



Israel's Ban on Palestinian Family Unification: Analysis and recommendations

In 2003, the Israeli parliament passed an amendment to the Citizenship and Entry into Israel Lawⁱ that prevents Palestinians from the Occupied Palestinian Territory (OPT) who marry citizens of Israel from obtaining legal status (temporary or permanent residency or citizenship) in Israel. It stops Palestinian citizens of Israel—the overwhelming majority of Israeli citizens who marry Palestinians from the OPT—from realizing their right to a family life in Israel, based solely on their spouses' national belonging. Further amendments made in 2007 added spouses from Iran, Lebanon, Syria and Iraq, to the ban.ⁱⁱ

Although technically a temporary measure, the Knesset has repeatedly extended the law, which has now been in effect for over ten years. It is currently valid until 30 April 2014, after which it will once again come before the Knesset for extension.

Although security considerations were used as a justification for the ban on family unification, Israeli policy-makers have made no secret of the legislation's main objective: to preserve a Jewish majority in Israel.ⁱⁱⁱ Thousands of Palestinian families are affected by the law, forced to move abroad, to live apart or to live together illegally in Israel with no rights. Despite the severe violations of international norms entailed by the ban, Israel's Supreme Court has twice refused to strike it down, in 2006 and 2012.^{iv}

Impact of the ban

- **Discrimination against Arab-Palestinian citizens of Israel:** Under the Israeli Law of Return, all Jews worldwide have the automatic right to Israeli citizenship. Jewish Israeli citizens have an additional right to family unification with non-Jewish spouses from other countries, through a standardized family unification process administered by the Ministry of Interior. This same right is almost completely denied to Palestinian citizens of Israel, whose non-citizen spouses are mainly Palestinians from the occupied Palestinian territory (oPt). This denial leads to serious violations of their right to equality, dignity, a family life and other fundamental rights, as enshrined in international law. The ban on family unification marks a nadir in Israel's systematic discrimination against its Arab-Palestinian citizens.
- **Thousands of people living without basic rights in Israel:** The law's retroactive provisions nullified all family unification processes initiated since 1997, causing those who had been legally living in Israel to become status-less overnight. Others, who were awaiting responses to their unification requests, found their processes and their permission to remain in Israel with their families frozen. As a result, over the past decade an affected population of about 20,000^v Palestinians married to Israeli citizens and living in Israel have lived in constant fear of deportation, and have been denied basic rights including the right to work and access to public healthcare and social welfare.



Following some public criticism of the law, in 2005 the Knesset took minimal steps to moderate its devastating effects by amending the law. The amendments enable granting of ‘temporary staying permits’ to persons affected by the law in specific circumstances. However, only women over 25 years old and men older than 35 are eligible to file a request for a temporary staying permit, which can be arbitrarily denied for unspecified security reasons, including those relating to family members rather than the applicants themselves. As of February 2011, about 8,000 such permits had been granted, according to Israel’s Immigration Authority. These permits, which must be renewed periodically, allow their bearers to live in Israel legally, yet they are denied access to essential social services and find themselves in a constant state of uncertainty, since the permit can be revoked at any time at the discretion of the Ministry of Interior. In 2007 a ‘Humanitarian Committee’ was established to examine individual cases of family unification, but its activities are carried out in a non-transparent way, with no accountability to the public or the right to a hearing. Only 121 requests for family unifications have been approved since the establishment of the Committee seven years ago, and no requests have been approved by it over the past two years.^{vi}

- **Discrimination against women:** While the 2003 amendment does not explicitly distinguish between sexes, in practice the legislation has a disproportionate impact on women, since many of the people affected are Palestinian women from the oPt living in Israel with their husbands, who are Palestinian citizens of Israel. The law in many cases increases women’s dependence on men, who become the only member of the family eligible to work. Those who do not receive residence permits are forbidden to work, while for those with permits - extensions must be actively requested by the Israeli partner. As a result of these factors, many women are often forced to stay at home, out of fear of being detained and deported from the country and forcibly separated from their families.^{vii}
- **Children significantly harmed:** Although by law the children of such marriages are eligible for full citizenship rights in Israel, in practice they suffer administrative obstacles and their procedures are delayed by a hostile bureaucracy. Living with a parent devoid of social rights and civil status impairs the children’s ability to lead a secure family life, and their healthy development is threatened by a chronic sense of uncertainty and transience.^{viii}

Thousands of families have suffered the harmful effects of this law for over ten years. One of its consequences has been a deeper entrenchment of the Palestinian minority as second-class citizens whose basic rights to equality, dignity, and a family life have been significantly harmed. Another consequence is the perpetuation of gender inequities among Palestinian women within their communities and in Israeli society.

Local response

The Israeli Supreme Court, which was asked by Israeli civil society groups to strike this legislation down, initially ruled in 2006 that it was unconstitutional but stopped short of cancelling the law,



instead calling on the Israeli parliament, the Knesset, to amend it to remove the violations of basic rights. However, when the Supreme Court ruled in 2012 on further petitions challenging the amendments introduced in 2007, it ultimately upheld the law, by a slim majority of 6-5. This and other recent rulings by the Supreme Court have opened the floodgates to a wide range of new legislation that is overtly discriminatory and racist toward the Arab-Palestinian minority in Israel, and anti-democratic in nature.

At the same time, some limited achievements have been made in the field of social and economic rights. In 2012, a Supreme Court ruling ensured access to work for those Palestinians who are granted temporary residence permits.^{ix}

In 2009, several court petitions submitted by civil society led to the establishment of an inter-ministry committee appointed by the government to examine the access of those living in Israel without residency status to healthcare and social welfare services, known informally as the Horev Commission. The recommendations of the Commission were submitted to the Supreme Court in 2012 and include recommendations for a partial application of Israel's National Health Insurance Law to those living in Israel without legal status, via a special insurance arrangement with Israel's Health Maintenance Organisations (HMOs). However the Commission did not recommend their integration into Israel's National Insurance system, and their inclusion in the public healthcare system would be subject to restrictions and special conditions, including a set monthly payment.

Although the proposed arrangement would ensure access of thousands of affected people to public healthcare services, it remains discriminatory and does not provide spouses affected by the unification ban with rights equal to those of spouses in other family unification procedures.

During a June 2013 hearing in the Knesset, the Health Minister announced that the Ministry of Health had completed a set of regulations for integration of those affected by the law into Israel's HMOs, pending approval from the Ministry of Finance. A further court hearing on this issue was postponed and has not yet been rescheduled, reportedly in order to enable the state to introduce procedures to reflect the new regulations, without going via the court.

Analysis

The legislation is a clear violation of international human rights norms and law, and especially of the basic right of members of a family to lead their lives together in one country.^x Since those affected by the law are almost exclusively Palestinian citizens of Israel, and since Israeli lawmakers have made no secret of the motives of the law to preserve a Jewish majority in Israel, the law is also an instance of clear racist discrimination. The fact that those worst hit by the law are women also makes it an instance of gender discrimination.

The undersigned organisations believe that it is urgent to act now to revoke this law. The Interior Ministry must review family unification requests in a clear way, on a case-by-case basis, in accordance with non-discriminatory criteria. Until the law is revoked, all those currently living in



Israel without legal status must be granted 'social residency' – the right to public healthcare and social welfare, and the right to work and travel.

As illustrated by the slim majority that upheld the law in the Supreme Court, this issue has the potential of becoming a topic of debate among the Israeli public, an opportunity that can and should be used. It is the assessment of the undersigned organisations that campaigning for social and economic integration of this community alongside the campaign for civil inclusion is the best strategy in the current political atmosphere in Israel. We are therefore campaigning for both aims simultaneously, in the hope that social integration will ultimately lead to civil and political inclusion. This is only possible, however, if the international community in general, and the EU and its Member States in particular, make their position against this legislation clear. If the validity of this law continues, the Israeli government and lawmakers will see no reason not to proceed and enact even more draconian legislation that explicitly discriminates against the Arab minority.

The undersigned organisations call on the EU to:

1. Call on Israel to revoke the amendment to the Citizenship Law

We believe that Israel's ban on family unification is racist and discriminatory. The amendment is due for renewal in early 2014. We urge the EU to press Israel not to renew it.

2. Guarantee 'social residency' for Palestinian spouses of Israeli citizens, irrespective of civil status

We believe that Palestinian spouses and family members of Israeli citizens who currently live in Israel have a right to social and economic rights and services irrespective of their civil and political status. We urge the EU to support our campaign for 'social residency' rights for this group, i.e., full and equal access to public healthcare and welfare services, work and education.

ⁱⁱ For the full text see http://adalah.org/features/famuni/20030731fam_uni_law_eng.pdf

ⁱⁱⁱ See http://www.adalah.org/eng/?mod=db&dld_page=law&slg=citizenship-and-entry-into-israel-law-temporary-order

ⁱⁱⁱ See, e.g., comments by former Prime Minister Sharon and Binyamin Netanyahu in 2005, cited in:

<http://www.hrw.org/news/2006/05/17/israel-family-reunification-ruling-discriminatory>

^{iv} See HCJ 7052/03, *Adalah, et al. v. Minister of Interior, et al.*; HCJ 466/07, *MK Zahava Galon v. The Attorney General, et al.* available at <http://adalah.org/eng/Articles/1556/Family-Unification>; <http://adalah.org/eng/Articles/1185/Israeli-Supreme-Court-Upholds-Ban-on-Family>

^v This figure is based on data from PHR-Israel's Open Clinic, which provides medical care to all those denied health rights under Israeli law.

^{vi} See <http://saintyves.org/images/stories/figures%20on%20family%20unification%20and%20child%20registration.pdf>

^{vii} See also CEDAW Concluding Observations of 2005, para. 33-34 (CEDAW/C/ISR/CO/3) and 2011, para. 24-25 (CEDAW/C/ISR/CO/5).

^{viii} See also CRC Concluding Observations of 2013, para. 49-50 (CRC/C/ISR/CO/2-4).

^{ix} See <http://www.hamoked.org/Document.aspx?dID=Updates1187>

^x See, e.g., CERD special decisions of 2003 (Decision 2/63) and 2004 (Decision 2/65) and Concluding Observations of 2007, para. 20 (CERD/C/ISR/CO/13); HRC Concluding Observations of 2003, para. 21 (CCPR/CO/78/ISR, par.21) and 2010, para. 15 (CCPR/C/ISR/CO/3); CESCR Concluding Observations of 2003, para. 18, 34 (E/C.12/1/Add.90) and 2011, para. 20 (E/C.12/ISR/CO/3) and notes v, vi above.