializes in refugee law, has taught and conducted research in Egypt, and has published articles about the legal status of Palestinian refugees around the world [5], also said that Palestinians with an Egyptian travel document must return to Egypt every six months or provide the Egyptians with proof that they meet one of the exemptions, which include marriage to an Egyptian, proof of university enrolment, or proof of authorized private employment in Egypt (Clinical Professor 9 Sept. 2014). However, the Professor also noted that, "[e]ven then, there is no guarantee that the Egyptian authorities will permit re-entry" (Clinical Professor 9 Sept. 2014).

According to El-Abed, tens of thousands of Palestinians from Gaza and their descendants hold Egyptian travel documents for Palestinian refugees, although they lack residency rights in Egypt (El-Abed 2009, Ch. 4). El-Abed states that these documents were initially provided to Gazan residents during the time when Gaza was under Egyptian control and were used by thousands of Gazans who migrated to Gulf countries and elsewhere for employment (ibid.). El-Abed further explains that after Israel occupied Gaza in 1967, Gazans with these documents who were abroad and did not return to Gaza continued to use these travel documents and had them renewed at Egyptian embassies abroad (ibid.). She noted that people with these documents who reside outside Egypt are "vulnerable" to changes in politics, such as during the 1990-1991 Gulf crisis, when thousands of Gazans with Egyptian travel documents were expelled from Gulf states, were not accepted by any state, and were stranded in Kuwait (ibid.). El-Abed explains that there are "hundreds if not thousands of cases" that go undocumented in which Palestinian residents or former residents of Egypt with Egyptian travel documents are denied re-entry for transgressing the rules of the travel document (by either carelessness or circumstance), or due to "bureaucratic red tape or error" (ibid.). El-Abed states that "[f]or the Palestinian who has overstayed his visa, denial of re-entry, detention at the border, imprisonment upon arrival, or deportation are common occurrences" (ibid.). She also indicated that it is common for stateless Palestinians with only an Egyptian travel document to be detained at the border (ibid.).

The Director of the Fahamu Refugee Program was also aware of Egyptian Palestinians who were imprisoned in Egypt because they had overstayed their exit permits (Director 30 Aug. 2014). The Director stated

Although there is no law which specifically makes it a criminal offence for a Palestinian to overstay an exit visa, being an illegal alien is in fact a criminal offence in Egypt. Overstaying an exit visa is de facto criminalised. ... Egyptian Palestinians without up-to-date residency permits who cannot be deported (or those who can do not leave willingly) are in fact being put in prison, indefinitely detained and subjected to abject treatment. Therefore, if a Palestinian overstays their exit and tries to re-enter Egypt, he is considered an illegal alien, which is in fact, a criminal offence and is treated accordingly. (ibid.)

The Director noted that anyone who overstays his or her exit visa from Egypt and is not from Gaza and re-enters Egypt faces indefinite detention (Director 30 Aug. 2014).

The Professor said that if the person has not regularly renewed the travel document, by either returning to Egypt every six months to keep his status current, or by meeting one of the exceptions (marriage to an Egyptian, current university enrolment, proof of authorized employment in Egypt), that he will not have any right to enter Egypt (Clinical Professor 9 Sept. 2014). She said, "[a]s a Palestinian, he would most likely be arrested immediately at the airport and held in the detention facility below the airport until he could be removed. Or moved into long term detention if removal is not feasible" (ibid.).

3. Rights for Palestinians in Egypt

A 2006 article entitled "Stateless Palestinians" in *Forced Migration Review (FMR)*, written by a research associate at the Refugee Studies Centre at the University of Oxford, indicates that Palestinians in Egypt are

"denied rights to secure residency, employment, property, communal interaction and family reunification" (FMR Aug. 2006, 8).

