Introduction:

Many studies have shown a contradiction between the two-state project and the demand for the right of return. One of the first who suggested this is Azmi Bshara, who showed how the right of return takes its full meaning only under a one-democratic-state solution. Bshara notes:

Maybe the time has come to confront the self-deceitfulness of the Palestine Liberation Organization during the entire phase of speaking of a two-state solution (an Arab and a Jewish state), and dividing Palestine with insisting on attaching refugees’ right of return with these two states, as if the word “and” is enough for the formation of a reasonable association. There is no possibility of implementing Palestinian refugees’ right of return inside the Jewish state. As there is a structural contradiction between a two-state solution and the right of return for Palestinian refugees, which will change the demographic composition of the Jewish state, this will only take place with the permission and content of the Jewish state itself. (Bshara 2002, 80).

In the Bethlehem Fatah communiqué of December 2003, the authors refused to consider the
Palestinian state as a substitute for the right of return: "If we must choose between the Palestinian state and the right of return, we will choose the latter." But is there a solution that encompasses the right of return and a Palestinian state? What are the forms of political action that refugees can use that are inspired by the reality of the Arab revolutions? This is what my article will examine.

An Extraterritorial Nation-State?

The Palestinian negotiators often invoke questions revolving around rights or the number of eventual returnees or the technical economic and social capacity for absorption, but not around the question of the nature of both the Palestinian and the Israeli nation-states, Palestinian and Israeli concepts of state sovereignty and its inherent violence, and the inclusion/exclusion that the state exercises to determine who is a citizen. Nowadays, in the time of the quasi-failure of a viable two-state solution to the Palestinian–Israeli conflict, a democratic one-state solution seems equally unlikely in the foreseeable future. Moreover, the problem is not only about the feasibility of the two-state solution but also about its normative stance. A creative solution that preserves the right of return thus should be envisaged.

In view of my research (Hanafi 2010), I found a profound tension between the transnational practices of Palestinian transmigrants/returnees/refugees and the policies of countries in the region, including the Palestinian National Authority (PNA) and Israel. Despite refugees’ intense longing to obtain the right of return, they have experienced various forms of relationships with the societies of host countries, including integration and in some cases the feeling of belonging, especially from the third and fourth generation. This is what I call flexible behaviors in spite of the inflexible policies of the states in the region, policies that have seen flexibility and mobility as a threat to the classical authoritarian pattern of sovereignty.

This is why I have called for the establishment of an extraterritorial nation-state. I define it as a state that consists of geographical space just as any other country, but one that distinguishes between social citizenship and nationality. By social citizenship I mean the individual resident obtaining all rights except the right to vote, and equality under law, whereas nationality requires enjoying all rights including the political rights. An extraterritorial state differs from a strict classical form of a nation-state which confirms that each citizen has a single belonging to his/her nation state, with no place for a dual belonging.

There are three prerequisites for a solution based on a model of extraterritorial nation-states: the ability to hold three nationalities, one of the current host country (or a third country), Palestine, and Israel; full responsibility being assumed by Israel for the creation and plight of the Palestinian refugees; and any restriction of these advantages being subject to bilateral
or multilateral agreement between concerned states. Here Lex Takkenberg stressed the importance of convening an international conference to reach agreement on a harmonized approach to citizenship and residency for Palestinian refugees (Takkenberg 2007). The joint effort of the Organization of Security and Cooperation in Europe and the United Nations (UN) Higher Commissioner for Refugees on harmonization of citizenship and residency standards in the countries of the Community of Independent States is one example that may be considered for guidance. Lack of harmonization could engender continued forced migration across the region and could lead to instability and/or conflict where one state’s citizenship or residency laws—in the context of unresolved displacement or new flows—could be regarded as a threat by another state.

Accordingly, the rights and the duties of those who live in the Occupied Palestinian Territories (OPT) would not be a function of their nationalities (i.e., whether they are Palestinian or not). At the same time, those who live abroad and are of Palestinian origin could also enjoy rights and duties, even though they do not reside permanently in the OPT.

However, such an arrangement will be possible only if the PNA is able to enter into special agreements with countries that host Palestinian refugees, to facilitate the attainment of full dual citizenship. Accordingly, Palestinian citizenship would be available even to people residing outside of Palestine. This, particularly in light of salient questions regarding the possibility of absorbing Palestinian refugees, could be an honorable solution for those who are not willing to return but who would nevertheless like to belong to a Palestinian nation and be involved in Palestinian public affairs.

As a result, the solution of an extraterritorial nation-state will enable a Palestinian refugee in Egypt, for instance, to have Palestinian, Israeli, and Egyptian citizenship. This would allow him/her to reside and work in any of these three countries. He/she could also live in Gaza because of the low housing costs, while working in Jaffa, for example, or for that matter could live in Jaffa and work in Gaza.

The only nation-state in the region that takes this form is Israel. Israel defines itself as a state for all Jews in the world, with an unclear limitation of its international boundaries and with a problematic relation to the land of Israel. In addition to the borders of the land, it recognizes the dual nationality of its citizens. However, all this does not enable Israel to becoming an extraterritorial nation-state, because Israel is a state built on a racist colonial project that does not treat its citizens equally, and the state’s identity is defined by the majority of newcomers.

Thus it is a nation-state only for Jews throughout the world, who are characterized as communities, each of which has the “right to return” and also full rights of citizenship in any country where they reside. As a result, Israel is a paradigm of a classical nation-state, and the unity of this state is based on religion, a nationalism-religion combination, or simply
nationalism, as multiple alternatives.

The logic of an extraterritorial nation state is not only embedded in administrating the refugee problem, but also in finding solutions for it through promoting migration and residency regulations. The suggested solution is a national, international, humanitarian, legitimate right that represents the essence of the struggle. So the extraterritorial project in the Arab countries and the Palestinian state aligns with the way Arab nationalism has perceived a solution for residency and citizenship when the Arab nation is dispersed in different nation-states. This project inspires as well from the, classic German mode of separating between nationality and citizenship and the from the nationalist Arab thought, formulated by Sati’ al-Husri, Zaki al-Arsuzi. This is a way to push toward the Arab unity.

The Arab framework will allow a Palestinian in Syria, for instance, to be a Palestinian and a Syrian at the same time, or for a Palestinian in Egypt to be both a Palestinian and an Egyptian. There are two factors that play a positive role in supporting the model of a territorial state: first of all, the presence of refugees in the region, as Hannah Arendt describes them, as a leading actor and a vanguard for humanity (Arendt 1958, 280) as thanks to them the classical form of the nation-state founded after World War II revealed its incapability to deal with the displacement and other repercussions of war and conflict. The second factor derives from the recent Arab revolutions, not only in terms of changing regimes but also in implementing new values that are based on activating the spirits of the Arab nation and respecting human rights, including that of refugees.

This form of solution aligns with political developments in other areas of the world. It no longer involves considering, in a traditional manner, that "in the Nation State each citizen stands in a direct relation to the sovereign authority of the country" (Bendic 1977). It does not reflect the terms of admission to citizenship, which separate the “insiders” from the “outsiders.” Neither does it extend this type of reflection which uses citizenship as its foundations for the territory of the nationstate.

In Europe, for instance, any French citizen is also a European, who can go to the European court to sue his/her government or any group located in his/her own country. The majority of Bosnian refugees, since the Dayton Agreement of 1995, have enjoyed resident status or are even naturalized in a Western European country, as well as possessing the Bosnian nationality, as they have the right to return there.

Some might argue that this model has been applied only in developed countries where economic factors play a determining role, but we also find informal or formal flexibility in many developing countries in Asia (as in the relationship between China and Hong Kong) and Africa (as with very permeable borders between some African states).
The Middle East is far from being in the phase of post tough form of nationalism. It is important, however, to note that this model exists. In this framework, taking into account the very pro-Israeli position of the West, I propose the possibility of connecting Palestine and Israel to a European space as a carrot strategy convincing the belligerents (mainly Israel) of the fact that no matter what their national sovereign space is, both national spaces are part of the European space’s frontier.

The suggested model of allowing the possession of dual or multiple citizenships, which was previously considered a threat to the international order and to nation-states, has become accepted and even protected under international law (Stasiulis and Ross 2006, 330). Some theorists argue that if “citizenship is inclusive and rights-enhancing, then dual citizenship should be doubly so” (Stasiulis and Ross 2006, 330).

On the basis of this concept, and in the framework of the extraterritorial nation-state, one may follow the thoughts of the Israeli historian Amnon Raz about a two bi-national states, one Palestinian state with Palestinian and Jewish persons and the other a bi-national Israeli state with Jewish persons and Arab Palestinians. This leaves us with a political separation, without a geographic separation.

This article has argued in favor of the model of two extraterritorial nation-states (Israeli and Palestinian), and this model falls somewhere between the two-state solution --because of power inequities and now leading to an apartheid system-- and the relatively unpopular bi-national state solution. A sort of "confederation" may be a more feasible solution: two extraterritorial nation-states, with Jerusalem as their shared capital, contemporaneously forming, without clear territorial division, two different states.

Two possibilities can potentially resolve the Palestinian refugee problem: one that follows the model of the two rigid -states solution, and the other that follows the model of extraterritorial nation-states. If the current solution has been based on the assumption that the return of refugees is a matter of demographic and political instability, I argue that in the new framework the debate should shift to other issues at stake, such as citizenship and circular mobility (meaning that an individual may undertake geographic movement between many countries, including his/her country of origin).

This solution differentiates between citizenship and actual residency. While all refugees should benefit from multiple nationalities (or multiple citizenship in the case of Palestinians in Lebanon, wherein many Lebanese refuse granting Palestinians Lebanese citizenship), the possibility of exercising their right of return will not necessarily translate into a mass movement of populations. In other words, any other solution must be regional (with an initial condition that preserves Palestinians’ right of return); otherwise, the lack of coordination between host countries and the country of origin could end up sending refugees in a perpetual orbit between countries because they are denied resident status.
The ability to hold three nationalities, including that of the current host country (or a third country), could constitute one of the possible just solutions to the refugees’ problem, while nation-states in the region would prefer other solutions which utilize less of a rights-based approach. For instance, other constitutional arrangements based on residency and not on citizenship could be feasible, allowing refugees to have multiple residencies instead of multiple nationalities. However, this is likely to generate conflict rather than resolve it, as traditionally the countries of the region are quick to expel non-citizens in the event of social or political conflict. Another possibility, which is worse, could be based on circular migration, managed and regulated by the states in the region to determine the quotas of admitted refugees in such a way that they match labor needs in specific economic sectors. Both cases are an attempt to escape from rather than discover a just solution that is based on respecting the right of return.

Regarding the UN Bid and its relationship to the right of return, I will seize the opportunity to open discussion regarding whether it is plausible to work on finding sovereignty on a portion of Palestinian land, and at the same time finding a just solution for the refugee issue. This approach results in adopting an historical settlement which does not neglect the legitimate rights of refugees.

There are three scenarios: First, that the Palestinian leadership should establish a Palestinian nation-state on the 1967 borders in a unilateral way, an effort which could only be buried while still in the making, a futile effort at returning Palestinians to all the cities and villages of which they were dispossessed. In the second scenario, the leaders would search for a creative solution, for a strong state which I call “extraterritorial,” which cannot conflict with the principle of the right of return and which establishes justice and the right of an historic settlement for the Palestinian-Israeli struggle. The third scenario is the continuation of the status quo of the Palestinian National Authority, which is an inadequately functioning institution with delusive sovereignty and without the ability to deal with the refugee problem and the right of return.

I consider the second scenario a premise to start a new phase that is based on the return of the human rights approach and the invocation of international law to end the Israeli occupation, in addition to returning broader Arab sentiment to the cause (as when Arabs went to the UN united) and rejecting the confinement of political action to negotiation with exclusive US mediation, and supporting the resistance. This approach promises new horizons, especially as it coincides with the Arab revolutionary movement and with the support of emerging democratic Arab states.

Within the context of this premise, the US-Palestinian Community Network organized a demonstration on September 15, 2011 in front of the UN building, demanding “equal sovereignty, and implementing Palestinian refugees’ right of return.” Such claims are a prerequisite for the extraterritorial nation-state that is sensitive to the issue of citizenship.
The creative solution is built on the extraterritorial nation-state, which is first of all a solution that fits the spirit of Arabism, Arab nationalism, and the movement of history, which is represented in the establishment of a flexible nation-state. It is not only a political approach that is sharply focused on how to solve problems (including the right of return), and the outcome of which would be acceptable and satisfying for both conflicting or disputing sides, in which each side finds a solution for its problem. More than this, it exceeds the limitations of this approach, as the creative solution does not limit action to the circles of decision-makers who are thus far unable to resolve their disputes and struggles, but expands into the mobilization of public pressure on the matter.

**Refugees dancing to the beat of the Arab Spring:**

The Arab revolutions are national revolutions, but their implications go beyond narrow nationalism. The Arab revolutions have brought back a sense of nationalism as it pertains to all Arabs. In a lesser way, they have also promoted the Islamic dimension (as with the relationship between Turkey and some Eastern Asian countries). The popular and official welcoming of Ismael Haniya, Palestinian prime minister of the resigned government, by a massive crowd in Egypt and Tunisia, is the most obvious proof of a new Arab intensity regarding the Palestinian cause in all the incidents of the Arab Mobilization. Despite this, one can imagine a far less optimistic scenario. As a result, implications are still open, and these revolutions and the Palestinian cause (especially regarding the refugees) will affect each other.

The Arab spring has brought back the project of establishing the Arab unity but this time from below, and the Arab channels (al-jazeera, al-Arabeyya, etc.) have played a crucial role in doing so, through informing Arab publics beyond the nation-state. Additionally, if the question of Palestine is a common factor for many Arab societies, the issue of freedom, dignity, and social justice on a larger scale becomes blended with it. As a result, demonstrations filled the Arab streets in collaboration with revolutionaries of Aden, Tahrir, Tunis Babo Amar (Hums) and Diraa, etc. In light of the formation of this new Arab identity, the Palestinian cause is promoted in two ways: first, the call for ending the occupation and overthrowing the Zionist project, second, resolving the Palestinian refugee problem on the basis of the right of return and by granting refugees some of their basic economic and social rights enshrined in human rights doctrine, international treaties and conventions relating to refugees, thus defeating the rightwing’ racist project in some of the Arab countries (like in Lebanon).

The Arab revolutions not only reactivate new political subjectivities (Hanafi, 2012), they also enacted a new form of political action: peaceful, non-violent action. In this arena, the common sphere (informal groups, local communities and reflexive individuals) has been activated after proving that theories which reduced the society into a binary private sphere and a public sphere are incapable of comprehending the dynamics of political and social
mobilization in the area. Jürgen Habermas has predicted the importance of NGOs, parties, and unions in the public sphere, considering that they are the mediators between a citizen and the state. Tony Negri and Michael Hardt (2009) have added that the common sphere, not the public sphere, plays a main role in mobilizing communities.

The common sphere indeed is the one that made the Tahrir Square in Suez, Alexandria, Sanaa, Aden, and Bab Omar (the liberated squares) the places in which collective action was formulated, far more than the capability of any of the NGOs, unions, or political parties. New political subjectivities moved from these places to Palestine, where the new protest movements have linked the national, the political and the social of the everyday life. Here I will present four examples of the impact on the Arab revolutions:

The first example: ever since the beginning of the Arab uprisings, Palestinians from the West Bank and Gaza have set off demonstrations but did not directly claim to end the occupation, but rather to end the division between Gaza and the West Bank, between Fatah and Hamas, etc. With that in consideration, the reinforcement of the internal front is a prerequisite for the end of the occupation. The youth of Palestine have initiated the revolution via Facebook, with the slogan “people want to end the division,” and they set a date of February 11, 2011 to be a decisive moment, but the world was preoccupied at the time with the Egyptian situation. Another date was suggested, March 5, for protests in the West Bank and Gaza calling for an end to the division, yet the security forces in the West Bank and Gaza have suppressed these demonstrations despite the fact that they were peaceful and raised the Palestinian flag. Even so, these demonstrations have mobilized efforts at reconciliation. Indeed on February 6 Al-Doha sponsored the completion of the reconciliation between Mahmoud Abbas and Khaled Mis’al, so that they would begin with executive steps to form a consensus government headed by Abbas and activated by the PLO, thus opening the way for elections. However, this attempt so far failed but the tension between Hamas and Fatah is much less.

The second example: there is a problem between connecting refugee camps with the urban texture of surrounding cities, and this has resulted in “purposeful” neglect of these camps, which are predominantly poor, and whose inhabitants have no say in local council elections. In this context, the inhabitants of Arroub refugee camp have appropriated land from the region near the camp in order to build a soccer field after Israel and the PNA have refused (for various reasons) the construction of this land. The message thus is that it is no longer acceptable in the era of Arab revolutions to broadcast slogans about liberating Jerusalem, without liberating camps from discrimination. Palestinian camps are perceived as places for inhabitants without services provided to them from the Lebanese state, or as places in which refugees have been deprived of their basic rights of work and ownership.

The third example is in the resistance of the settlement project from the inside through groups who are not associated with classical institutions of the civil society, but rather through the civil-based sphere, which has flexible and weak ties with the civil society that
has local extension and global solidarity. Since international relations reflect economic and political interest, BDS (Boycott, Divestment, and Sanctions) activates its strategies through boycotting all cultural, academic and economic Israeli institutions. Some Palestinian youths have suggested even to boycott the countries and companies that support Israeli colonial practice by creating an index of these entities. They have announced that they are not boycotting Jewish companies, but companies that support Israel. In short, the Arab revolutions have a significant impact on the future of the Arab-Israeli conflict, through activating the civil-based sphere.

The fourth example: a group of Palestinian youth decided to use social networking to carry out mass demonstrations toward the borders of Israel. Indeed, these independent young groups organized a demonstration aimed at put again in the local, regional and international agendas the issue of the refugees return after being marginalized by the official Palestinian political discourse, in conformity with two decades of Oslo process paradigm. If the first demonstration on May 15 was so successful in terms of mobilization, it has also led to the loss of a number of youths who were killed by the bullets of Israeli soldiers on the southern borders of Lebanon and the occupied Golan heights in Syria. Needless to say, the youth movements have been terminated by many Palestinian factions that rejected the autonomous role these youths played in leading the ‘return’ demonstrations. This is the same position adopted in June 2010 by many pro-Syrian factions regarding the social and economic rights organized by a network of 112 Palestinian and Lebanese civil society institutions.

Some of the young Palestinian leaders we interviewed have called for a march towards the borders of the Zionist entity, because what happened in the week that followed the commemoration of the Nakba on the Syrian borders (the second demonstration) was not related to the symbolic act of the return of refugees, but it served as a message sent by Syrian regime that this regime is ready to ‘bother’ Israel if international pressure continues against it. The May 27 demonstration has led to the death of fourteen persons, plus eight others from Yarmouk camp, after the victims’ families burned the office of the Popular Front for the Liberation of Palestine- General Commandment. Their parents maintained that the organization had recklessly sent their children towards the borders and without protection.
Bibliography:


