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IRB – Immigration and Refugee Board of Canada

Palestine and United Arab Emirates: residence status of stateless Palestinians, including access to employment, education, health care and other services, and the ability to travel in and out of the country; the requirements and procedures to renew residence status; treatment of stateless Palestinians whose residence status has expired (2015-November 2017) [ZZZ106014.E]

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1. Residence Status of Stateless Palestinians in the United Arab Emirates (UAE)

According to sources, the UAE is not a signatory to the 1951 Refugee Convention (UN June 2012, 1; *The National* 19 June 2017). However, in a June 2012 submission prepared as part of the Universal Periodic Review of the UAE, the Office of the United Nations High Commissioner for Refugees (UNHCR) states that "[d]espite the absence of a national framework regulating issues related to asylum, the Government of UAE continues to respect international refugee protection standards, including the essential principle of non-*refoulement*" (UN June 2012, 1). The US Department of State's *Country Reports on Human Rights Practices for 2016* states that the UAE allowed the UNHCR "and other humanitarian organizations to provide protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern" (US 3 Mar. 2017, 16).

A June 2017 report by *The National* states that, according to the head of UNHCR Abu Dhabi, UNHCR is not able to integrate the majority of people seeking UN refugee status, including Palestinians, into the UAE "because of current UAE laws on asylum" (*The National* 19 June 2017). In correspondence with the Research Directorate, a legal researcher at BADIL Resource Center for Palestinian Residency and Refugee Rights, "an independent, human rights non-profit organization committed to protect and promote the rights of Palestinian refugees and internally displaced persons" (BADIL n.d.a), with offices in Bethlehem and Geneva (BADIL n.d.b), stated that in Gulf countries including the UAE,

there are no official policies vis-à-vis Palestinian refugees/stateless Palestinians. It is often a matter of who is the officer responsible for the case, the connections of the Palestinian individual, the political relationship at that moment between the concerned state and the Palestinian Authority, political and/or security issues in the region at that moment, etc. (BADIL 6 Nov. 2017)

In correspondence with the Research Directorate, a senior associate at a law firm in Dubai, whose areas of practice include employment, banking, and international law, indicated that the "UAE does not have a refugee visa category for any nationality" and that "Palestinians are given the chance to obtain UAE residency visas just like any other nationality, on the basis of employment or ownership of businesses or property" (Senior Associate 5 Nov. 2017).

Article 13(C) of the UAE's Ministerial Decision No. (360) of 1997 Regarding the Issuance of Executive Regulation of the Federal Law No. (6) of 1973 Concerning the Entry and Residence of Foreigners states that a foreigner cannot be granted an entry permit or visa unless "[h]e should have a sponsor residing in the State, whether U.A.E. National or foreigner" (UAE 1997).

Similarly, the website of the General Directorate of Residency and Foreigners Affairs of Dubai provides the following information:

All foreign nationals, whether visitors or residents, require a sponsor in the UAE. A sponsor is a UAE entity - individual or institution - who vouches for the foreigner and will carry out many vital functions on his or her behalf. This could include applying for a visit or residency visa, opening a bank account and so on. (Dubai n.d.a)

According to the BADIL legal researcher, Gulf states, including the UAE, do not generally "allow the entry of Palestinian refugees unless this is processed through a local agent, and they come for work purposes" (6 Nov. 2017). According to Human Rights Watch's submission for the January 2018 Universal Periodic Review of the UAE, "[t]he *kafala* (visa-sponsorship) system, with some reforms, continues to tie migrant workers to their employers. Those who leave [their employers] can be punished for 'absconding' and fined, imprisoned, and deported" (29 June 2017). The BADIL legal researcher provided the following information regarding Gulf countries, including the UAE:

In order to enter the country, Palestinians must make the arrangements in advance, including getting a work visa. Moreover, they need a 'kafeel,' a national of the country they want to go to, to guarantee officially their behaviour. The 'kafeel' makes sure the people under their supervision work, pay their taxes, don't run away, etc. Usually the 'kafeel' is the head of the company or the employer of the Palestinians, but it could potentially be someone else. (6 Nov. 2017)

The UNHCR submission states that "[a]ll non-citizens in the UAE fall under national immigration laws (Expatriate law) with regard to their legal status in the country[,] including refugees and asylum seekers who are registered with UNHCR," and that "work sponsorship is an essential pre-requisite for becoming a legal resident in the country" (UN June 2012, 2). Individuals can therefore be "at risk of losing their legal residence as a result of work termination" (UN June 2012, 3). According to the same source, "[g]ranting a permit for refugees to stay in the UAE beyond the valid legal residence period requires a special request from UNHCR and is temporary, pending the finalization of resettlement procedures to a third country" (UN June 2012, 3).

A 2017 chapter on Palestinians in the United Arab Emirates (UAE) published in an edited volume on *Arab Migrant Communities in the GCC* [Gulf Cooperation Council] and written by Manal A. Jamal, an Associate Professor of political science at James Madison University (JMU) whose specialization includes Middle East politics (JMU n.d.), explains that many Palestinians in the UAE whom she had interviewed

felt that maintaining work visas that enabled residency was not necessarily very difficult and could be sustained indefinitely. This appeared to be a much more common sentiment among highly skilled migrants or those who worked in highly paid sectors. For the most part, individuals have sought various Western passports or citizenship as a back-up plan in case they lost their residency status in the UAE. In most cases, at least one family member could maintain employment and ensure residency for his/her spouse, unmarried daughters or parents. (2017, 120)

A 2015 report by Gulf Labour Markets and Migration (GLMM) [1] states that family reunification may be granted for the wife of a "sponsored foreigner" with a minimum salary of 3000 AED [C\$1,040] plus accommodation, or 4000 AED [C\$1,380] excluding accommodation, but that various groups are exempted from this condition, including "teachers, imams, and bus drivers of various academic institutions" (GLMM 2015, 7-8). The website of the General Directorate of Residency and Foreigners Affairs of Dubai indicates that a "Dubai resident can bring his or her family to live in Dubai. A monthly salary of at least AED 10,000.00 [C\$3,476] is required" (Dubai n.d.b). For further information on foreign residence permits, see Response to Information Request ARE105443 of April 2016.

According to Jamal, "a number of Palestinians born in the UAE [have] attained UAE citizenship, and are not officially documented as Palestinians. These individuals were granted citizenship by decree or royal favour for making important contributions to the UAE" (2017, 118). *US Country Reports 2016* states that the "government has a naturalization process, and individuals may apply for citizenship," and that "a foreign woman may receive citizenship after 10 years of marriage to a citizen" (US 3 Mar. 2017, 18). However, according to the same source, there were no reports "of stateless persons receiving Emirati citizenship" (US 3 Mar. 2017, 18). The same source also notes that the "government may revoke naturalized citizens' passports and citizenship status for criminal or politically provocative actions" (US 3 Mar. 2017, 17).

1.1 Access to Employment, Health Care, and Other Services

The website of the General Directorate of Residency and Foreigners Affairs of Dubai provides the following information regarding education:

Public schools are reserved for the children of UAE nationals, GCC nationals, and holders of decrees issued by the President or the Vice-President of the UAE. Any child can enroll in a private school. Private schools expenses can range from AED 5000.00 [C\$1,740] to over AED 70,000.00 [C\$24,300] per year. Related expenses such [as] bus fares, books, school uniforms, etc. may be charged separately. (Dubai n.d.c)

The BADIL legal researcher indicated that, in Gulf countries such as the UAE, "Palestinians with work visas do not have access to public services; they must use private healthcare and education services" (6 Nov. 2017). According to Jamal, the "UAE allows two children of expatriate public-sector employees to attend public schools free of charge," which has been beneficial to some Palestinians (2017, 119).

US Country Reports 2016 provides the following information:

Access to employment, education, and other public services, including health care, is based on an individual's status as a legal resident. Persons with a claim to refugee status, including those with either short-term visitor visas or expired visas, were generally not eligible for such benefits, and as a result some families, particularly from Iraq and Syria, reportedly did not have access to healthcare or school for children. The government provided or allowed access to some services on a case-by-case basis, often after the intervention of UNHCR representatives. (US 3 Mar. 2017, 18)

The GLMM report states that "[p]articipation in social insurance schemes is not mandatory at the Federal level" and, in the Emirate of Abu Dhabi, "[e]very employer is required to provide health insurance coverage for all his employees/workers and their family members[,] covering the employee's/worker's wife and three children under 18 years of age," as per Articles 4 and 5 of Law No. 23 of 2005 (2015, 7). The same source also indicates, citing Article 9 of Law No. 11 of 2013, that in

the Emirate of Dubai, the responsibility to subscribe to health insurance schemes falls on the employer for his non-national employees. It may also be extended to his family members at the employer's discretion. A sponsor is also responsible for ensuring that individuals under his sponsorship are insured, so long as they are not covered by an employer. (GLMM 2015, 7)

1.2 Ability to Travel in and out of the Country

US *Country Reports 2016* states that a "lack of passports or other identity documents restrict[s] the movement of stateless persons, both within the country and internationally" (US 3 Mar. 2017, 16). The Senior Associate stated that "Palestinians are permitted to travel in and out of the UAE, provided they have the relevant visa, by using the travel document issued by the Palestinian Authority" (5 Nov. 2017). For further information on exit procedures for foreign residents, see Response to Information Request ARE105443 of April 2016.

2. Requirements and Procedures to Renew Residence Status

According to the website of the General Directorate of Residency and Foreign Affairs of Sharjah, the documents required to issue "[n]ew [r]esidence" are: original passport and copy, the original entry permit, a copy of the establishment card, a copy of the trade license, a medical examination, the residency application signed and stamped by the sponsor, and the identity card" (Sharjah 19 Apr. 2012). According to the same source, renewing work residency requires all of the preceding documents, apart from the entry permit (Sharjah UAE 19 Apr. 2012). The website of the General Directorate of Residence and Foreigners Affairs of Abu Dhabi indicates that the required documents for residency renewal for the private sector include, among others, the residency visa application, signed and stamped by the sponsor; the original copy of the passport; medical tests; the previous residency permit; and the identity card (Abu Dhabi 14 June 2015).

The website of the General Directorate of Residency and Foreign Affairs of Sharjah indicates that for both initial applications and renewals of residence for family members (wife and children), requirements include: a copy of the employment contract or salary certificate, a valid lease contract certified by the municipality, medical examination, and a residency application signed by the sponsor (Sharjah 19 Apr. 2012).

Article 17 of Federal Law No. 13 of 1996 for the Entry and Residence of Foreigners, for Amendment of Certain Regulations of Federal Law No. 6 of 1973 in Respect of Immigration and Residence provides the following:

The General Directorate of Naturalization and [sic] Residence is entitled to issue to foreigners a residence permit valid for a period not exceeding three years, renewable upon expiry, and shall be so entered into the passport of [sic] travel document of the foreigner along with a residence card indicating the same.

In the event of loss by the foreigner of its residence card or any changes to the entries thereof the foreigner should report the same to above-mentioned directorate. (UAE 1996)

3. Treatment of Palestinians Whose Residence Status has Expired

The UNHCR reports that "deportation is a possible consequence of overstaying a legal residence permit" for all non-citizens, including refugees and asylum seekers registered with the UNHCR, in the UAE (UN June 2012, 3). In 2009, hundreds of Palestinians were deported from the UAE (Jamal 2017, 124; *Haaretz* 4 Sept. 2009; Human Rights Watch 19 July 2010) and in 2010 a number of Palestinians were also expelled (Jamal 2017, 124). Human Rights Watch states that the Arab Charter for Human Rights, which has been ratified by the UAE, "obliges governments to deport foreigners only in accordance with the law and to give deportees the opportunity to appeal their deportation order. It prohibits any form of collective expulsion" (Human Rights Watch 19 July 2010). According to Jamal, Palestinians expelled in 2009 and 2010 "simply received notices from immigration authorities that they must leave the country with their families. Authorities provided no explanations or opportunities for appeal" (2017, 124).

US Country Reports 2016 provides the following information:

While the government extended informal protection from return to refugees in some cases, any persons lacking legal residency status were technically subject to local laws on illegal immigrants and authorities could detain them. There were no reports, however, that the government sent individuals who expressed a fear of return back to their country of origin against their will. (US 3 Mar. 2017, 17)

Regarding Gulf countries including the UAE, the BADIL legal researcher stated that

if their residency permit has expired and hasn't been renewed, then Palestinian refugees risk detention by the local authorities, and potentially deportation. We have been contacted both by Palestinian refugees who had been detained, and who have been deported. (6 Nov. 2017)

The same source further explained that if the "kafeel" [sponsor] "for any reason stops guaranteeing you, then the country usually expels you" (BADIL 6 Nov. 2017).

Article 21 of Federal Law No. 13 of 1996 for the Entry and Residence of Foreigners, for Amendment of Certain Regulations of Federal Law No. 6 of 1973 in Respect of Immigration and Residence provides the following:

Any foreigner whose entry visa or residence permit was canceled or whose residence expired by the date of expiry of his entry visa, permit or residence permit and fails to renew the same, if allowed and permitted by law during a grace period not exceeding thirty days from the date of such expiry or fails to depart the country through the said grace period, shall be subject for the payment of penalty in the amount of U.A.E. Dhs. (100) [C\$35] one hundred against each day of illegal residence in country effective from the date of expiry of the said grace period.

In the even [sic] of new borns [sic] to the foreigner the grace period stipulated under this article shall be extended to four months from the date of such birth and upon expiry of such grace period without fixing its residence his parent or custodian then shall be compelled with the payment of the established penalty. However, the Minister of Interior or his delegate may exempt all or part of the said Penalty under this article.

In the event such defaulter shall be subject to imprisonment for a period not exceeding three months or the payment of penalty not exceeding in total the sum of U.A.E. Dhs. four thousands [sic] [C\$1,380] and the court may order its deportation. (UAE 1996)

Article 29 of the same law provides the following:

Without prejudice to the provisions of article 21 of this law deportation of any foreigner from country shall be made by the General Directorate of Naturalization and Residence if such foreigner is not holding residence permit or its permit have expired or been cancelled.

Reentry into U.A.E. shall not be allowed unless and only the necessary conditions and procedures of reentry are satisfied according to the provisions of this law. (UAE 1996)

Furthermore, the GLMM report states that

[a] foreigner may be deported, even if he is a holder of a residence permit, if his deportation is part of a court judgment, or if he has no evident means to earn a living, or if it is considered by the security authorities as required by public policy, security, or morals. The deportation order, which is issued by the Ministry of Interior, may include members of the foreigner's family who are supported by him. (GLMM 2015, 4)

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.

Note

[1] The Gulf Labour Markets and Migration and Population (GLMM) Programme is "an international independent, non-partisan, non-profit joint programme" that "provides data, analyses, and recommendations contributing to the improvement of understanding and management of Gulf labour markets, migration and population" (GLMM n.d.).

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Oral sources: Center for Palestine Studies, Columbia University; Centre for Palestine Studies, London Middle East Institute, University of London; Institute for Gulf Affairs; Institute for Palestine Studies; Institute on Statelessness and Inclusion; Law firms specializing in employment in the UAE; Palestine – Palestinian General Delegation in Ottawa, Palestinian Mission to the UK; Professors specializing in statelessness and migration; Refugee Studies Centre; Researchers specializing in the Gulf region; United Arab Emirates – Embassy in Ottawa.

Internet sites, including: Al-Monitor; Amnesty International; BBC; ecoi.net; Factiva; Freedom House; *Gulf News*; International Crisis Group; *Middle East Eye*; Minority Rights Group International; United Arab Emirates – Statistics Centre - Abu Dhabi; UN – Refworld, UNRWA.

ecoi.net summary:

Query response on residence status for stateless Palestinians, including access to services (2015 - November 2017)



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