

ARTICLE 9 (CEDAW): NATIONALITY

In its Third Periodic Report on the "Implementation of the United Nations Convention on the Elimination of All Forms of Discrimination against Women," submitted in 2001, the State of Israel referred to its previous report, stating briefly that, "Israeli citizenship and residency laws do not differentiate between men and women. Neither the change of nationality by one member of a couple nor marriage to a non-citizen has any effect on one's citizenship" (p.79). No commentary is made on the laws and policies discussed below, as Israel's report was issued before their enactment. However, the Committee should be aware that:

- a) Palestinian women citizens of Israel continue to suffer from the harsh consequences of being separated from their husbands and/or children, who are residents of the Occupied Palestinian Territories, on the basis of their nationality and the nationality of their spouses, as a result of the racist and discriminatory *Nationality and Entry into Israel Law (Temporary Order) - 2003, extended 2004*;
- b) Palestinian women citizens of Israel married to spouses from Arab countries face the hardships induced by a discriminatory order issued by the Prime Minister, which instructs the freezing of all status proceedings for citizens of Arab countries in Israel.

The Working Group on the Status of Palestinian Women Citizens in Israel would like to raise the following issues:

1) Racist and Discriminatory Law Banning Family Unification

The *Nationality and Entry into Israel Law (Temporary Order)* was enacted by the Knesset in July 2003 for one year, for an indefinitely renewable period. The law, similar to a previous cabinet decision in force since 12 May 2002, bars Palestinians from the Occupied Palestinian Territories (OPTs) from obtaining any residency status or citizenship in Israel, including through marriage to an Israeli citizen. The law prevents them from living in Israel with their spouses, and from upgrading any temporary residency status already granted to them. The racist law violates the fundamental human rights to equality, liberty, privacy and family life; flagrantly discriminates on the basis of nationality and ethnic origin against Palestinian citizens of Israel (who are overwhelmingly the Israeli citizens marrying Palestinians from the OPTs) and against Palestinians from the OPTs. It is also a disproportionate response to the alleged security reasons cited by the government to justify its enactment, negates the very essence of the values of a democratic society, and renders meaningless the citizenship of the Palestinian minority in Israel. The law violates domestic Israeli and international law regarding nationality, including Article 3(1) of the UN Declaration on the Elimination of all Forms of Racial Discrimination; Article 17 of the ICCPR; Article 3 of the Convention on the Nationality of Married Women; in addition to the CEDAW. Accordingly, UN committees, the EU, Palestinian, Israeli and international human rights organizations and legal academics have condemned the law. The CERD, UNHRC, European Parliament, International Federation for Human Rights (FIDH), Amnesty International, and Human Rights Watch have all called on Israel to revoke the ban on family unification law.

Adalah: The Legal Center for Arab Minority Rights in Israel, submitted a petition to the Supreme Court of Israel against the constitutionality of the law (H.C. 7052/03, *Adalah, et. al. v. Minister of Interior and the Attorney General*) on 4 August 2003. The petitioners include the Chair of the High Follow-up Committee for Arab Citizens in Israel, nine Arab Members of Knesset and two families affected by the law. One of the petitioners, a Palestinian woman citizen of Israel, whose husband is from the West Bank, stated that she believes that being a woman does not require someone to follow her husband, adding that she does not want to raise her children under occupation. She also expressed the overwhelming fear and the emotional pressures that she and her family face as a result of the threat to the family's unity. Six further petitions were also filed against the law, by the Meretz political party; the Association for Civil Rights in Israel (ACRI); and private lawyers. In spite of the criticisms directed against it, the law was extended by the Knesset on 21 July 2004 for six months.

In December 2004, the legal advisor to the Interior Ministry drafted a proposed bill that would re-extend the law, as well as establish even more stringent conditions on Palestinians who wish to obtain status in Israel through family unification. One of the proposed amendments is that a Palestinian from the OPTs may be prohibited from staying in Israel, not only on the grounds that he or she creates a security risk, but also where, in the "opinion of security officials," he or she and/or his or her family constitute a security risk. This amendment would effectively negate the presumption of innocence and the principle of individual responsibility, as well as violate the fundamental rights of a person based solely on the individual's family ties, even in the absence of any relationship with his or her relatives. In January 2005, the new Interior Minister announced that he will re-examine the law and the proposed amendments. The law is likely to be renewed in its current form for a second time in February 2005.

2) Ban on Naturalization for Citizens of Arab Countries Married to Israeli Citizen

An order from the Prime Minister of Israel was issued to the General Security Services (GSS) to stop the issuance of security permits to citizens of Arab countries who wish to formalize their status in Israel. The permits are a

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necessary component of the multi-staged family unification process for a foreign national spouse of an Israeli citizen. The result of issuing such an order is the complete cessation of all family unification procedures for spouses of Israeli citizens who are citizens of Arab countries. The order's existence was disclosed in August 2004 in an article published in the Israeli daily newspaper *Ha'aretz*, and was officially acknowledged by representatives of the Prime Minister's Office. Not only does the order severely undermine the basic right to family life and the right to marry, but it is discriminatory against spouses of Israeli citizens on the basis of race or national origin. Because the majority of the citizens of Arab states are men who come to Israel marry Palestinian women citizens of Israel, this order mainly affects Palestinian women.

ACRI submitted a petition to the Supreme Court of Israel on behalf of one couple, a Palestinian woman citizen of Israel and her husband, a Moroccan citizen. He has gone without official status since their marriage in 2002 (H.C. 9292/04, *Kanam et. al. v. The Minister of Interior et. al.*). In November 2003, the Interior Ministry deported the husband, although his wife was in her ninth month of pregnancy. Upon his return and after an extended battle with his wife, the Ministry permitted his entry into Israel but refused to deal with his case, even after the termination of his temporary residency permit, claiming not to have received authorization from the GSS. The couple presently lives with their daughter in dire economic circumstances, as the husband is not permitted to work in Israel. He has no state insurance, and is not entitled to social benefits. The petition remains pending.

3) Affect on Palestinian Women Citizens of Israel

Many thousands of families have been affected by the Nationality and Entry into Israel Law since its enactment in 2003, the similar cabinet decision issued earlier in 2002, as well as the order banning naturalization for citizens of Arab countries married to Israeli citizens. While these measures discriminate generally against Palestinian citizens of Israel with Palestinian spouses from the OPTs or from Arab countries, they have a disproportionate affect on Palestinian women citizens of Israel for many reasons, including:

- The position of women *vis-à-vis* men and the prevailing social norms within Palestinian society make it more problematic for a woman than for a man to live as a single parent or divorcée, to earn her own living, or to relocate away from her family in search of work. This situation may be particularly difficult if the couple has children, the primary care providers for whom tend to be women. In order to avoid living as a divorcée or single parent, the woman may be pressured to move to the OPTs or her husband's Arab country of origin, and thus lose her social rights and social benefits in Israel. Men are less likely to be sent to live with their spouses in the West Bank, Gaza Strip, or Arab countries.
- Palestinian women citizens of Israel who relocate to the OPTs are subjected to the extremely difficult living conditions in these areas, which are the setting for widespread human rights violations. Further, the majority of these women experience a fall in their standard of living due to the extremely poor economic conditions which prevail in the OPTs.
- Even when the couple is able to live together in Israel on a temporary residency basis, the man, typically the primary wage earner, is not permitted to work, rendering such couples especially vulnerable to poverty.
- The threat of separation often exerts emotional, economic, and social pressures on the affected couples living in Israel and their families. Such tensions can lead to the break-down of the family unit, which sometimes result in instances of domestic violence, to which women are particularly vulnerable.

Suggested Questions:

- (1) What measures has Israel taken to protect the family units of Palestinian women citizens of Israel married to Palestinians from the OPTs?
- (2) How many Palestinian women citizens of Israel have lost their Israeli social rights and benefits by moving to the OPTs to join their Palestinian spouses since 12 May 2002?
- (3) How many Palestinian women citizens of Israel who have been affected by the Nationality and Entry into Israel Law: cannot apply for status for their spouses; cannot upgrade the residency status of their spouses in Israel?
- (4) What measures has Israel taken to protect the family units of Palestinian women citizens of Israel married to citizens of Arab countries?
- (5) How many Palestinian women citizens of Israel who have been affected by ban on naturalization for citizens of Arab countries married to Israeli citizens: cannot apply for status for their spouses; cannot upgrade the residency status of their spouses in Israel?