3.1 Residency Rights

According to the Professor, the "current status of Palestinian refugees, no matter how long they have resided in the country, is 'foreigner' under Egyptian law" (Clinical Professor 9 Sept. 2014). However, she also said that Palestinians who work with the PLO [Palestinian Liberation Organization] mission in the country; those who are married to Egyptians; those who were paying fees at schools or universities; and those employed and sponsored through a private employer; or who are business investors, "can be exempt from the restrictive regulations" (ibid.).

According to El-Abed, residency requirements for Palestinians in Egypt are "rigidly enforced" (El-Abed 2009, Ch. 4). She explains that

Residency is contingent upon providing a reason for remaining in Egypt. Possible reasons include education, licensed work, marriage to an Egyptian, or business partnership with an Egyptian. Bureaucratically, these various reasons take the form of a guarantor, which can be an institution (e.g. place of employment, school or university, the PLO Labor Union) or an individual (e.g. parent, spouse, employer, business partner). In all cases, an official document proving that the applicant lives in Egypt for one of these reasons, as well as the guarantor's relationship to the applicant, must be provided. (ibid.)

El-Abed notes that there are high fees for Palestinians to renew their residency permits (ibid.).

3.2 Employment Rights

El-Abed and the Professor both indicate that Egyptian laws do not allow foreigners to exceed 10 percent of employees in the labour force (ibid.; Clinical Professor 9 Sept. 2014).

El-Abed states that Palestinians requesting work permits for employment in Egypt are subject to Article 3 of Law 43 of 1988, which states that the following conditions must be met to receive a work permit:

- A. The foreign employee cannot compete with the national labour force
- B. The foreign employee must have certain qualifications that are needed by the employer.
- C. The qualifications and expertise of the alien must match the job for which the permit is requested. (El-Abed 2009, Ch. 4)

El-Abed notes that many Palestinian residents in Egypt work informally "off the books," partially due to bureaucratic obstacles, and that this makes them "vulnerable to exploitation in terms of working hours, working conditions, and pay" (El-Abed 2009, Ch. 4). Similarly, the Professor stated that the regulations prevent most Palestinians from working legally (Clinical Professor 9 Sept. 2014).

3.3 Rights to Education and Other Services

Both El-Abed and the Professor indicate that Palestinians in Egypt do not have rights to free public education and must pay fees for schools and universities (El-Abed 8 June 2011; Clinical Professor 9 Sept. 2014). El-Abed reported in a 2011 article that "[e]xcept for health care provided by mosque-affiliated clinics to everyone, Palestinians have not been able to access humanitarian or development programs in areas where they live" (8 June 2011).

Sources indicate that the UN Relief and Works Agency for Palestinian Refugees in the Near East (UNRWA) does not operate in Egypt (Director 30 Aug. 2014; AI 15 Aug. 2014; Clinical Professor 9 Sept. 2014). The same sources also indicate that Palestinians in Egypt are excluded from services provided by the UNHCR in Egypt, due to the policies of the Egyptian government (Director 30 Aug. 2014; AI 15 Aug. 2014; Clinical Professor 9 Sept. 2014).

The Professor warned of "the renewed vulnerability of all Palestinians in Egypt since the army coup and election of General el-Sisi to the presidency" (Clinical Professor 9 Sept. 2014). She explained:

Since August of 2013, there has been a renewed crackdown on Palestinians without legal status in Egypt. Palestinians-accurately or not-- are perceived by the Egyptian government as supporters of the Muslim Brotherhood. When demonstrations broke out after the ouster of President Morsi in 2013 and Palestinians (from Syria) were claimed to be among the demonstrators at a mass demonstration that turned violent in Raba'a Square in August that year, the Egyptian authorities began arresting Palestinians they encountered who did not have valid status documents. During my visit to Egypt last November, I met with lawyers working with detained Palestinian refugees, who claimed that there was no policy and no due process in the arrests and

detentions, and that all Palestinians without valid status were vulnerable to arrest and lengthy detention without a process for release. The exact number of Palestinians arrested and detained, the reasons, and their origin, is difficult to ascertain because this information is closely held by the security services within the Ministry of Interior. (ibid.)

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response, although the Director also noted hearing of "increased dangers to Palestinians" since the coup (Director 30 Aug. 2014).

4. Ability to Travel Between Gaza and Egypt with the Egyptian Travel Document

According to the Professor, Palestinians holding Egyptian travel documents do not have freedom to travel between Egypt and Gaza, and the rules and policies depend on both Egyptian and Israeli authorities (Clinical Professor 9 Sept. 2014). In correspondence with the Research Directorate, El-Abed similarly said that the Egyptian travel document for Palestinians "has no power to permit its holders to enter Gaza" (El-Abed 8 Sept. 2014). The Professor explained:

Travel between Gaza and Egypt is controlled as a practical matter by both the Egyptian and the Israeli authorities, as it is the Israeli government that gives final approval to "lists" of Palestinians who wish to travel from Gaza to or through Egypt. After the 1967 war, Israel conducted a census of Palestinians in the West Bank and Gaza. Any Palestinian not counted on that census list (those not present in the occupied territories at that time), were not given an official ID and ID number by the Israeli authorities. Any Palestinian (or immediate descendant, who must separately apply for it through family unity regulations to the Israeli authorities) not possessing an ID based on this census cannot travel into or out of the Gaza Strip, including to Egypt. As mentioned, Israel "vets" all requests by Palestinians in Gaza to the Egyptian authorities for clearance to travel through the Egyptian crossing into Egypt at Rafah. Israel has imposed an almost-complete closure of Gaza since 2007, limiting ingress and egress to very few persons and goods from all the crossings, including Rafah, as well as by sea and, of course, by air (Gaza has no airport and Gazans have no access to airports unless they can get to Israel or Egypt). Hamas supposedly also "clears" Palestinians for entry into the Gaza Strip, but in fact this is basically a pro forma position, as it is Israel and Egypt together who control who can access or leave Gaza as a practical matter. (Clinical Professor 9 Sept. 2014)

El-Abed said that the mobility rights to cross between Egypt and Israel "is dominated and decided by Israel, which only permits people who have the visiting permit or those who have family reunification identity cards" and that "the majority of Palestinians in Egypt had limited access to Gaza" within the last 5-10 years (El-Abed 8 Sept. 2014). She said that the person in Egypt would need to receive an invitation from a relative living in Gaza and have it approved through the Israeli governor's office in order to travel there (ibid.).

According to the Professor, the current Egyptian government of General Abdel Fatah el-Sisi has placed many restrictions on the ability of Palestinians to enter Egypt and has "maintained an almost-complete closure of travel from the Gaza strip into Egypt" (Clinical Professor 9 Sept. 2014).

Gisha - Legal Center for Freedom of Movement, a Tel-Aviv based NGO [6], reported in March 2009 that the Rafah crossing between Gaza and Egypt was closed in June 2007 "except for random and limited openings by Egypt, which met only 3 percent of the needs of the residents of the Gaza Strip to enter and leave" (Gisha Mar. 2009, 7). Gisha also reported in 2013 that with the change in the Egyptian government in June of that year, there were "more frequent closures and new restrictions on travel of individuals" at the Gaza-Egypt border leading to a sharp decline in travel in the second half of 2013 (Gisha 2013). In an open letter to the Israeli Minister of Defence on 22 July 2013, Gisha, along with four other NGOs [7], noted that after the regime change in Egypt in late June of 2013, the Rafah crossing between Gaza and Egypt was completely closed from 5 to 9 July 2013, and operating "at a limited capacity, allowing exit from Gaza only for medical patients with official referrals from the Palestinian Health Ministry and individuals holding foreign citizenship or residency" (Gisha et al. 22 July 2013). At that time, there was a wait-list of 10,000 people waiting to exit Gaza (ibid.). *Daily News Egypt* reports that Egyptian authorities "maintained almost complete closure of the Rafah border crossing" between July 2013 and August 2014 (11 Aug. 2014). Similarly, an article published in the *Jerusalem Post* on 15 August 2014 states that Egypt "repeatedly shut" the Rafah border in the previous year. An article by the Egyptian state-run news agency MENA notes of a closure of the border on 1 August 2014 as a result of "heavy Israeli shelling" during the course of Israeli military operations that began in July 2014 (MENA 1 Aug. 2014).

In correspondence with the Research Directorate, the co-founder of Gisha said that, at the time of writing on 10 September 2014, someone with an Egyptian travel document would be eligible to enter Gaza via the Rafah crossing with Egypt (Gisha 10 Sept. 2014). The co-founder said

Right now, in general, Egypt is allowing Palestinian ID card holders and those holding Egyptian travel documents to cross from Egypt to Gaza without coordination, and holders of foreign passports need permission

and coordination. Leaving Gaza - crossing from Gaza to Egypt - is much more restricted. Right now, medical patients seeking urgent care, those holding foreign citizenship or residence and those holding foreign visas, including students with visas seeking to travel to universities abroad, are eligible to travel from Gaza to Egypt, but travel is subject to limitations on the number of people who can travel each day. (ibid.)

The Gisha co-founder also noted that "there may be individual restrictions placed on travel by the Egyptian authorities or other specialized circumstances" (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] The Institute for Palestine Studies is a Beirut-based institute devoted to "documentation, research, analysis, and publication on Palestinian affairs and the Arab-Israeli conflict" (IPS n.d.).

[2] The International Development Research Centre is an Ottawa-based Canadian Crown corporation established in 1970, that aims to "help developing countries to use science and technology to find solutions to local problems" (IDRC n.d.). The IDRC has four regional offices, including one in Cairo (ibid.).

[3] Oroub El-Abed is a senior teaching fellow in Development Studies at the School of Oriental and African Studies (SOAS), University of London. In addition to her book, she has published several articles about the situation of Palestinians in Egypt and other areas of the Middle East (SOAS n.d.).

[4] The Director of the Fahamu Refugee Programme was the founder and former director of the Refugee Studies Centre, University of Oxford. She also founded AMERA-Egypt, a refugee legal assistance NGO in Cairo and was its director from 2000-2008 (Director 30 Aug. 2014).

[5] The Clinical Professor directs Boston University's International Human Rights clinical program (Clinical Professor 9 Sept. 2014). She has lived, worked and conducted research in the Middle East since 1988, particularly on issues relating to Palestinian refugees (ibid.). She is the author of approximately 40 articles, book chapters and the co-editor of books related to her areas of research, including in-depth analysis of the legal status of Palestinian refugees around the world (ibid.). She also taught Refugee Law to graduate students in the Forced Migration and Refugee Studies program and the law school at the American University in Cairo (ibid.).

[6] Gisha - Legal Center for Freedom of Movement is "an Israeli not-for-profit organization, founded in 2005, whose goal is to protect the freedom of movement of Palestinians, especially Gaza residents" as well as to promote rights guaranteed by international and Israeli law (Gisha n.d.).

[7] The other NGOs that signed this letter are: the Palestinian Center for Human Rights (PCHR); Physicians for Human Rights - Israel; Al-Mezan Center for Human Rights; and HaMoked (Gisha et al. 22 July 2013).

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Additional Sources Consulted

Oral sources: Attempts to contact representatives of the following organizations were unsuccessful within the time constraints of this Response: BADIL Resource Center for Palestinian Residency and Refugee Rights; Egypt – Embassy of Egypt in Ottawa; SHAML Palestinian Diaspora and Refugee Centre. Representatives of the following organizations were unable to provide information: Hamoked; Israel-Palestine Center for Research and Development.

Internet sites, including: Al Mezen Center for Human Rights; BADIL Resource Center for Palestinian Residency and Refugee Rights; ecoi.net; Egypt – Consulate of Egypt in Chicago, Embassy of Egypt in Ottawa, Embassy of Egypt in Washington; Factiva; Freedom House; Hamoked; Human Rights Watch; SHAML Palestinian Diaspora and Refugee Centre; UN – Refworld; US – Department of State.

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