

The Society of St. Yves, Catholic Center for Human Rights, is working under the patronage of the Latin Patriarchate of Jerusalem. St. Yves provides gratis legal assistance and counsel to members of the community. Further, St. Yves raises awareness for the legal situation of the poor and marginalized in the Holy Land through national and international lobby and advocacy. Today St. Yves manages some 700 cases per year and assists about 2,000 people.



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INTRODUCTION

“Temporary Order” - this is the suffix title for the “Citizenship and Entry Into Israel Law” passed by the Knesset, the Israeli parliament, on the 31st of July 2003. The legislation froze the family unification rights for thousands of Palestinian families of which one of the spouses is a Jerusalem resident or a Palestinian citizen of Israel. It has caused widespread anguish and deterioration of life conditions for large sectors of the Palestinian community in Jerusalem.

The Israeli narrative tells the story that in 2002, following the deterioration of the security conditions during the Second Intifada, the Minister of Interior decreed the freeze of family unification procedures for residents of the West Bank and the Gaza Strip, because allegedly Palestinians who had benefited from family unification were involved later in terror attacks.¹ The initial administrative freeze by the Ministry of Interior passed into a temporary law sixteen months later, and has been renewed each year ever since.

However, the records of the discussion in the cabinet and parliament reveal another story.² Demographics were openly discussed during the debates. Beside all security concerns, the law aims clearly at limiting the demographic presence of Palestinians within Israeli territory, in particular within the illegally annexed East Jerusalem. It is directly oriented towards the Palestinian population and infringes discriminatory and disproportionately family rights that are not only recognized by international conventions, but also by Israeli domestic law.

During this last decade, the Society of St. Yves has represented hundreds of families and individuals who are victims of the arbitrary measures provided by the law and its application. With each year that passes with the law still in force, new forms of challenges and difficulties arise for Palestinian families whose rights are already very restricted due to the policies and practices of Israeli authorities who aim to maintain a Jewish majority in Jerusalem at any cost.³



The purpose of this report is double-fold.

First, it aims to highlight the particular effect of this legislation on the life of the Palestinian community in Jerusalem. In fact, although the law also affects the Palestinian citizens of Israel, it has different consequences for Jerusalemites who have a different legal status.

Second, it aims to shed a light on the situation after ten years implementation of this “temporary law”, by showing that the prolongation of its enforcement is leading to severe consequences for the dire human rights condition that the indigenous population of the Holy City is already enduring. Although the 2003 legislation provides for certain exceptions related to the age of the spouses and certain humanitarian cases, this report aims at explaining how all these exemptions are highly restrictive and far from sufficient to mitigate the violations of rights entailed within.

Finally, the report’s objective is to reinvigorate the debate on the subject as an additional advocacy tool, in order to raise awareness and propel action against the further sustaining of the law’s provisions.

In that regard, the report attempts to respond to the following questions: What are the legal effects of the “Israeli Citizenship and Entry Into Israel Law of 2003” ten years later? How did it affect the Human Rights situation of the Palestinian residents in East Jerusalem? What are the legal difficulties that have resulted from the application of the law? How does the law violate International Law?

To answer those questions, at first we shall explain how the 2003 law is part of a larger policy leading to the displacement of Palestinians out of the city. Next, we shall discuss the particular issues related to the ten years of the implementation of the law. Finally we shall discuss the major infringement of the 2003 law on International Law and International Human Rights law.

1 See for example, Yael Stein, **Forbidden Families, Family Unification and Child Registration in East Jerusalem**, Report from BīTselem and Hamoked, 2004, p.11.

2 See Part 1.2 for further discussion on the demographic intent and effects of the law.

3 See for example, **EU Heads of Mission Report on East Jerusalem**, non-paper, (<http://fr.scribd.com/doc/78665443/EU-Heads-of-Mission-East-Jerusalem-Report-2012>), 2012, paragraph 4 of the report. The report condemns the “attempts to emphasize the Jewish identity of the city, at the expense of its Muslim and Christian residents”; The Association for Civil Rights in Israel (ACRI), **East Jerusalem-Facts and Figures**, Report, June 2008, p. 3 - 4, in which the report considers: “The only logical explanation for this discrimination (in policies against Jerusalem residents) is that it is a deliberate effort by government authorities to push Palestinian residents outside the city’s borders as a means of maintaining a Jewish majority over the long term”; Eitan Felner, **A Policy of Discrimination: Land Expropriation, Planning and Building in East Jerusalem**, BīTselem Report, 1995.

PART I: FAMILY UNIFICATION LAW AS INSTRUMENT OF DISPLACEMENT

1. The legal framework for Jerusalemites

In the aftermath of the Six-Day-War, East Jerusalem along with the rest of the West Bank and the Gaza Strip was captured by the Israeli army and fell under military occupation. If Israel was equivocal about the existence of military occupation in the Palestinian territory, it did not recognize it at all in Jerusalem. Directly after the war, it declared unified Jerusalem and decreed the application of Israeli internal law on the city.

In order to realize Jerusalem as the “Eternal Capital of the Jewish People”, Israel needed to create drastic changes in the status of the city.⁴

From 1967 onward, Israel has relentlessly applied a double fold policy⁵ based on two principles:

- Acquiring maximum land with minimum people.
 - Creating reality on the ground which was hoped to be eventually accepted de jure - the policy of faits accomplis.
- These two policies are translated into a substantial change in the geography of the city on the one hand, accompanied by a demographically oriented legislation to deal with the Palestinian residents on the other hand.

1.1 Land policies in East Jerusalem

The alteration of geography in Jerusalem is manifest and ceaseless from 1967 onwards. It has led to the complete disfiguration of the culturally pluralistic face of the city into the hegemony of Jewishness. This is often referred to as the policy of “Judaization”⁶. In the following only the main aspects of this alteration shall be highlighted:

a. The alteration of the surrounding boundary

In 1967, the Israeli government annexed approximately 72km² of the West Bank⁷, including lands from nearby cities such as Al-Bireh in the north as well as Bethlehem and Beit Sahour in the south⁸. Most of those annexed areas were uninhabited, while densely populated Palestinian villages surrounding the city were outlaid.⁹ Around those newly annexed areas together with what was referred to as “West Jerusalem” from 1948 to 1967, Israel unilaterally drew the boundaries of the municipality of Jerusalem.

In large parts of those newly annexed lands, Israel has endeavoured to create large settlement blocks. For the use of changing the texture of the city, it created step by step the three largest settlements around Jerusalem: Maale Adumim to the east, Pisgat Zeev to the north, and Gilo to the south. In 2011, twelve settlements existed in Jerusalem, hosting approximately 200,000 settlers,¹⁰ connected by a set of bypass roads and infrastructure linking them to the city center and to each other. By such, Israel has created a residential network that completely separates Jerusalem from its historical and social surrounding of the West Bank.

Additionally, Israel confined these settlements from the surrounding Palestinian residential areas by a set of roadblocks and checkpoints that were set permanently starting in the early 1990s. Those physical barriers make the access to Jerusalem for residents of the West Bank virtually impossible without holding a special permit from Israeli authorities, which is very difficult to obtain.¹¹

In 2002, Israel started to build the separation wall. But the wall runs incoherently with the municipal borders of the

4 Israel immediately implemented Israeli law over Jerusalem. Although it did not recognize the annexation officially until 1980, it held a domestic discourse that considered Jerusalem as the eternal capital of Israel. See John Quigley, *The legal status of Jerusalem*, the Turkish Yearbook, Vol. XXIVXXXV, 1994.

5 This formulation was used many times by Israeli officials (see for example Israeli Prime Minister Ariel Sharon's address at the United Nations General Assembly, 60th plenary session, 15 Sept 2005, where he starts: “I arrived here from Jerusalem, the capital of the Jewish people for over 3,000 years and the undivided and eternal capital of the State of Israel.”)

6 See for example, The Palestinian Academic Society for the Study of International Affairs (PASSIA), *The Jerusalem Bulletin*, May 2002, p.3.

7 See for example, Negotiation Affairs Department of the Palestine Liberation Organization (NAD PLO), *Fabric of Neighborhood: New Guidelines from Land Confiscation in Occupied East Jerusalem, Israeli absentee property law, Media Brief, August 2012*.


8 See for example, *A Policy of Discrimination: Land Expropriation, Planning and Building in East Jerusalem*, supra ft. 2, p. 10.

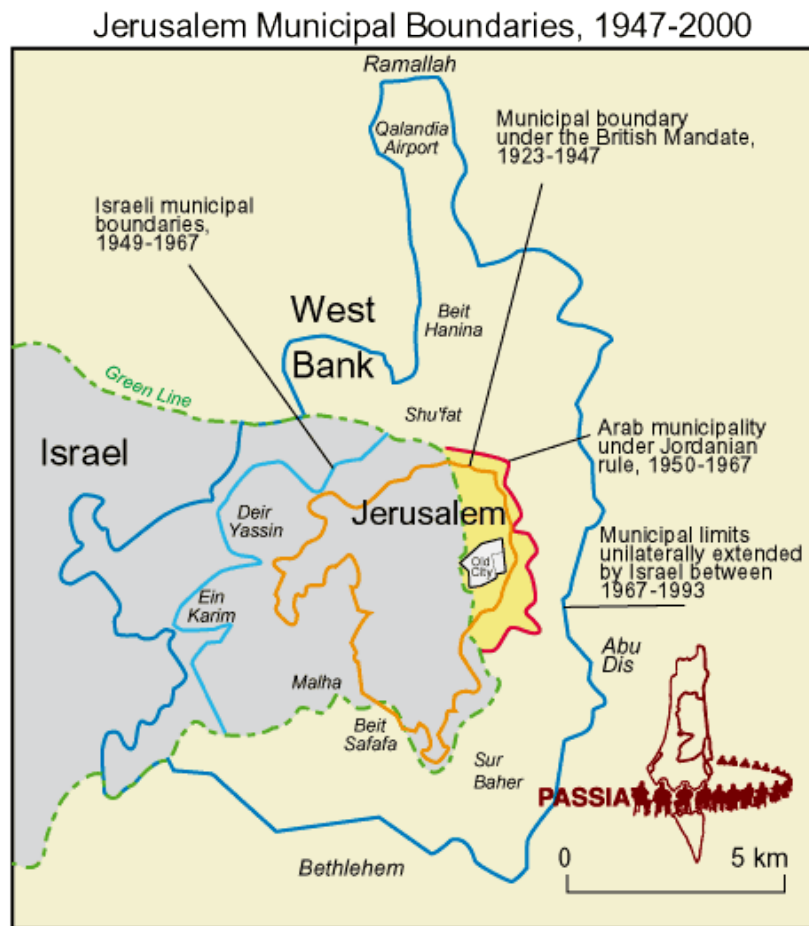
9 See for example, The Applied Research Institute - Jerusalem (ARIJ), *Geopolitical Status in Jerusalem Governorate*, 2006, p. 5.

10 See for example, United Nations, *East Jerusalem: Key Humanitarian Concerns*, Office for the Coordination of Humanitarian Affairs occupied Palestinian territory (OCHA), March 2011, p.51; The same, *Humanitarian Impact of Israeli Settlement Policies*, Office for the Coordination of Humanitarian Affairs occupied Palestinian territory (OCHA) Fact sheet, December 2012.

11 See for example, *East Jerusalem: Key Humanitarian Concerns*, supra ft. 10, p. 9.

city: while annexing another 9.4% of additional territory from the West Bank¹², it excludes some 55,000 Palestinians residing in neighbourhoods that are within the boundaries of the municipality of Jerusalem but now behind the wall.¹³ With the wall, Israel redefines the borders of Jerusalem and changes the demographics of the city.

The settlement blocks, along with the roadblocks and the separation wall constitute a closed noose which effectively results in cutting off Jerusalem from the West Bank, and the  act reshapes the geopolitical reality of the city.



The Palestinian Academic Society for the Study of International Affairs
(PASSIA)

b. The re-shaping of neighbourhoods within

Besides changing the surrounding borders of Jerusalem, Israel also interfered in the realities within the city. Some of the most remarkable aspects of this change were the destruction of the Moroccan Quarter in the Old City of Jerusalem in order to create the plaza in front of the Western Wall as well as the confiscation of approximately 100m² at Jaffa Gate in the Old City¹⁴ which was annexed to the Jewish Quarter.¹⁵

The most significant factor enabling Israel to achieve this alteration was the instrument of law. Directly after the war, Israel applied the Israeli law for urban planning and construction to the city. This included also laws concerning expropriation and absentee property. Using these laws, Israel annexed large numbers of Palestinian property from individuals who fled the war by declaring them absentees and their houses absentee property.¹⁶ In the first three years of occupation alone, Israel confiscated 18,270 dunums (1,827ha) of Palestinian lands in East Jerusalem.¹⁷ Those lands were mostly used to create inner layers of settlements for the Jewish population to reside within the metropolitan area. These inner settlements lie within the heart of Palestinian residential areas of the city, especially in what is considered as the 'Holy Basin' area.¹⁸

12 United Nations, The Humanitarian Impact of the Barrier, Office for the Coordination of Humanitarian Affairs occupied Palestinian territory (OCHA) Key Facts, July 2013.

13 See for example, East Jerusalem: Key Humanitarian Concerns, supra ft. 10.

14 See regarding the substantial modification of the Old City of Jerusalem: Simone Ricca, Reinventing Jerusalem: Israel's Reconstruction of the Jewish Quarter After 1967, I.B. Tauris & Co Ltd., 1st ed., London, 2007, p. 25; and PASSIA, The Jerusalem Bulletin, supra ft. 6, p. 3.

15 See the table detailing confiscation in 1967 in Policy of Discrimination: Land Expropriation, Planning and Building in East Jerusalem, supra ft. 2, p. 40.

16 See for example, Fabric of Neighborhood: New Guidelines from Land Confiscation in Occupied East Jerusalem, Israeli absentee property law, supra ft. 7.

17 See for example, The Jerusalem Bulletin, supra ft. 6, p. 3.

18 See for example, East Jerusalem: Key Humanitarian Concerns, supra ft.10, p. 61.

In the meanwhile, the Palestinian population was not able to build legally until detailed plans for the Palestinian neighborhoods were prepared and approved by the municipality. But these published planning schemes never aimed at fulfilling the housing needs of the growing Palestinian population. The municipality of Jerusalem allocated only 13% of the surface of the city for Palestinian construction within which Palestinians have the possibility of obtaining building permits; this in theory allocated area is de facto already totally built-up.¹⁹ In 1995, the Israeli Human Rights organization B'Tselem published a report which shows how the Israeli municipality of Jerusalem procrastinated the planning for housing construction in Palestinian neighbourhoods. The thirteen available plans are mostly aiming at limiting the expansion of construction for Palestinians, instead of making resources available to fulfil the Palestinian minimum housing needs.²⁰

This context together with the growing Palestinians population has created an acute demand for additional housing in East Jerusalem. As a result, Palestinian residents in the city were forced to build without construction permits: either they could not obtain a building permit because of the absence of an urban plan for their area, or they couldn't afford – financially and practically - to go through the very lengthy, costly and complicated procedure to obtain such permits. Israel has reacted to those “illegal” constructions by severely implementing the regulations, and targeting those housing units with home demolition orders. Today more than one third of the housing units in East Jerusalem are threatened by demolition, putting almost 93,100 people at risk of becoming homeless.²¹ Additionally, the Israeli law also incurs on the victim of the demolition order high fines that lead many of the house owners to destroy their homes themselves to save at least the demolition costs. For the municipality of Jerusalem these fines create a valid income: Between 2000 and 2009, it collected an average of NIS 20.8 million per year (US\$ 5.8 million) in such fines.²²


This patently biased approach to deal with land and property issues is coupled with a very precarious legal status for Palestinians in the Holy City, leading to continuous deterioration of the conditions and quality of life of Palestinian Jerusalemites.

1.2 The resident status

Directly after the Six-Day-War in 1967, Israel conducted a general population census in the occupied territory. Only those who were physically counted within the newly delineated Jerusalem municipality boundaries were considered as Jerusalem residents. Those counted within other cities of the occupied territory, or those who were during the census out of the country, were - regardless of family ties, origins, or connection to the city - excluded from the status as Jerusalemite and lost their right to stay legally in the city.²³

The legal status that was attributed to the Jerusalem population censused in 1967 was “permanent residency”. This status incurred from extending the application of the “Entry Into Israel Law 1952” which gives the discretion to the Minister of Interior to accord various types of visas to reside within Israel for persons who do not fulfil the requirements of the Jewish “Law of Return 1950” and the “Nationality Law of 1952”.²⁴

Permanent residency is a precarious status; it does not confer a nationality or full civil and political rights. Residents can participate in municipal elections, but not in the elections on national scale. They are entitled to social benefits, pay all taxes, and receive travel documents from the state. The Minister of Interior who grants the status is also empowered to revoke it under certain circumstances.²⁵

If it is relatively common for states to attribute a particular category of residents  who immigrated into their territory with a particular status, the uniqueness in the status of Palestinian Jerusalemites is that they are not immigrants, and do not, for most, have another nationality.²⁶ They are the indigenous population of the land and did not immigrate into the State of Israel; in fact the State of Israel came to them.

Permanent residency can be revoked if Jerusalem is not, or no longer, considered by the Israeli administration as the

19 See for example, East Jerusalem: Key Humanitarian Concerns, supra ft. 10 p. 2.

20 See for example, A Policy of Discrimination: Land Expropriation, Planning and Building in East Jerusalem, supra ft. 2, p. 56-60.

21 The number is constantly growing, as with each day the Jerusalem Municipality issues new demolition orders for housing units in East Jerusalem. See for example, East Jerusalem: Key Humanitarian Concerns, supra ft. 10; The Humanitarian Impact of Israeli Settlement Policies, supra ft. 10.

22 See for example, East Jerusalem: Key Humanitarian Concerns, supra ft. 10, p. 36.

23 See for example, The Jerusalem Bulletin, supra Ft. 6, p. 4.

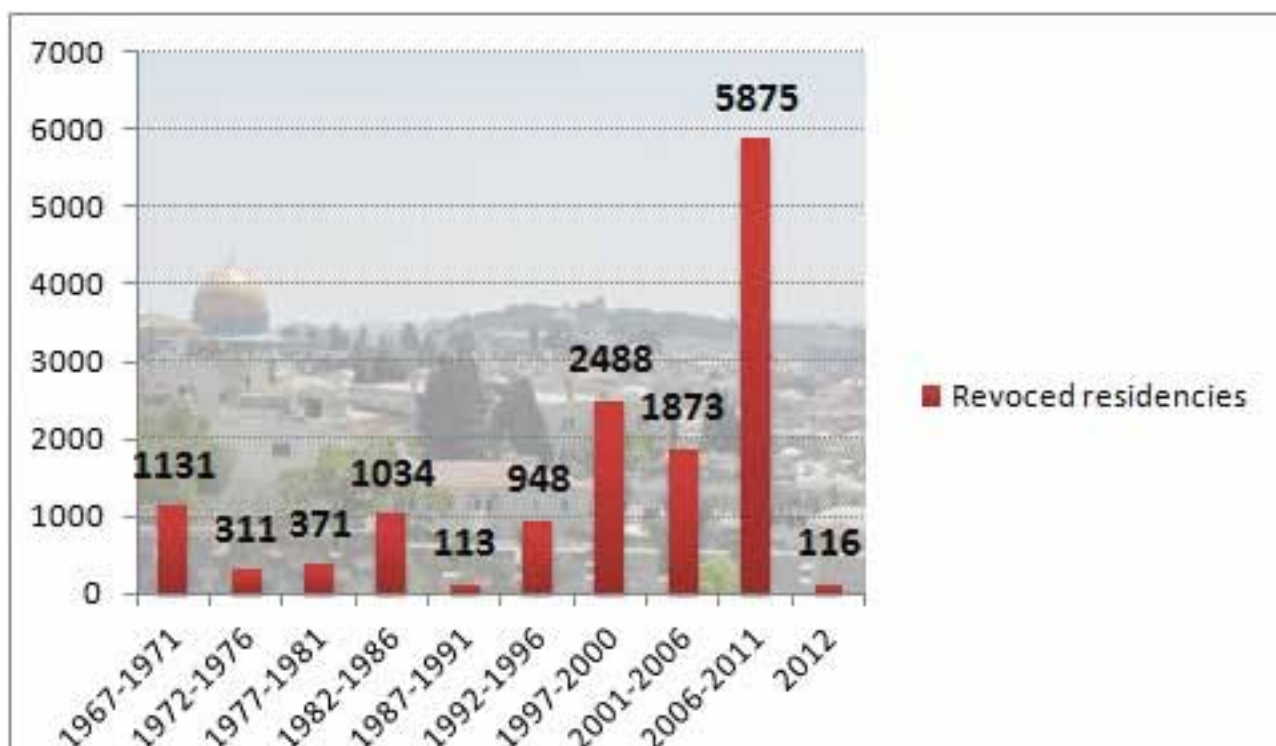
24 See Entry into Israel Law, 5712-1952 (http://hamoked.org/files/2011/2240_eng.pdf).

25 See article 11- 13 of 1952 law, which provides the Minister with the right to revoke residency and deport the holder. For example, recently three elected Palestinian legislative council members, from Hamas, were stripped of their residency status by decision of the Minister of Interior and deported from the city. See, Al-Haq , Legal Analysis: Forcible Transfer of Jerusalem Parliamentarians Demonstrates an Escalation of Israeli Measures to Transfer Palestinians from Occupied East Jerusalem , 17 June 2010).

26 Jerusalemites sustained Jordanian passports which were issued during the Hashemite rule on the West Bank and East Jerusalem between 1948 and 1967. However, since 1988 these passports do not confer full Jordanian citizenship. For example it does not entitle Palestinians to live in Jordan without applying for a special visa, or obligate them to pay taxes or to participate in military service.

“center of life” for the concerned person. In 1988, a petition known as the Mubarak Awad case²⁷ was brought in front of the High Court of Justice (HCJ). The court had to review a decision by the Ministry of Interior to deport a Palestinian who had moved to the USA for almost a decade and obtained American citizenship. The court rejected the argument of Awad’s lawyer that East Jerusalem residency rights could not be revoked as East Jerusalemites cannot be considered immigrants.²⁸ The first time the court confirmed the application of the “Entry Into Israel Law 1952”, as well as its bylaws and regulations. It confirmed that the issued regulations of the Minister of Interior of 1974, provided by article 14 of the “Entry into Israel Law 1952”,²⁹ create two sort of situations in which permanent residency status is considered as expired: The residency automatically expires if for the period of seven years the resident has been absent from his Israeli address, or if he or she obtains nationality or permanent residency in another country.

The Awad case paved the way for the Israeli authorities to start a systematic policy of residency revocation and Identity Card withdrawal. The residency revocation was not only applied to Jerusalemites who lived in third states, but also to those who resided in areas of the West Bank outside the municipal borders of Jerusalem or in the Gaza Strip. Between 1967 and 2012, 14,260 Palestinians lost their residency in Jerusalem, of which 4,577 in 2008 alone.³⁰ The subsequent case law of Israeli courts has confirmed the understanding of the Ministry of the Interior and comforted its discretionary power even beyond the criteria provided by the 1952 law and relevant regulations.³¹



The necessity to prove the center of life for maintaining residency, coupled with the aforementioned restrictions on housing and freedom of access to the city, has not only resulted in serious languish in the quality of life of Jerusalemites. It has also lead to make housing addresses and ID types a serious hindrance in marriage choices and ordinary family lives, both for East Jerusalemites as well as their loved ones in the rest of the Occupied Palestinian Territory.

2. The legal conditions for family unification: A shackle in the life of Jerusalemites

It is within this context of geographical subjection and demographic cramping, that the family unification procedures for Palestinian residents of East Jerusalem must be understood. Further it must be kept in mind that – beside the aims of the Israeli policies – family ties and the social fabric between Jerusalem and the rest of the Occupied Palestinian

27 HCJ 282/88 Mubarak Awad vs. Yitzhak Shamir, Prime Minister et al., 5 June 1988.



28 HJC 282/88, supra ft. 27, Paragraph 4.

29 Regulation of the Entry into Israel Law as amended on 1974.

30 East Jerusalem: Key Humanitarian Concerns, supra ft. 10, p. 14

31 See for example, HCJ 7023/94, Fathiya Shiqaqi vs. Minister of Interior (unpublished); Qaraïen Case, discussed in Usama Halabi, The Legal Status of Palestinians in Jerusalem: Legal practices to strengthen Jerusalemis Jewish community and weaken that of the Palestinians, Palestine-Israel Journal of Politics, Economics and Culture, Vol. 4 No. 1 Children of the Conflict, 1997; HCJ 2797/11, Qaraxen et al. v. Minister of the Interior, 21 March 2012, were the HCJ confirmed the Awad precedent by considering that the petitioner should have planned his life according to the knowledge that a long period of staying away from the city would mean the loss of his residency rights.

Territory could be cut off by physical barriers.

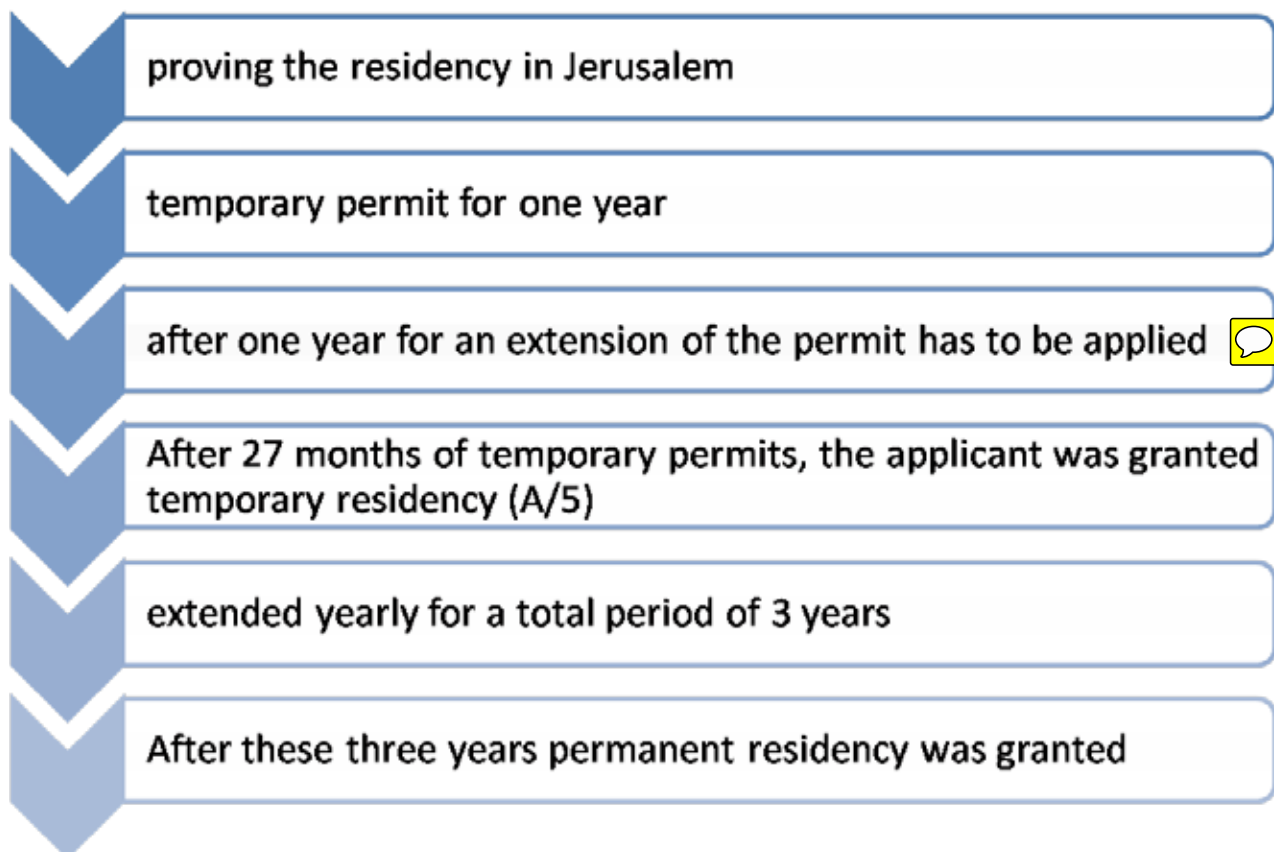
The process of the family unification free  was not done briskly; step-by-step it was made harder for families from various areas in the occupied Palestinian  to freely choose their place of residence and unite in a common shelter.

From 1967 till early 1990 Israel gave permission for the residents of the West Bank and Gaza to freely circulate, this was called “the open bridge policy”. However, in the aftermath of the first Gulf war this permission was revoked. Now, Palestinians from outside the boundaries of the state (which means de facto Palestinians from the West Bank and Gaza Strip) had to ask for permits to access Jerusalem.

This practically meant that numerous families which consisted of a spouse with West Bank or Gaza Strip residency and a spouse with Jerusalem ID who had never forsaken the complicated procedure of family unification, had now to find a justification for their presence in the city and apply for residency status under the Israeli family unification procedures.

At first, the Ministry of Interior did not accept requests from wives holding the Jerusalem ID in order to unite with their husbands in Jerusalem. The assumption behind it was that a woman in an Arab society would always follow her husband and not vice versa. Only in 1994, after a petition brought to the HCJ against this practice, the Attorney General Office provided a letter to the court in which it agreed to also receive applications from female Jerusalem ID holders in the future, as long as they could prove their center of life in Jerusalem and the absence of any criminal or security record for the spouse. ³²

By 1995 the demands for family unification were substantial; as a result the State of Israel initiated a procedure of a gradual process with the final step of obtaining permanent residency. It is worth noting that this system applies for both, Israeli citizens and residents. It does however affect Jerusalemite residents much more as they are more numerous to apply for family unification. According to numbers of the Ministry of Interior, between 1993 and 2002, out of the total of 16,007 applications for family unification 5,291 were filed by East Jerusalem residents.³³



³² See for example, Letter from Attorney Yochi Gensin, Senior Deputy to the State Attorney, to Attorney Eliahu Abrams of ACRI, on 23 June 1994, following HCJ 2797/93, Garbit v. Minister of the Interior, Forbidden Families, Family Unification and Child Registration in East Jerusalem, supra ft. 1, p.7.

³³ Ministry of Interior, Immigration and Settlement of Foreigners in Israel, Department of population in Jerusalem, May 2002, cited in: Hamokedis 2007 petition against the renewal of Israeli law in front of the HCJ, (the presentation is available under: <http://www.hamoked.org.il/items/5760.pdf>, the petition is available under: http://www.hamoked.org/items/8732_eng.pdf).

The gradual process for family unification consisted of four phases:

- First phase: The spouses applying for family unification need to prove the sincerity of their marriage, center of life for the citizen or resident, and have to present a clean criminal record for the applicant spouse.
- From the moment the application was submitted until the approval was granted, the time period that passed in average was five years, during which the applicant spouse didn't have any legal status, which meant that the spouses could not legally reside together.³⁴
- Second phase: Once the application is approved, the applicant receives a B1 permit for 15 months, renewable for additional 12 months – which means in total for a theoretical period of 27 months. This permit allows the spouse to reside in Israel, but without obtaining any social or civil rights.
- The practice looked however differently: the Ministry of Interior used to renew the 12 months permit several times before approving the upgrading to the next step.
- Third phase: the applicant receives an A5 visa, or what is called a temporary Identity Card for three years, renewable each year. It provides the applicant with almost the same rights as the permanent resident.
- Fourth phase: the applicant receives the same status obtained by the requester for the unification (citizenship for a citizen, residency for a resident)

While theoretically designed for the period of five years and four month, the gradual process of family unification required in practice an average period of ten years.³⁵ The delays were mostly caused by the Ministry of Interior's methods dealing with the applications. Just to name a few examples, the Ministry changed several times unilaterally the requirements without informing the public. In many cases it either did not confirm the receipt of applications, did not respond in time to the request to move to the next step of the gradual status, lost documents or the applications themselves. This resulted in the fact that in 2002, when the family unification process was administratively frozen, a substantial number of Palestinian spouses could have acquired full residency, but did not do so due to the delay of the Ministry. In fact, a large number of applicants were stuck in the second phase (B1 permits). The timing of the freeze in 2002 cannot be explained without taking into consideration the large number of Palestinians that were entitled to obtain either temporary IDs or residency according to the gradual process.

It is important to highlight the nature of discussions that came along with the decision of the family unification freeze. After the Ministerial Decree of 2002 by the Ministry of Interior, the Cabinet adopted the measure as Prime Minister Decision 1813 in May 2002, before passing it into a law. During the cabinet discussion of the decision, the Ministry of Interior gave a presentation to the cabinet. Therein, it is stated that the family unification process, is a "[...] general burden, mainly demographic for the future of the state of Israel".³⁶ In addition, the presentation mostly focused on the number of Palestinians obtaining status through the family unification procedure, and their future costs for the social security authorities. Cases of polygamy within the Palestinians Muslim society and the resulting number of children were one of the main concerns of the presentation. It further alleged that Palestinian men would get married fictively with women holding East Jerusalem IDs, just for the sake of Israel documents, despite the fact that this was proved to be prejudicial and untrue by the ministries' own figures. The presentation speaks of 29% of the applications being rejected, but for all legal grounds (lack of center of life proof, uncertainty of marriage, unclear criminal records, or any other purpose such as families withdrawing the demand, not following up, or not providing the required documents). This means argumentum e contrario that 71% of the applications could fulfil the Israeli demands.

The Israeli parliament discussions provided another indicator for the demographic purpose of the law. On the 17th of July 2001, during the Knesset session a hearing was held regarding the "Realization of the Right of Return by Foreign Palestinian Workers by Means of Advantageous Marriage." During the hearing, the head of the Population Administration, Herzl Guedj, stated that, "The problem is complicated and has demographic implications. [...] I think that this subject warrants a discussion that relates to future demographics and to the situation that will develop in the State of Israel."³⁷

Numbers in general are a good indicator that the policy of family unification freeze has above all a demographic purpose and motivation.


³⁴ See for example, *Forbidden Families, Family Unification and Child Registration in East Jerusalem*, supra ft. 1, p. 8.

³⁵ Experience reported by the St. Yves lawyers; see also *Forbidden Families, Family Unification and Child Registration in East Jerusalem*, supra ft. 1, p. 8.

³⁶ See for example, *Immigration and Settlement of Foreigners in Israel*, supra ft. 33.

³⁷ See for example, *Forbidden Families, Family Unification and Child Registration in East Jerusalem*, supra ft. 1, p. 16.

In April 2013, St. Yves requested from the Ministry of Interior clarification about the number of applications for family unification and their rate of success from 2000 to 2013, to examine the effect of the 2003 legislation.

The Ministry's response, dated September 2013, revealed that between January 2000 and July 2013 43% of the total of family unification applications were rejected; while 20% of the rejections were based on security reasons, 13% were based on lack of proof of center of life (total of 12,284 family unification applications, where 5,629 applications were approved and 4,249 were rejected).³⁸ 

The figures also indicate that there is a big delay processing the applications and taking decision in them: In 2012, 809 new applications were filed while just 332 cases were concluded. In total, at least 2,406 cases are pending and wait for a decision. If an average family size of four members is assumed - based on the average size of a Palestinian family - this means there are currently at least 9,624 persons living in uncertainty, which is proportionately 2.6% of the population in East Jerusalem. It must be stated that the real figure is much higher, as the 2.6% include just open applications, not considering rejected cases or families which do not fulfill the age or security criteria set by the Israeli authorities, or simply those who don't have the financial means to go through the procedure.

The figures also speak loudly about the effect of the family unification freeze and the policies introduced by the Ministry of Interior. A noticeable drop in numbers of requests and approvals can be observed in the years 2002-2004, apparently the time frame until the new procedure was clear for both, the administration and the applicants. From a 1,234 requests in 2001, the number dropped to a little more than 500 cases the three consecutive years. In terms of approvals, the Ministry accorded only nine approvals in 2003, and 19 approvals in 2004, compared to 665 approvals in 2001, and 303 approvals in 2005.

Between 2004 and July 2013, the Ministry of Interior received 17,616 applications for registering children out of mixed marriages (having each a parent holding Palestinian Authority and Jerusalem IDs). Those children are born in Jerusalem, yet due to the status of the parent from the West Bank they need to go through an additional procedure. Their registration is linked to their parent's application for family unification, as both, the registration and the unification files need proof of center of life for the family cell. 12,247 of those applications for child registration were approved, 3,933 were rejected. This means that nearly 4,000 children live in Jerusalem without a legal status which entails basic provisions like health insurance and school education. It has to be mentioned again that the real figures are much higher, and the mentioned figures above are just the official figures of applications published by the Ministry of Interior. The estimated number is about 10,000 not registered children in Jerusalem.³⁹

The figures show that 24% of all decisions were negative. 29% of the rejected applications were refused on the grounds of the center of life policy. In 12 cases children were not registered due to security concerns, taking into consideration that the children concerned are below the age of 14 years. The figures indicate that 1,436 child registration cases were pending. The Ministry cannot provide data prior to 2004 as prior to that year files were not inserted into the computerized system.

In the cases of child registration through the family unification process, which concern children who were not born in Jerusalem, between 2000 and 2013, 239 applications were filed. 120 applications were approved, 75 rejected. One case was rejected due to security reasons, 44 on the bases of the center of life policy.



³⁸ Society of St. Yves, Ministry of Interior: 43% of the family unification applications rejected between 2000 and 2013, Press release from 16. September 2013 (www.saintyves.org).

³⁹ See for example, East Jerusalem: Key Humanitarian Concerns, *supra* ft. 10, p. 12.

Time Table of family unification

1967-1991

General permission for all residents of the occupied territories (including Golan Heights and Sinai till Camp David) to freely move within the territory of the State of Israel.

1991

Following the first Gulf war, residents of West Bank and Gaza Strip need special permits to access the territory of the State of Israel (as well as annexed East Jerusalem). Checkpoints are established in order to control and restrict access.

1994

The Israeli High Court of Justice confirms the right of Jerusalem residents (husband and wife) to receive family unification for their spouses. Large numbers of unification applications follow the court decision.

1995

The Ministry of Interior establishes a gradual process for family unification. Prior to 1995, permanent residency was automatically granted once a file was approved.

March 2002

All family unification applications are frozen by Ministerial Decree

May 2002

A Prime Minister Regulation confirms the Ministerial Decree until a clear policy is set. In the meanwhile, the applicants in process can maintain and renew their current status.

July 2003

The Knesset passes the "Citizenship and Entry into Israel law" - temporary order, freezing the process of family unification

2006

The High Court of Justice states the validity of the law.

2007

The law is expanded to include "enemy states". The Humanitarian Committee is established.

2012

The High Court of Justice rules again that the law is constitutional.

PART II: THE IMPLEMENTATION OF THE LAW: 10 YEARS OF ADMINISTRATIVE AND LEGAL STRUGGLE

The “Citizenship and Entry into Israel law”, as amended in 2007 provides:

“During the period when the Law is in force, notwithstanding that which was stated in any other law including section 7 (dealing with family unification) of the Citizenship Law, the Minister of the Interior shall not grant citizenship to a resident of the region (meaning West Bank and Gaza Strip) or to a citizen or resident of a state listed in the schedule (enemy states) in accordance with the Citizenship Law and he shall not grant him a license to reside in Israel in accordance with the Entry Into Israel Law, and the region commander shall not grant a resident of the region a permit to stay in the region.”

40



This article sets the ground on which family unification is prohibited for all residents of the West Bank (excluding East Jerusalem), the Gaza Strip, and residents and/or nationals of enemy states, namely Syria, Lebanon, Iraq and Iran.

However, some exceptions to this article are detailed in the provision of the law. Those exceptions are: First, those who had obtained a status prior to the prohibition can maintain this status under certain circumstances. Second, new applicants can under certain conditions apply for permits for the non-resident spouse in order to live with the resident. Third, in cases with humanitarian dimensions spouses can apply for permits.

In all three categories, although the statuses differ, the Ministry of Interior only grants yearly permits. The uncertainty every year, if the family still meets the expectations of the Ministry and the granted permit is renewed, causes huge impact on the daily life of the families concerned by the family unification procedures.

1. Procedures followed by applicants for family unification

For an accurate analysis of the situation it is necessary to distinguish between those who applied for family unification before enacting of the 2003 law, and those who are applying ever since.

1.1 Applicants prior to the family unification freeze

Generally, in modern societies, people tend to have legitimate faith that future law and regulations shall not undermine their legal status. However, the 2003 “Citizenship and Entry into Israel Law” does exactly this.

At a first reading, the law ensures that no one shall lose the status he or she has already acquired. In reality however, those who were going through the “gradual process” in order to obtain a full resident or citizen status have found their status frozen at the phase they had reached in 2002. This means that a large number of applicants who were supposed to obtain full status of residency, have been renewing whatever status they had reached in 2002 until today.

In all those cases, whether they have obtained B1 (the 27 months permit) or A5 (the temporary ID), those applicants are required to yearly renew their status. The renewal is only approved under certain conditions. If one of those conditions is not met then no matter how long the applicant has been residing in the city, he or she will immediately lose his or her right of access. The prolongation of this law for ten consecutive years, in addition to the year where the Minister has frozen the applications, means that thousands of applicants have been in an administrative quagmire for eleven years, trying to maintain their insecure status to remain in Jerusalem in order to stay among their families. The following chapters describe the conditions to be fulfilled in order to renew the yearly permits.

40 See Entry into Israel Law, (Temporary Order) - 2003, (Annex no. 1).

a. Center of life

The requester from East Jerusalem has to yearly provide to the Ministry of Interior a long list of documents,⁴¹ to prove that he or she actually resides, receives income, pays taxes and educates children within the boundaries of East Jerusalem. The requested documents, only for proving that the family actually resides in Jerusalem, are for example a complete record of electricity, gas, water, phone, cell phone, rent and Arnona ⁴²bills, as well as bank records, children certificates for schooling, and any other document the Ministry of Interior requests, in order to be certain of the authenticity of the presence in the city. The procedure of proving the center of life each year places a tremendous psychological pressure on the family.

b. Investigations of National Insurance Institute

The National Insurance Institute (NII) is the state agency responsible of managing the collection of compulsory social contribution as provided by the law, and distributing the social benefits to the rightful beneficiaries. Those benefits include health insurance, unemployment and aging benefits, etc. The investigations of NII in order to examine if a beneficiary is “rightful”, are closely connected to the proof of “center of life”.

Jerusalemites holding a permanent residency are entitled to benefits of the NII. The law requires each citizen or resident at the age of 18 to open a file at the NII. However, this file is not automatically opened for residents, who usually delay their application until they have an income in order to pay the contributions.

The NII’s definition of who is entitled to receive social security benefits differs from what is provided by the 1952 law. The NII does not grant benefits to any resident who is not “effectively” in Jerusalem. To ensure that just entitled people receive benefits, the NII has its own team of investigators who examine information provided by residents applying for benefits. The investigation is a lengthy process during which the beneficiaries are denied any social protection and health insurance.

The investigations of the NII have been criticized by many human rights organizations for breaching principles of proper administration and grossly violating the rights of the residents.⁴³ The investigations do neither follow principles of impartiality nor due process. Investigators very often violate the privacy rights of the applicants when they visit them at their homes.

The NII in principle investigates couples with mixed residency. Therefore, the Ministry of Interior very often requests from applicants for family unifications to open a file at the NII. As soon as the file is opened, the Ministry receives the investigation results from the NII. If the NII investigators found proof that the applicants reside outside the municipality boundaries of Jerusalem (which means in the West Bank), it will not just reject the family unification application, but also use the investigation results as a base to revoke the residency of the requester.

Therefore the NII is a major actor within the political instruments in order to displace Palestinians from Jerusalem.⁴⁴

c. Clear criminal and security record

Applicants for family unification have to constantly prove and maintain a clear criminal and security record. Any infraction that is other than a traffic felony could lead to the revocation of the status of residency. This includes for example entering in a fight with a neighbor or - as mentioned above - illegal house construction.

The clear criminal and security record is not only relevant for the spouse who applies for the renewal, but also for the requester. This situation has in particular affected women who are dependent on their husbands. For example, often women are afraid of reporting domestic violence to the authorities, as an intervention of the police could mean that they lose their legal status in Jerusalem, which means their homes, children and lives.

In case the requester has been interrogated by the police as a suspect or indicted, or if he or she has been judged guilty of any criminal offense, the procedure of family unification is put on hold until all legal procedures are finished. As a result, the applicant spouse has in many cases to live for months or years without any legal status in Jerusalem. The applicants have to renew their permits two months prior to the expiry date. However, it can take months until the

⁴¹ Annex no. 2: Application forms requested by Ministry of Interior, form 6.

⁴² Arnona is a municipal tax for housing.

⁴³ See for example, BITselem, website information concerning Revocation of Social Rights and Health Insurance in East Jerusalem, January 2012, (http://www.bitselem.org/jerusalem/social_security).

⁴⁴ See for example Revocation of Social Rights and Health Insurance in East Jerusalem, supra ft. 43.

Ministry of Interior has finished the process of checking the required documents and give a decision. Many applicants do not receive their renewed permit within this two month period and have to spend the overlapping time illegally in the city until the new permit is issued. But staying illegally in Jerusalem is a criminal offence that might lead to the revocation of the permit. Therefore the applicants are bound to their homes in order not to be caught outside the house without a valid permit.

1.2 New applicants

New applicants are not only just those who applied after the implementation of the 2002 freeze. It also includes all the applicants that at the time of the freeze did not yet receive approval for their request (see “First phase” of the gradual process). All these applicants are only entitled to access permits for the city. The permit is granted by the Military Commander of the applicant’s residence in the West Bank, after the approval of the family unification application by the Ministry of Interior.

To be eligible to obtain a permit, all the mentioned above criteria such as the center of life as well the security and criminal clearance apply. In addition, the applicants have to satisfy an age requirement; if the couple asks for a permit for the wife, she has to be 25 years old or above, if the permit is for the husband he has to be 35 years old or above in order to apply for family unification. This means that if they have been married before the aforementioned ages, there is a lapse of time where one of the spouses has to reside illegally in Jerusalem or the family has to be separated. The procedure for obtaining permits for a family unification for the spouse takes in theory almost a year, however, the process can last much longer, depending on the capacity of the spouses to deal with unceasing demands of clarification from the Ministry of Interior. The procedure can be split into several steps:

1. **Appointment for receiving the application:** The spouses fill a form addressed to the Ministry of Interior, requesting an appointment in which they receive a copy of the application form they have to fill. Such an appointment is generally not accorded for several weeks, sometimes even more than a month from the date of the initial appointment request.
2. **Filling the application:** The application constitutes in original of 22 pages,⁴⁵ containing requests for information of very private nature, and aims to collect maximum intelligence about the applicants and their family ties and friends. Any information that avails to be untrue could lead to the rejection of the application. No question can be left unanswered, unless with the words ‘doesn’t exist’, or ‘doesn’t concern me’ or else the application shall be considered incomplete. For that reason, such applications could not be filled without legal or professional counseling.

Further more, a long list of proofs is required. Many documents, such as declarations and oaths need to be certified by a lawyer. Such formalities are highly costly and not necessarily accessible to the most vulnerable.
3. **Application pending for approval:** At the submission of the completed application to the Ministry, a period of two to three years should be expected to pass before receiving approval or rejection of the acceptance of the application. In general, the application form is sent to security services for thorough investigation on the background of the applicants. Although there is no transparency in the procedure, practitioners learnt to expect that most delays occur due to very slow procedures of the security check.
4. **The hearing:** If the application receives approval, the Ministry sets an appointment for a hearing with the couple. They are questioned first jointly and then separately. Questions could get very intimate and private. Inconsistencies or untruthful information leads to the rejection of the application.

1.3 Humanitarian cases

The Humanitarian Committee was established in 2007, as a response to the concern of the HCJ, which came up during a petition to review the constitutionality of the 2003 law. Here, Justice Levy hoped to see a body that could take into consideration “special humanitarian needs”.⁴⁶

The established committee is an administrative body that has the power to review cases that do not fulfill the requirements of the family unification law criteria.⁴⁷ It deals with cases of family unification in all Israel, not only the categories sited in the 2003 law, and is based in the office of the Ministry of Interior in Tel Aviv.

⁴⁵ See Annex no. 2: Application forms requested by the Ministry of Interior (full application form translated).

⁴⁶ HCJ 7052/03, Adalah The Legal Center for Arab Minority Rights in Israel v. the Minister of the Interior (2006).

⁴⁷ Art.3 A1. Citizenship and Entry into Israel Law (Temporary Order) 2003, (Annex no.1).

Its composition is provided by the law in art. 3 A1 (C), as follows:

“The committee shall be composed of –

(1) Someone who is qualified to be appointed as a judge in a district court, who shall be appointed by the Minister of the Interior and who shall be the chairperson;

(2) A representative who shall be appointed by the Minister of Defense;

(3) A representative who shall be appointed by the head of the General Security Services from amongst the employees of the Service;

(4) A representative who shall be appointed by the Minister of the Interior from amongst the employees of his Ministry;

(5) A representative of the public who shall be appointed by the Minister of Justice and by the Minister of the Interior.⁴⁸

The Committee assembles once a month to review cases that applicants have submitted. It receives more than a 100 cases per year.⁴⁹ In cases of Palestinians applying for family unification it is entitled to grant an A5 status (a temporary ID).



Although the Humanitarian Committee has been speedy in rendering its decisions (St. Yves has succeeded to obtain legal status for several clients through appealing to this committee), yet serious issues need to be highlighted regarding its composition and functioning mode:

1. Lack of criteria and definition of what is humanitarian: The whole question of family unification, and just some specific cases, should be dealt with as a humanitarian question.
2. Lack of transparency in the mode of operation: the Committee only receives requests by registered mail or by fax; it does not have hearings with concerned applicants or their representation, and has no public record about its meetings. This means that there is no indication of how many cases are reviewed and what arguments are valid for the success of an appeal. There is no possibility of contact for information.
3. The presence of a limiting quota of cases, which can be approved: the 2003 law gives the Minister of Interior the possibility to decide on a maximum number of cases that the Committee can approve.⁵⁰

Leila from southern West Bank (holding a Palestinian Authority ID) has married Mustafa in 1995 and resides with him in Jerusalem; they have applied for family unification in 1999. They have four children, one of whom is severely disabled. In 2012 Mustafa was arrested by the police for drug abuse and theft. In consequence, when Leila went to the Ministry of Interior to renew her permit, her application was rejected, due to her husband's criminal record. She turned to St. Yves with this problem. St. Yves lawyers had no other option than approaching the humanitarian committee within the Ministry of Interior for granting her a permit to stay legally in Israel. The requester was the disabled son, who requires the mother's attention – without him, notwithstanding the fact that she three other children, the mother would have been deported.

2. Effects of the 2003 law freezing family unification

The 2003 law has created several effects that are not only related to the duration of the freeze, but also to the scope and provision of the legal text itself. This section aims to highlight some of the major effects that the 2003 law has created for families applying for family unification.

2.1 The Scope of security checks

Article 3D of the 2003 law⁵¹ demands from all West Bank applicants for family unification a strict security check, which does not include them only, but also relates to “family members”. The law defines the term “family members” as

⁴⁸ Citizenship and Entry into Israel Law (Temporary Order) 2003, (Annex no.1).

⁴⁹ Annex no. 3: Figures on family unification, Question D.

⁵⁰ Art. 3A1. Citizenship and Entry into Israel Law (Temporary Order) 2003, (Annex no. 1)

⁵¹ See Citizenship and Entry into Israel Law (Temporary Order) 2003, (Annex no. 1)

spouses, parents, children, siblings, and their spouses. Such a check is extremely wide, it may concern people who the applicant hardly knows or is connected to, such as half brothers, in-laws, and previous wives and husbands of parents and siblings.

In addition, this article does not oblige security services to have actual evidence of a “security threat”. Administrative evidence, in the file of those concerned by the “family members” definition, could be sufficient for the rejection of the demand.

Those who might be considered as “security threat” under this section are not entitled to apply to the humanitarian committee. Furthermore, Art. 3D provides that residents of certain areas could be considered as a security threat, uniquely for their place of residence. Until now only the Gaza Strip (as a whole) has been considered as an area of security threat. This means no family unification application can be approved for holders of Gaza Strip residency. Also an appeal to the Humanitarian Committee is not possible. As a consequence, spouses from Gaza who were married many years prior to the freeze and did not receive full residency, are not allowed to remain in Jerusalem.

Fauzi from Jerusalem got married to Muna (holding a Palestinian Authority ID) three years ago. He immediately applied for family unification, when his wife satisfied the age criteria. Although she already is holding a working permit for Jerusalem, requiring a prior security check, the application is more than two years after the application was submitted still pending for security approval. St. Yves lawyers state that if the security check for family unification reveals information about the applicant, her family and close circle that are considered as a “security threat”, this also could cost her to lose her work permit. Nevertheless, St. Yves succeeded to register their child before the final approval for the mother’s application for family unification.

2.2 Child Registration

Children from marriages of “mixed residencies” are not automatically registered with their Jerusalemite parent. They follow different procedures:

- If they are less than 14 years old at the moment of the application, and born within the boundaries of the municipality of Jerusalem or within Israel, they follow a child registration procedure and obtain full residency.
- If they are less than 14 years old at the moment of the application, and born without the boundaries of the municipality of Jerusalem or Israel, they follow a family unification procedure, where the resident parent has to prove center of life. Yet they are entitled to full residency, if the application is approved.
- If they are older than 14 years old, regardless of their place of birth, they are only entitled to a permit to remain within the “family unit” without any social rights.⁵²

Many families were unable to register their children in the Israeli population registry prior to their children attaining the age of 14 years. Various reasons were responsible for that, such as for example the incapacity to prove center of life, lack of financial means or social circumstances.

Many among those children are today in their twenties and lack a legal status.

In addition, the Ministry of Interior has for a long time interpreted the law in a way where the age of 14 is the age when the application for registration of a child has to be approved. Taking into consideration that the Ministry links the family unification files with the process of child registration, as they both need proof of center of life, it could often take years before the final approval of an application is given. The District Court confirmed in 2006⁵³ that the age of 14 years refers to the age in which the application has to be filed, and not to the age of the approval.



⁵² Until the reform of the law in 2005, the age that distinguished the status was 12 years, instead of 14 years.

⁵³ District Court, case no. 727/06, Nofal vs. Minister of Interior.

Farouk's family lives in a house in Jerusalem's Beit Hanina neighborhood, but situated outside the boundaries of Jerusalem municipality. The mother of the family, Suhair, holds an East Jerusalem ID, while her husband holds a Palestinian Authority ID. The family's children were educated in Jerusalem, and their lives depended on the city.

Problems started when the separation wall was constructed next to their home, separating them from the city. The children who had no Jerusalemite status were offered monthly permits for three months to continue to access Jerusalem and attend their schools, after which they were denied entry into the city. Moreover, the Ministry of Interior revoked the residency status of the mother for failing to prove center of life in Jerusalem. St. Yves took the case and succeeded to reconstitute the residency of the mother. The organization's lawyer managed also to obtain permits for the children who are over 14, as well as, IDs for those who are less than 14.

Fawaz (the 23 years old son) has early started to have problems with the law (getting into fights). This year the Ministry of Interior rejected his application for renewing his permit, on the grounds of files that the police has on him. St. Yves has is continuing to provide legal presentation to him in order to allow him to stay within his family.

Rima is an East Jerusalemite who was married to a Jordanian national for several years. During those years she was in the process of family unification for her husband. However, she had recently divorced her husband and lives now alone with her daughter. Due to the legal procedure for her ex-husband, her daughter was not yet registered in her mother's ID. The daughter Lama has applied for the registration years ago, but the case was pending because of the file of her father. Now that the parents are separated, and Lama is over 14, the Ministry of Interior is alleging that the daughter should follow the permit system for children over 14. St. Yves has petitioned the court against this decision, as the first application for registering Lama with her mother was much earlier than 14, and she is therefore entitled to receive full residency status.

If those children with permits get married to spouses with a West Bank ID, they lose their right to hold a permit or to stay or even enter legally Jerusalem. They have no other choice than to live with their spouses in the West Bank and to acquire papers through their spouses.

Many questions are still unclear here: If the children with permits get married to Jerusalem ID holders or Israeli Citizens, would they then have to start a family unification process as a newly wed couple anew? What if they are less than 25 (for women) or 35 (for men) - are they not entitled to apply for family unification prior to them reaching the required age?

The policy of the Ministry of Interior is still unclear. Child registration is one of the best and most sad examples of new problems arising from the prolongation of the law.

2.3 Death of the requester of the family unification

Although there are general guidelines governing the situation of Israeli citizenship applicants through family unification in the case of death or divorce,⁵⁴ these regulations implicitly exclude most of those who are concerned by the 2003 "Citizenship and Entry into Israel law".

The guidelines give the right to those who have passed more than half the procedure of family unification (those with A5 visa or temporary ID) the right to remain in Israel. Very few Palestinians have reached this status. Those who are not included by the guideline, lose with the death of the requesting party for family unification automatically the right to maintain their status in East Jerusalem. Their only recourse is to apply as humanitarian cases.

Khadra, holder of Palestinian Authority ID got married in 1991 to a Jerusalemite; her husband requested family unification for her in 1998. In 2005, he was diagnosed with terminal cancer, which would jeopardize her ongoing application for unification. St. Yves represented the wife in order for her to renew her permits of residence in Jerusalem via an application to the Humanitarian Committee. A decision was not issued yet.

2.4 Deprivation of autonomy for spouses seeking unification

Until early this year, thousands of family unification seekers, who did not obtain B1, A5 status or full residency (entry permits bearers), were deprived from economic autonomy as they were not legally authorized to work. Beginning of

⁵⁴ Regulation no. 5.2. 0017, General Guidelines for the interruption of the application for spouses having status under family unification, 11 May 2009.

2013, the HJC has ultimately altered this situation by maintaining the right to work for family unification applicants.

⁵⁵The Ministry of Interior has in its response to the court committed itself that by 2013 applicants whose application is approved should be able to work within Israel, including occupied East Jerusalem.

However, many of the St. Yves beneficiaries still suffer under the non-applicability of this court decision. Some clients have obtained renewed permits for 2013 where the mention “this permit does not allow work in Israel” is still inscribed. Other beneficiaries have informed St. Yves that the employers rejected their applications, because they haven’t received any bylaws or regulations overturning the previous ones concerning work permits in Israel.

Additionally to the right to work, family unification applicants holding entry permits cannot drive a car legally within Israeli territory. This has major consequences in limiting the autonomy and freedom of movement of the applicants as well as the daily life of the families.

The denial of the effective right to work to one of the spouses and the high costs incurred from the lengthy and complicated procedure have a very high economic impact on the applicants and their families. This also creates further marginalization to the already vulnerable in the society.

Saleh and Aisha got married in 1995. After having poor legal advice and additionally the introduction of the law of 2002, the family ended up spending 17 years without Saleh having a legal status. After many years of distress, the family turned to St. Yves, in the hope of enhancing the situation. Aisha recounts that for years she alone had to earn the family income, and also had to be the driver. The children were terrified of accompanying their father out of the house. They would continuously tell their mother that they wanted papers like hers, not like their fathers, because they do not want to live like him. Aisha has been very hesitant under the circumstances to bring more children into the world as she feared she would have to carry the burden of the registration like with her first two children.

Saleh had to smuggle himself in and out the West Bank during all this period to visit his sick mother, sometimes risking his life in the process. Both he and the rest of his family were arrested many times by Israeli police for not carrying papers.

St. Yves managed to obtain a permit for Saleh, which allows the family to live in better conditions, however Saleh still has trouble finding a job and is not allowed to drive. After the approval of the family unification of Saleh, the family had a new baby who was swiftly registered by St. Yves lawyers.

3. Appeals and Legal remedies

Previously to 2007, the administrative courts had jurisdiction over all cases related to family unification rejections. However, in line with a general policy to lighten the burden of a huge case load in the courts, rejected cases of family unification were brought to other committees, such as the Humanitarian Committee which was discussed above. Further administrative remedies were established.

3.1 Administrative Remedies: The Appellant Committee

The Appellant Committee has a “quasi-judicial” status; it only exists in Jerusalem and Tel Aviv and deals with applications falling under the 2003 law categories. It is headed by someone who is admissible to be a judge by profession and who has experience in similar legal matters. The Appellant Committee was created when the law was renewed in 2009, in view of lighting the pressure on the administrative courts. It has power to review the applications that were rejected by the Ministry of Interior.

The Committee is very problematic for various reasons:

1. **Role:** The committee can be called upon to review a file which was rejected by the Ministry of Interior. However, it cannot render a decision wrong or overturn a decision without having heard the response of the Ministry. It has no power to issue injunctions nor to oblige the Ministry to give a response.
2. **Impartiality:** the Committee is based in the office of the Ministry of Interior; it is unclear who else is a member other than the Head of the Committee. It does not meet with legal representatives of the appellants, or the

⁵⁵ HCI, 6615/11, Salhab et al. vs. Minister of Interior et al.

appellants themselves.

3. **Transparency:** the Committee only receives appeals by fax; it has no mail address and does not have public hearings. There are no records of its decisions.
4. **Efficiency:** the Committee has long delays in rendering decisions; it can take over a year before a decision is issued. Further, the committee very often upholds the decision given by the Ministry. In the rare cases where such is not the case, it returns the application to the Ministry to reconsider its decision on certain points.

The mentioned issues in the conduct of this committee raise serious questions on its real purpose and whether it mainly exists in order to deny the applicants genuine means to seek remedies. Further it creates additional delays for appeals to court, since appeals to the court are inadmissible without having exhausted the appeal to this committee.

3.2 Judicial Remedies

In line with the general policy of easing the load of petitions addressed to the HCJ, in 2000 the Knesset passed the law of administrative courts in which it transferred many of the jurisdictions of the HCJ to the District Court, assembling here as an administrative court. However, the HCJ still has jurisdiction over many aspects related to questions of family unification.

a. The District Court

The District Court, in its capacity as administrative court, has power to review in the first degree all questions related to rejected applications of family unification and refused permits, including the ones refused for security ban purposes. Nevertheless, Israeli courts are very reluctant to question the security assessment of the intelligence services. The Court also oversees the decisions of the Humanitarian Committee.

The District Court does not receive cases unless all administrative remedies available have been exhausted. Since the creation of the Appellant Committee, it has become a very lengthy process to reach the Court. This situation is seriously undermining the rights of due process, and causes reasonable delays for justice seekers.



b. Israeli High Court of Justice

The Israeli High Court of Justice (HCJ) has power to oversight family unification files in different capacities, which can be summed up as cases of critical importance that require the attention of the High Court.

In practice the HCJ is among others:

- The appeal instance for decisions of the District Court (2nd degree of Justice)
- It can sit as the Supreme Court of Justice as a third degree of screening.
- To respond to questions of principle for clarifications on the limits of the application of the law and the protection of basic rights (to control the constitutionality of the law).⁵⁶

The HCJ has been petitioned twice by Israeli Human Rights organizations regarding the 2003 law questioning its constitutionality; once directly after its implementation in 2003, the second time following amendments of the Knesset and the widening of the scope of the law to include “enemy states” in 2007. In both petitions a majority of six justices against five ruled for the constitutionality of the law.

In the first petition, the court delivered its decision in 2006.⁵⁷ The justices stated that even if the law violates basic rights – the violation is proportionate to the security benefit achieved. Consequently, the provision should not be retracted. However, the court called upon the authorities to take into consideration particular cases that have exceptional humanitarian needs.⁵⁸



The second decision of the court was issued on the 12th of January 2012. Again the HCJ considered the law to be constitutional. It stated that although the right to family has its source in the right to dignity which is of constitutional value in Israel, the 2003 law does not infringe this right disproportionately as the constitutional right to family life does not necessarily need to be exercised within Israel. Further, the law does not limit existent constitutional rights disproportionately beyond public interest considerations. Chief Justice Grunis was quoted with the words: “Human rights are not a recipe for national suicide”.⁵⁹

⁵⁶ HCJ 7052/03, Adalah The Legal Center for Arab Minority Rights in Israel v. the Minister of the Interior (2006); HCJ 466/07, Galon v. Attorney General (2007).

⁵⁷ HCJ 7052/03, Adalah The Legal Center for Arab Minority Rights in Israel v. the Minister of the Interior (2006)

⁵⁸ HCJ 7052/03, Adalah- The Legal Center for Arab Minority Rights in Israel v. the Minister of the Interior (2006).

⁵⁹ See Adalah The Legal Center for Arab Minority Rights in Israel, Adalah Case Review: The Israeli Supreme Court's Decision in the Citizenship and Family Unification Law Case, Newsletter, Vol. 91, March 2012, p. 4.


PART III: ILLEGALITY UNDER INTERNATIONAL LAW

Previous parts detailed how the family unification freeze cannot be understood without having in perspective the complicated legal and contextual situation that the prolonged occupation and the illegal annexation of Jerusalem cause. The same is true for the understanding the international law framework that applies to the family unification freeze.

1. Jerusalem under International Law

1.1 The status of Jerusalem

According to International Law, Israel cannot claim sovereignty over Jerusalem. The partition plan of 1947, approved by the majority of State members in the United Nations General Assembly Resolution (UNGAR) 181 and accepted by Israel, maintained Jerusalem as *Corpus Separatum* under the mandate of the United Nations.⁶⁰ In addition, when Israel was accorded full membership at the UN in 1949, UNGAR 303 reaffirmed this status by placing the city under a permanent international regime as a *corpus separatum* that shall be administered in UN trusteeship.⁶¹

The principle of the prohibition of territorial acquisition by threat or force is a preemptory norm of international law that does not accept derogations. As such, Israel is not entitled to profit from an illegal situation it has created and claim sovereignty over the city.⁶² This is true for land acquired in 1948⁶³, as well as for the occupied part in 1967.⁶⁴ Very few states in the world have recognized Israeli sovereignty over Jerusalem.⁶⁵ 

Following an Israeli Knesset vote on the 1980 Basic Law which formally annexed Jerusalem, the United Nations Security Council passed resolution UNSCR 478 in which it “determine[d] that all legislative and administrative measures and actions taken by Israel, the occupying power, which have altered or purport to alter the character and status of the Holy City of Jerusalem [...] are null and void and must be rescinded forthwith”.⁶⁶

1.2 Jerusalemites as protected persons

In 2009 the International Court of Justice (ICJ) rendered an advisory opinion on the separation wall which was built by Israel in the Occupied Palestinian Territory. At the occasion of the decision, the ICJ confirmed the application of the 4th Geneva Convention as well as International Human Rights law on the Palestinian people as protected persons within the occupied territory. This included explicitly East Jerusalem.⁶⁷

The law of military occupation that lies within the corpus of International Humanitarian Law, places the State of Israel under the obligation to treat all protected persons in the occupied Palestinian territory humanely and without discrimination.⁶⁸ Article 27 of the 4th Geneva Convention (GC4) provides that protected persons “are entitled to their family rights”. The commentary of the International Committee of the Red Cross of this article explains that “the obligation to respect family rights [...] is intended to safeguard the marriage ties and that community of parents and children which constitutes a family, the natural and fundamental group unit of society. The family dwelling and home are therefore protected; they cannot be the object of arbitrary interference.”⁶⁹

The freeze of family unification in 2003 creates a situation of unjustified discrimination between Palestinians under occupation and Palestinians holding Israeli citizenship on the one hand and non-Arab Israeli citizens on the other hand. During its 80th Session in March 2012, the UN “Committee for the Elimination of All Forms of Racial Discrimination” (CERD) concluded in its observations regarding the State of Israel that Israel is violating Article 2 and 5 of the “International Convention on the Elimination of all Forms of Racial Discrimination” (ICERD) by maintaining the “Citizenship and Entry into Israel Law”, while policies in East Jerusalem aiming at “demographic balance” constitute

60 John Quigley, *The legal status of Jerusalem under International Law*, *The Turkish Yearbook*, Vol. XXIV, 1994.

61 United Nation General Assembly, A/RES/ 303 (IV) Palestine: Question of an international regime for the Jerusalem area and the protection of the Holy Places, United Nation, (Resolution no. 303), 9 December 1949.

62 See for example, International Court of Justice (ICJ), *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, Paragraph 75, 9 July 2004.

63 *The legal status of Jerusalem under International Law*, supra ft. 60.

64 *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, supra ft. 62, p. 21.

65 *The legal status of Jerusalem under International Law*, supra ft. 60, p. 21.

66 United Nation Security Council, Resolution no. 478, 20 August 1980.

67 *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*, supra ft. 62.

68 Article 2 of the Fourth Geneva Convention, 1949.

69 International Committee of the Red Cross (ICRC), *Commentary of the Fourth Geneva Convention, Art. 27 Part III* (<http://www.icrc.org/ihl/1a13044f3bbb5b8ec12563fb0066f226/25179a620578ad49c12563cd0042b949?OpenDocument>).

a violation of article 1 (prohibition of racial discrimination), (prohibition of racial segregation and apartheid), and 16 (obligation of settling of disputes between nations bilaterally or through UN bodies and agencies).⁷⁰

The UN “Human Rights Committee”⁷¹ as well as the UN “Committee of Economic, Social and Cultural Rights” have called upon the State of Israel to revoke the 2003 law, as it violates Israeli obligations under Human Rights Conventions.⁷²

2. International law regarding nationality and residency rights

There is general consensus between international law scholars that the current state of the law regarding nationality and residency rights has evolved since the Moroccan and Tunisian case of 1923,⁷³ in which it was considered that the issue of nationality rights lies uniquely within domestic law discretion. In general there is consensus that a state cannot use its authority in an arbitrary manner by attributing and preventing nationality rights for demographic reasons.⁷⁴ Additionally, states cannot under any circumstances derogate on the principle of non-discrimination.⁷⁵

In her article on collective change of nationality, Professor Anne Peters, expert on IHL at the University of Basel, cites five factors that determine state authority regarding collective attribution of nationality and residency rights: The principle of sovereignty of states, the prohibition of arbitrariness, the basic human right to change or maintain a nationality, the prohibition of abuse of friendly relations with neighboring countries, and the principle of judicial stability.⁷⁶

A collectivity is entitled to the right to accept or refuse a nationality, based on the right to self-determination of people. Although this right is not absolute, it cannot be limited without a legitimate purpose relating to state interest.⁷⁷

In 1952, Israel denationalized all those to whom the British Mandate had attributed the Palestinian nationality. This included at this time Palestinians who remained in captured lands after the Nakba in 1948, and who remained under a military regime until they were collectively naturalized as Israeli citizens in 1966. It also included all Palestinian refugees who Israel is barring from return.

The census Israel as occupying power conducted in 1967 resulted in a new civil registry that excluded thousands of Palestinians who fled the Six-Day-War and were not permitted to return. It also attributed an arbitrary system of different categories of residents of the occupied territory according to where they were censused.⁷⁸ Jerusalem (blue) ID holders were admitted to individual naturalization within



70 See for example Noura Erakat, UN Committee Concludes Israeli System Tantamount to Apartheid in 2012 Session, 2012, (<http://www.badil.org/en/al-majdal/item/1763-art3>).

71 United Nations Human Rights Council (HRC), Concluding observations ninety-ninth session, 12 - 30 July 2010.

72 Committee on Economic, Social and Cultural Rights (CESCR), Concluding observations forty-seventh session, 14 November - 2 December 2011.

73 Victor Kattan, The Nationality of Denationalized Palestinians, *Nordic Journal of International Law* No. 74, 2005, p. 67 ñ 102.

74 Anne Peters, *Les Changements collectifs de Nationalité*, *Société Française pour le Droit International*, 2012, p. 177.

75 *Nationality of Denationalized Palestinians Palestiniens*, supra ft. 73.

76 *Les Changements collectifs de Nationalité*, supra ft. 74.

77 *Les Changements collectifs de Nationalité*, supra ft. 74.


78 Between 1967 and 1995 three colors of ID existed, blue for Jerusalemites, orange for West Bank residents excluding Jerusalem, and Green for Gaza Strip and security detainees who were released.



Israel which was collectively refused in protest of the illegal annexation of the city. The 1995 Oslo agreements led to a very limited transfer of the civil registry of Palestinians from the Israeli military governor to the Palestinian Authority, attributing Palestinian Authority IDs to West Bank and Gaza Strip residents excluding East Jerusalem.⁷⁹

It is worth mentioning that the Palestinian Authority was not accorded legal personality in the Oslo agreements, and as such it cannot attribute nationality to residents of areas under its administration. The State of Palestine, although never legally

ceased to exist since the League of Nations has attributed Mandate on Palestine to the British Government in 1923,⁸⁰ is unable to exercise its rights and obligations regarding nationality attribution due to the lack of effective control created by the illegal territorial acquisition by Israel.

The actions of the State of Israel from 1948 onwards have resulted in making the large majority of Palestinians stateless.⁸¹ The situation of prolonged military occupation and the continuous denial by Israel to allow Palestinians to exercise the right to self determination⁸² is as such a violation of the UN Charter, the IPCPR and other conventions stipulating the right to nationality, as well as **the Convention** the Convention on the Reduction of Statelessness to which Israel is party (in particular art. 7-10). 

The arbitrary and flagrantly discriminatory legal and regulatory system regarding residency rights of Palestinians in the occupied territory including in particular family unification in East Jerusalem cannot be regarded as justified under the current state of international law.

The 2003 “Citizenship and Entry into Israel law” is a step further in violating the residency and nationality rights of Palestinians in the Occupied Palestinian Territory. Israel is required either to give equal nationality rights to all protected persons under its control, or to allow them the exercise of their right to self determination that would grant them their full nationality rights. In the meanwhile, international humanitarian law obliges the occupying power to ensure the wellbeing of the local residents and to maintain normal living conditions.

The 2003 law further infringes International Humanitarian Law obligations of the occupying power, in many other aspects. Among others it has to be mentioned:

1. The 4th Geneva Convention formally forbids individual or mass forcible transfers and deportations of protected persons from occupied territory (art. 49).
2. It is forbidden to morally or physically coercing protected persons release information on third parties. The questionnaires in the family unification application stand in direct violation of article 31 of the 4th Geneva Convention.
3. Article 33 of the 4th Geneva Convention provides that penalties should be specific to the offender. To deprive protected persons from choosing their place of residence with their families on the basis of offenses committed by other members of the family directly contradicts this article.

⁷⁹ See for example, Human Rights Watch, «Forget about him he's not here», Israel's Control of Palestinian Residency in the West Bank and Gaza, Report, 2012.

⁸⁰ The legal status of Jerusalem under International Law, supra ft. 60.

⁸¹ As a result, some Palestinians acquired Israeli nationality; some carried Jordanian passports in the West Bank until 1988. In addition many Palestinians in the Diaspora carry today the citizenship of the states they immigrated to.

⁸² United Nations Human Rights Council (UNHRC), resolution no. 22/27, 12 April 2013.

3. Third state obligations

Article 1 in all four Geneva Conventions states to “respect and ensure respect” for these conventions in all circumstances. This also means the obligation to neither encourage a party to an armed conflict to violate IHL nor take action that would assist in such violations.⁸³

The International Committee of the Red Cross lists the following options as possible action that third states could undertake to uphold their responsibility in regard of International Humanitarian Law:

- States should engage in confidential, discreet negotiations with parties to an armed conflict, to encourage respect for international humanitarian law.
- Where international humanitarian law is being violated, states should consider exerting diplomatic pressure on violating States or making public denunciations of the violations.
- States should utilize the existing mechanisms of IHL, for example by referring situations of conflict to the International Fact Finding Commission, or by offering to serve as a Protecting Power.
- Where a situation has arisen through violations of international humanitarian law, states should refuse to recognize the state of affairs politically and should withdraw aid or assistance until the issue of the IHL violations has been addressed.
- States should consider undertaking coercive measures against violating states (including refusal to enter into treaties or agreements with a violating State; expulsion of diplomats; severance of diplomatic ties; suspension of public aid).⁸⁴



⁸³ ICRC, *Improving Compliance with International Law*, supra ft. 83.

⁸⁴ ICRC, *Improving Compliance with International Law*, supra ft. 83, p. 3.

SUMMARY AND RECOMMENDATIONS

During the last years, Israel has justified many of its actions in the Occupied Palestinian Territory on the grounds that they are necessary to preserve security for its citizens. Security became a “new religion” in Israel, and is used to justify almost any debated action which is taken by the State.

Israel used the same pretence also in order to freeze the possibility of family unification for Palestinian residents and citizens of the State of Israel. However, reality draws a different picture: The freeze of family unification has to be seen as one instrument in a whole series of measures used to displace Palestinians from Jerusalem. For ten years, the only way for a Palestinian couple, who is going through the process of family unification, has been to apply and reapply for a yearly permit.

A permit which did not allow, until a few months ago, its holder to work.

A permit which does not allow its holder to drive a car.

A permit which does not give its holder any social benefits, not even health insurance.

A permit which puts the legal status of the couple’s children at risk.

The situation has huge negative psychological, economical and social effects on the affected families. These effects and the requirements of the Ministry of Interior pertaining to family unification applications, combined with very intransparent legal procedures in front of the different committees and limited remedies against decisions of the Ministry of Interior, lead already to the displacement of numerous Palestinians from Jerusalem.

The “Citizenship and Entry into Israel law” of 2003 which froze all family unification procedures is discriminatory - to say the least - and violates basic human rights of thousands of Palestinians in East Jerusalem and beyond. It further infringes International Law as well as International Humanitarian Law.

The family is recognized as the most natural and fundamental unit of society and therefore the right to marry and establish a family is especially protected in human rights law. Where spouses are from different nationalities, states are obliged by international law to deal with their requests for unification in a humane and expeditious manner. However, in the case of Palestinian Jerusalemites, this is - as it was shown in this report - not the case.

In Jerusalem both, the applicants and their spouses are Palestinians, both living under occupation. The root cause of their problem is the different legal status incurred on them by Israel after the occupation. The laws and regulations that were enacted by the Israeli Knesset and the Ministry of the Interior over the years are the reason that it became very difficult for these couples to be able to live legally together.

For more than fifteen years, St. Yves has been dealing with the **issue** of family unification – before and after the enactment of the “Citizenship and Entry into Israel Law” of 2003. St. Yves assisted hundreds of families in the long and difficult process to finally live together. But the Israeli system is a discriminatory system. Because of the discriminatory Israeli laws, for hundreds and thousands of families there is no legal possibility to come together.

Bishop Desmond Tutu says: “You don’t choose your family. They are God’s gift to you, as you are to them.” St. Yves would like to add: therefore a family must not be divided.

Therefore St. Yves calls upon the international community to put pressure on the Israeli government and insist on the:

Revocation of the discriminatory “Citizenship and Entry into Israel law” of 2003.

Facilitation of family unification for all citizens and permanent residents without discrimination.

Recognition of the right to family and ensuring the widest possible protection of, and assistance to, the family.

ANNEX

1. “The Citizenship and Entry Into Israel Law” (Temporary Order) – 2003; as passed by the Knesset (Israeli Parliament) on 31 July 2003, translated by Adalah [http://adalah.org/features/famuni/20030731fam_uni_law_eng.pdf]

Definitions

1. In this Law –

“region” – each of these: Judea and Samaria and the Gaza Strip;

“Nationality Law” – Nationality Law, 5712 – 1952;⁸⁵

“Entry into Israel Law” – Entry into Israel Law, 5712- 1952;⁸⁶

“regional commander” – the commander of forces of the Israel Defense Force in the region;

“resident of the region” – including a person who lives in the region but is not registered in the region’s Population Registry, excluding a resident of an Israeli community in the region.

Restriction on nationality and residence in Israel

2. During the period in which this Law shall be in effect, notwithstanding the provisions of any law, including section 7 of the Nationality Law, the Minister of Interior shall not grant a resident of the region nationality pursuant to the Nationality Law and shall not give a resident of the region a permit to reside in Israeli pursuant to the Entry into Israel Law. The regional commander shall not give such resident a permit to stay in Israel pursuant to the defense legislation in the region.

Reservations

3. Notwithstanding the provisions of section 2 –

(1) The Interior Minister or the regional commander, as the case may be, may give a resident of the region a permit to reside in Israel or a permit to stay in Israel, for purposes of work or medical treatment, for a fixed period of time, and also for other temporary purposes – for a cumulative period that shall not exceed six months. A residency permit or a permit to stay in Israel [may also be given] in order to prevent separation of a child under the age of 12 from his parent who is legally staying in Israel.

(2) The Interior Minister may grant nationality or give a permit to reside in Israel to a resident of the region if he is convinced that the said resident identifies with the State of Israel and its goals, and that the resident or his family members performed a meaningful act to advance the security, economy, or another matter important to the state, or that granting nationality or giving the permit to reside in Israel are of special interest to the state. In this paragraph, “family members” means spouse, parent, child.

Transition provisions

4. Notwithstanding the provisions of this Law –

(1) The Interior Minister or the regional commander, as the case may be, may extend the validity of a permit to reside in Israel or a permit to stay in Israel that was held by a resident of the region prior to the commencement of this Law.

(2) The regional commander may give a permit allowing temporary stay in Israel to a resident of the region who submitted an application to become a national pursuant to the Nationality Law, or an application for a permit to reside in Israel pursuant to the Entry into Israel Law, prior to 12 May 2002 and who, on the day of the commencement of this

⁸⁵ Book of Laws 5712 [1952], p. 146.

⁸⁶ Book of Laws 5712 [1952], p. 354.

Law, has not yet been given a decision in his matter, provided that the said resident shall not be given, pursuant to the provisions of this paragraph, nationality pursuant to the Nationality Law or a permit for temporary or permanent residency pursuant to the Entry into Israel Law.

Validity

5. This Law shall remain in effect until the expiration of one year from the day of its publication. However, the government may, in an order, with the approval of the Knesset, extend the validity of the Law, from time to time, for a period that will not exceed one year each time.

2. Application forms requested by the Ministry of Interior, translated by the Society of St. Yves



FORM 1

State of Israel / Ministry of Interior

Population Registry

Date/Application Number

To Mr/Mrs:

Subject: Your family unification application – your first application

The requester of family unification: _____

The applicant for family unification: _____

1. The following documents are required for the primary family unification application in order to prove center of life in Israel (according to requirements):
 - ◇ Marriage certificate
 - ◇ Documents to prove marital status: divorced/single/ widow
 - ◇ Sworn testimony of being single/children from previous marriage/sworn testimony of monogamy authenticated by lawyer
 - ◇ Lease contract or ownership proof of housing for the requester from the first day of marriage
 - ◇ Bills related to the residence (also under the name of the requester): Arnona (housing municipal tax), Electricity, Water, Telephone
 - ◇ Statement by village council or municipality proving center of life in Israel
 - ◇ Birth certificates of children or birth reports
 - ◇ Statement from the medical provider about obtaining medical services for the requester and his family. For example: vaccinations card, membership cards
 - ◇ Bank statement proving that national insurance benefits are received
 - ◇ Pay slips for both, the requester and the applicant
 - ◇ Proof of education and final certificates for children in different levels of education starting of the age of six
 - ◇ Statement of good conduct from the country of the applicant spouse (residents of Judea, Samaria and Gaza from the Palestinian Authority)
 - ◇ Sworn testimony of the applicant spouse of being free from contagious diseases that can threat public safety, authenticated by a lawyer
 - ◇ Detailed statement of periods in which both the requester and the applicant spouse have resided in and out of Israel
 - ◇ A valid entry visa into Israel
 - ◇ A photo from the spouses' wedding including their family members
 - ◇ Three personal photos of both the requester and the applicant spouse
2. For your information: you may be asked to provide further documentation during the processing of the application
3. In case you can't provide all the required documents, attach a written statement explaining why you can't provide them to complete the application
4. You may also provide any further official documents that prove your center of life in Israel
5. In the case that you are a resident in a property not registered under your name, you have to provide a sworn oath authenticated by a lawyer or court
6. You have to provide photocopies for the above-mentioned documents in addition to the originals to be checked by the employee. In case you bring the copies without the originals they should be certified by a practicing lawyer in Israel.
7. Once all the above mentioned documents are provided your application shall be considered.

With respect

Employees' name:

Signature:

FORM 2

Application to obtain permit and permanent residency in Israel

1. Details of the requester (to be filled out in a form)

First Name / Fathers' name/ Grandfathers' name/surname/ ID no.

Civil status/ religion and ethnicity/birth date/occupation/nationality

Date of entry into country (Israel)/address: town, street, house number

2. Details of the applicant

First Name / Fathers' name/ Grandfathers' name/surname

Birth date/place of birth/religion and ethnicity/nationality/civil status/occupation

Date of exit from country (Israel)/relationship to the requester/place of residence abroad: country, city, street and house number

Dependents of wife: First Name / Fathers' name/ Grandfathers' name/surname/Date of birth

3. Children until 16 years old

First Name / Fathers' name/ Grandfathers' name/surname/Date of birth/Place of birth

- 1.
- 2.
- 3.
- 4.

4. The below mentioned people know me well and can introduce details about my family and about the requester and the applicant for family unification (mention names of social welfare worker, doctor, governmental employee or local council member, religious man, a public figure)

First Name / Fathers' name/ surname/ ID no. / Address

- 1.
- 2.

State of Israel, Ministry of Interior, Population and immigration Registry

Mr/Ms: _____ ID no. _____

Applicant for permanent residency for: _____

First name/Fathers' name/ Grandfathers' name/surname

Please do not inquire until four months have passed

Date/signature

I declare that the details in this application are correct, and I understand that my application shall be considered thereupon. I also take a pledge to provide financial means and housing for the applicant/s when they come to Israel, their needs and expenses in what relates to their living and residence are entirely my responsibility without needing help from the local authorities or any other institutions. I pledge to fulfill these commitments.

Declaration

I declare in this family unification application:

- ◇ That my wife is the only one I am married to
- ◇ That my husband is not married to a second wife and I am his only wife

Date: ***/ Signature or fingerprint (thumb or fingerprint of left hand)

Notes:

- a. Anyone who provides incorrect information or lies will be punished as per article 12(2) of the Entry into Israel Law 1952.
- b. The applicant has to provide with this declaration the marriage certificate and/or related divorce papers etc. to prove that the above declared information are correct.

FORM 3

ID. No.

Application no.

Declaration of the inviting spouse (the requester)

Please indicate fields that are relevant to your declaration:

- ◇ By the present I declare that I am responsible for receiving the applicant and take responsibility for them and provide their residence and living expenses without them needing help from local authorities or any other relevant institutions provided by the law.
- ◇
- ◇ The requester is my only husband and I am married only to him/ the requester is my only wife and I am married only to her
- ◇
- ◇ My husband is not married to other women, I am his only wife/My wife is not married to anybody else and I am her only husband
- ◇
- ◇ Our marriage is authentic and is not for the purpose of obtaining legal status in Israel
- ◇
- ◇ I am not registered as married to anybody (but my husband/wife) in the registry of any other country.

If you cannot declare any of the above, then explain:

The above mentioned details are correct and I stated them for my application. I am aware that providing incorrect or incomplete details, including details resulting from materials provided as per the application, could result in canceling any status given to me as per article 11 of the law, as well as risking getting deported out of Israel as per article 13 of the law, I also know that giving incorrect information or attaching a false document is a criminal offense under Israeli law.

Place: / Date: / Signature

For the use of the office

Declaration received in: / date: / employee: / Signature of employee:

FORM 4

Ministry of Interior

Department of population

Permit for holder of permanent residency according to the Entry into Israel Law 1952 (hereafter the Law)

I the undersigned: surname/personal name/ ID no.

Declare the following, to support obtaining a permanent residency in Israel:

- ◇ I intend to reside in Israel
- ◇ I have been living continuously in Israel since:
- ◇ I never took any action against the Jewish Nation, or the security of the State or the region
- ◇ I was never a member or supporter, directly or indirectly (including financial support) of any organization or movement that worked or works against the State of Israel, its citizens or residents
- ◇ I never committed any criminal offences (excluding traffic offences) and an arrest warrant was never issued against me and I was never wanted to justice by police or law enforcement officials in any country.
- ◇ No orders of expulsion or deportation from Israel were ever issued against me. I was never required to leave Israel by any of its authorities.
- ◇ I was never arrested or indicted or spent time in jail for any offences aside from traffic offences.
- ◇ I never had any illnesses that could endanger public health in Israel.
- ◇ I have no mental illnesses.

In case I obtain a residency status as a result of family unification, I declare

- ◇ This is my only wife; I am married only to her.
- ◇ My husband is not married to another women and I am his only wife.
- ◇ Our marriage is authentic and was not done for the purpose of obtaining residency in Israel
- ◇ I am not registered as married to another wife/husband in anywhere else

If you can't declare one or more of the above mentioned, explain:

The above mentioned information is correct and I stated them for my application. Providing incorrect or incomplete information, including information resulting from materials provided to support the application, could result in canceling any status given to me as per article 11 of the law, as well as risking getting deported from Israel as per article 13 of the law, I also know that declaring incorrect details or attaching a false document is a criminal offense under Israeli law.

Place: / Date: / Signature

For the use of the office

Declaration received in: / date: / employee: / Signature of employee:

FORM 5

Declaration attached to lease contract – for spouses

I the undersigned _____ ID no. _____ after being requested to tell the truth or otherwise be susceptible to enduring legal penalty declare the following:

- a. I make this declaration in support of the request to obtain residency in Israel: *my son/daughter * Other _____
Tenant's name/ID no. /Application no. / date of application
- b. In his wife/husband's name _____ ID/Passport number _____
- c. I declare that I am the owner of this property present in **** in my address **** and that the property is registered in my name (if the property is flats- please indicate and detail)
- d. The property is a house/residential unit with a total space of **** square meters and consists of **** floors and **** rooms.
- e. The house/property was leased to the couple above mentioned- *to my knowledge no other people live in the property
- f. My children and I live in the property and they have their own families mentioned below (please indicate accordingly):
First floor
Family name, personal name/fathers' name/ ID no. /relationship/ since (date)/ payment method is:

Second floor
Family name, personal name/fathers' name/ ID no. /relationship/ since (date)/ payment method is:
- g. Bills below are paid as mentioned:
Lesser Tenant
 Electricity
 Water
 Phone
 Arnona (housing municipal) tax
- h. Payments are done as follows _____
- i. Personal status: single/married/divorced/widow
Number of underage children (below 18) _____ occupation _____
- j. I also declare that of the moment this signing the lease the above mentioned people only live in the property mentioned above.
- k. I will notify the ministry of interior should the tenant leave this residence.

Date Signature

FORM 6

Curriculum Vitae for requesting status in Israel

You have to attach:

- ◇ 3 personal photos of the applicant (invited)
- ◇ Copies of West Bank ID or foreign passport
- ◇ 3 personal photos of requester (inviting person)
- ◇ Copy of requesters' ID

The details and CV are for requesters of legal status in Israel who are residents of the Palestinian Authority and Arab countries (If any of the information mentioned below is not available, please indicate why)

Information requested from residents of the Palestinian Authority and Arab countries

1. Full name (personal, father, grandfather, family) and mothers' name. Resident of an Arab country must also provide English name as written in the passport.
2. Wife's pre-marital name
3. Relationship between requester and applicant
4. Date of birth
5. Number of West Bank ID/Israeli/foreign passport number (even if expired)
6. Place of birth
7. Name of previous wife/husband
8. Place and date of marriage
9. Number of children (including married ones)
10. Number of sisters and brothers (including half-brothers)
11. Indicate if you have any other nationalities and write down old passport numbers
12. Current address in Israel: country/city/street/ no.
13. Address in country of birth: country/city/street/ no.
14. All numbers of phone landlines you own
15. All numbers of mobile phones you own
16. Personal email address
17. Occupation
18. Name and address of work: country/city/street/no.
19. Work telephone numbers
20. Work mobile phones
21. Work email
22. Did you live in the past in Israel: yes/no
23. If yes, indicate when: dates of residence in Israel since>> until
24. Valid driving license (local or international), place of issue and copy of it
25. Permanent or temporary address of residence in Israel: city, street, number

The Israeli requester

1. Full name (personal, father, grandfather, family)
2. Date of birth
3. Place of birth: country/city
4. Relationship between requester and applicant
5. Indicate if any other nationalities are present (write down passport number if present)
6. All numbers of phone landlines you own
7. All numbers of mobile phones you own
8. Date of marriage
9. Personal email address
10. Occupation (Name and address of work): city/street/no.
11. Work mobile phones
12. Work email

Personal details you have to reveal in the requesters' (invited) CV:

1. Where were you born? Where did you grow up? Indicate years and addresses while you moved from one place to another
2. Institutions or universities you studied in
3. All scholarships you obtained (indicate funder)
4. All countries the applicant visited or lived in and reason of living there and dates
5. Past and present occupation
6.
 - a. Any relations with foreign intelligence and/or within the Palestinian Authority and/or outside the Palestinian Authority including being arrested or interrogated or summoned by them.
 - b. Any connection with activists in intelligence agencies and/or security agencies of the Palestinian Authority.
 - c. Details of all relatives that work with intelligence agencies and/or security agencies of the Palestinian Authority and/or foreign countries
 - d. Details of all relatives working within the governmental agencies of the Palestinian Authority and/or agencies of your country of birth or origin
7. Any relations with people and/or organizations that have a relation and/or work with any bodies declared as illegal or terrorist organizations by Israel or any other countries
8. Indicate if you ever got arrested or detained or interrogated or indicted of any criminal or security offences by Israeli security agencies
9. Any direct or indirect relations with an Arab country and the nature of that relation (includes also relation of other family members present in Arab countries)
10. The name of the friends of the applicant that he had and still has ties with them (full name, phone numbers and mobile phone numbers).
(name of the friend from an Arab state (in English), complete date of birth, the full address in the town/city, street and house number, phone number, the mobile phone and international code, what is the relationship.
11. Explain the background and how the applicant met them and the duration of the acquaintance (family, friends, internet, any other way).
12. In case you were present or still present in Israel, explain
Date of visit, residency in Israel
Requester for the visit, place of stay in Israel, how was the permit obtained, the duration of stay (from,to).

Details about the requester's family, husbands, wives, address in full, telephone and mobile numbers, and in case other family members are existing, indicate their names in an attached list:

Required criteria (for all people mentioned below): Full name (Hebrew and English), Date of birth, ID number for Israelis and West Bank IDs (passports for foreigners), full address, telephone, mobile (including dial code), relationship

People: Father of required, fathers' wife, mother of required, mothers' wife, brother/sister of applicant husband/wife of brother/sister, son/ daughter of applicant, wife/husband of son/daughter

1. The name of the friends of the applicant that he had and still has ties with them (full name, phone numbers and mobile phone numbers).
(name of the friend from an Arab state (in English), complete date of birth, the full address in the town/city, street and house number, phone number, the mobile phone and international code, what is the relationship.
2. Explain the background and how the applicant met them and the duration of the acquaintance (family, friends, internet, any other way).
3. In case you were present or still present in Israel, explain
Date of visit, residency in Israel
Requester for the visit, place of stay in Israel, how was the permit obtained, the duration of stay (from,to).

Indicate in details any other information that could be relevant:

In case some requested details were not completed, please attach explaining letter.

An incomplete application will result in delaying processing.

I the undersigned declare that all the above mentioned details will be used to process my application. I am also aware that if I provided incorrect details for the purpose of obtaining a residency permit, the Minister of Interior is authorized to cancel the permit I obtain as per article 11 of the Law of Entry into Israel 1952.

Signature:

ID of request/name and surname/ signature/

ID or passport of requested/name and surname/signature

Confirmation of declaration by a lawyer

3. