

Policy Paper | sep, 2023

# Nationality

Between Theory And Practice In Palestine

Research and Policy Unit

PalThink Academy for Democracy and Human Rights - Phase 2

Gaza - Palestine

Series: Policy Paper

sep, 2023

Research and Policy Unit

# "Nationality"

## Between Theory And Practice In Palestine

All rights reserved - PalThink for Strategic Studies 2023©

PalThink for Strategic Studies is a Palestinian non-profit, independent, think-tank working in the field of research in order to enrich, enhance, and encourage discussion, dialogue, and reflection on issues of concern to the present and future of the Palestinian people. As a think-tank, it has taken the slogan "knowledge is the way to prosperity" as one of its strategic objectives. It also adopted a rights and democracy based approach in dealing with various issues related to Palestinian affairs.

**Address:** Gaza, Palestine

**phone:** +972 8 2822005

**website:** [palthink.org](http://palthink.org)

Supported by the German Federal Foreign Offices' funds by ifas' Funding Programme zivik.  
The opinions expressed in this policy paper does not necessarily represent the opinion of the donor.

## Introduction

This paper aims to discuss "nationality" as a concept and a practice in the Palestinian context and examine it through the lens of social contract theories. It also explores its connection to the Palestinian Basic Law and the relevant legal system and legislation. In addition to what researchers have highlighted in their descriptions of nationality in Palestine and the mechanisms for its promotion to preserve the historical heritage and build society in a way that ensures future generations reach the level of advanced societies.

Nationality is one of the fundamental aspects of the legal system of any state, granting individuals rights, duties, and entitlements in the society in which they live. In Palestine, the Basic Law (the future constitution) establishes the basis of governance and law. Articles 4 and 5 of the Palestinian National Charter of 1968 define the Palestinian national as: "Article 4: The Palestinian identity is a genuine, essential, and inherent characteristic; it is transmitted from parents to children. The Zionist occupation and the dispersal of the Palestinian Arab people, through the disasters which befell them, do not make them lose their Palestinian identity and their membership in the Palestinian community, nor do they negate them. Article 5: The Palestinians are those Arab nationals who, until 1947, normally resided in Palestine regardless of whether they were evicted from it or have stayed there. Anyone born, after that date, of a Palestinian father - whether inside Palestine or outside it - is also a Palestinian." The Palestinian Basic Law adopted in 2003 states in Article 7 that " Palestinian citizenship shall be regulated by law." This raises the question of the difference between nationality and citizenship in Palestine.

The Palestinian National Charter included all segments of the Palestinian people, wherever they were located, within a comprehensive definition to preserve the national identity of the Palestinian Arab people. This might be the reason why the Basic Law does not include a definition of Palestinian nationality or the concept of nationality since it is a temporary legal framework within the context of a transitional phase, and within a limited geographical area for managing the relationship between part of the Palestinian people and their political leadership.

This is consistent with the concept of nationality, which regulates the relationship between nationals and legitimate official institutions within the framework of governance and democratic governance.

On the other hand, the National Charter is the most comprehensive reference in terms of legislative hierarchy as a unifying umbrella for all Palestinians within the framework of the institutions of the Palestine Liberation Organization.

### **Palestinian Nationality: Historical Context**

Tracing the historical context of nationality in Palestine and its implications is a controversial matter, considering the periods of Ottoman rule, British mandate, and post-1948 developments. The impact of different historical events on nationality and the evolution of Palestinian identity over time, especially from a legal perspective, can be viewed through the lens of laws and international regulations in the context of the changing regimes.

In 1925, the United Kingdom, through the British Mandate over Palestine, adopted a citizenship system that granted "Ottoman citizens" in Palestine (excluding those residing in the eastern Jordan region) Palestinian citizenship, along with some who were living abroad, such as the children or spouses of Palestinian citizens. This system did not discriminate on the basis of religion or ethnicity. During the period from 1924 to 1948, the residents of Palestine held passports known as "British-Palestinian passports" and received diplomatic protection from the United Kingdom. However, in 1948, the mandate system ended, and Palestinian citizenship ceased to exist, except in Gaza, where it continued until 1967.

After the Arab-Israeli wars and the occupation of Palestine, some Palestinians acquired Israeli citizenship, while others were granted Jordanian citizenship. A third group received resident status in the occupied Palestinian territories, while a fourth group obtained refugee status. In 1952, Israel issued its Citizenship Law and its courts ruled that Palestinian citizenship no longer existed. The stark reality is that all these events and efforts were unable to erase or annul the Palestinian identity.

Instead, they contributed to diversifying the concept of nationality due to the circumstances that shaped different interpretations of nationality for various segments of the same social fabric distributed forcibly across different regions, subject to different governing systems. This extended the concept beyond preserving the Palestinian Arab national identity as a top priority and preventing attempts to erase or obscure it. This paper will not delve into this discussion, but it suggests that studies and research have recognized the complexity of the matter from the perspective of relevant laws and the resulting rights.

What this paper attempts to highlight is the perspective of active positive nationality within the framework of legitimate laws and its role in developing a sustainable society on objective foundations based on effective partnership in building the community through best practices that keep society from slipping into undesirable paths. It promotes societal advancement, preserves its capabilities, enhances developmental opportunities, and optimally utilizes the resources and competitive advantages possessed by the society in various fields, with the youth as a crucial age group for transitioning to a better future and achieving the hopes and aspirations of the Palestinian people as a whole for future generations.

### **Nationality in the Palestinian Basic Law**

The Palestinian Basic Law does not explicitly define nationality as a concept or provide a clear definition. Instead, it addresses the objective criteria for its general framework or practice, whether through lineage and blood relations, naturalization, or the rights and obligations granted to Palestinian citizens. For example, the General Elections Law No. 9 of 2005, in some of its articles, alludes to citizenship as a reality but does not explicitly define it. For instance, Article 9.2 states: "For the purposes of this law, a person shall be considered Palestinian: a. If he/she was born in Palestine with borders defined in the British Mandate era, or was entitled to acquire the Palestinian nationality under the application laws. b. If he/she was born in the Gaza Strip or the West Bank, including Holy Jerusalem. c. If one of his/her ancestors falls under the application of paragraph (1) above irrespective of where he/she was born. d. If he/she is a spouse of a Palestinian as defined above. e. If he/she has not acquired Israeli nationality."

It can be understood that nationality is dealt with based on the concept of the social contract for those who have the right to elect representatives in the Palestinian parliament as one of the practices of democracy and a component of citizenship. It is also noteworthy that citizenship and Palestinian nationality are treated as synonyms, in addition to highlighting national identity.

As for the Local Council Elections Law No. 10 of 2005, the term "Palestinian citizen" is mentioned specifically in Article (1), and a distinction is made between a resident or a resident with permanent residence in a specific electoral district in the definitions section: "A resident is a Palestinian citizen residing permanently in an electoral district and having a specified address."

Nationality, in the legal and social sense, is the status that an individual enjoys as an active and recognized member of a specific state. The citizen typically enters into a contract with the state, where they have certain rights and privileges and also bear duties and responsibilities towards the state and society. Nationality is linked to some fundamental elements, including belonging to a state, rights, obligations, and equality among all citizens. Nationality reflects the mutual relationship between the individual and the state, where it defines the citizen's rights, duties, and contribution to building the society and the state in general. The concept is one of the foundational principles of democracy and social stability in a country.

### **Palestinian Basic Law and Nationals**

The definition of nationality and the rules of citizenship are based on the laws and regulations applied in Palestine. The texts that define the concept of citizenship, its rights, and duties may vary and differ from one country to another. However, a general reference to the provisions of nationality can be found in the Palestinian Basic Law.

Regarding the definition of a national: The Palestinian Basic Law does not provide an explicit definition of a national. However, one can infer the definition by identifying the requirements and conditions that make an individual a Palestinian

national. Typically, nationality and citizenship are determined by the following criteria:

1. **Birth:** If an individual is born within the territory of the Palestinian state, they usually have the right to obtain Palestinian citizenship.
2. **Lineage:** If one of the parents is a Palestinian citizen, the individual may be considered a Palestinian citizen according to the Basic Law.
3. **Naturalization (family reunification):** An individual can obtain a Palestinian identity card through the family reunification process, as per the applicable regulations.

**Regarding the rights of citizens:** The Palestinian Basic Law guarantees civil, political, economic, and social rights to citizens. These rights may include, but are not limited to:

- The right to life, liberty, and personal security.
- The right to freedom of expression, freedom of the press, and freedom of assembly.
- The right to education, healthcare, and employment.
- The right to political participation, including the right to vote and participate in the elections.

**Regarding the duties of citizens:** Palestinian citizens have certain obligations towards the state and society. These duties may include:

- Compliance with Palestinian laws and regulations.
- Participation in the democratic process, including voting in elections.
- Defending the state and society when necessary.

## Promoting the Concept of Nationality in Palestine

Nationality is a concept that carries with it responsibility and commitment to one's community and the state to which an individual belongs. Promoting nationality requires working to strengthen the values and principles of nationality, achieving

active participation by enhancing social immunity systems. Here are some ways to promote citizenship:

1. **Education and Awareness:** Education and awareness about the true meaning of effective nationality should be at the forefront of our efforts. Youth education programs should intensify teaching the values of nationality, individual responsibilities toward the community, and the importance of active participation in building and developing the community through positive and constructive initiatives, while avoiding destructive practices.
2. **Political Participation:** Encouraging active participation in the political and electoral processes to serve the public interest.
3. **Volunteering and Community Engagement:** Contributing to promoting citizenship by volunteering in community activities and participating in charitable initiatives and volunteer programs aimed at improving people's lives.
4. **Respecting the Rights of Others:** It is essential to treat others with respect and dignity, regardless of cultural, religious, or social differences. Mutual respect fosters peaceful coexistence and stability in society.
5. **Contributing to Peace and Justice:** Working towards achieving peace and justice in our society by raising awareness about human rights and contributing to the establishment of fairness and equality.
6. **Adherence to Laws:** We should be law-abiding citizens, as adherence to laws and regulations governing society helps strengthen order, stability, and social resilience. Embracing the concept of comprehensive social and economic security is also important, considering societal security as a collective responsibility.
7. **Constructive Criticism and Positive Involvement in Decision-Making:** Engaging in constructive criticism and collaborative decision-making. Contributing to community dialogues to improve decisions for the benefit of all. Encouraging creativity in all areas that contribute to societal development, empowering youth, promoting gender balance, and supporting developmental and collaborative initiatives among community components.



## **Conclusion**

It is evident that terms such as citizenship, nationality, identity, and residency are sometimes used interchangeably despite their fundamental differences in definition, concept, framework, and practice. In the Palestinian context, nationality has not been explicitly defined in Palestinian basic law, but rather alluded to through some practices, rights, and duties required of citizens within the legal framework.

The concept of nationality can always be enhanced through legislation, monitoring mechanisms, and community education within the framework of the law. This can be achieved by strengthening the role of official institutions and ensuring that the three branches of government carry out their functions in accordance with what is stipulated in the basic law. Nationality and civil peace are interconnected, and one cannot be neglected at the expense of the other. Positive nationality is the societal catalyst for achieving civil peace. It is the lever upon which improvements can be made within the democratic practices and through legitimate official institutions. A proactive judiciary plays a vital role in raising the level of social security and instilling hope in practicing positive nationality based on the principles of the social contract.

Negative practices in all their forms do not contribute to building a vibrant society; on the contrary, they hinder its progress and waste opportunities for its development.

## References

- Al-Mursal. (2023). Philosopher Thomas Hobbes and the Social Contract. Al-Mursal Website, March 9, 2023. [Link: <https://bit.ly/3Z9gGZb>]
- Al-Hajji, Hisham. (2021). John Locke and the Social Contract Theory. Believers Without Borders Foundation for Studies and Research, July 24, 2021. [Link: <https://bit.ly/486hXEh>]
- Palestinian National Charter, Fourth Session of the Palestinian National Council in Cairo 1968.
- Amended Basic Law, Article (7).
- Tolstykh, Vladislav. Aasi, Joni. (2022). Palestinian Citizenship: Past, Present, and Future. Journal of Palestinian Studies, Issue 129, p. 68.
- Law No. (9) of 2005 on Elections.
- Law on the Election of Local Councils No. (10) of 2005.
- Aasi, Joni. (2022). The Future Palestinian State and the Issue of Citizenship: An Approach Based on the Concept of "Transnationalism." On Open Edition Website. [Link: <https://bit.ly/4637ess>]
- For further reading, you can refer to:
- Sayyam, Emad. (2007). Citizenship. Nahdat Misr for Printing, Publishing, and Distribution, Arab Republic of Egypt.
- Al-Saadi, Nasser. Al-Dhuhwi, Hanaa. (2017). Digital Citizenship. Prince Khalid Al-Faisal Institute for Moderation, Kingdom of Saudi Arabia.
- "Civil Peace in Palestine: Factors and Contexts," 2022.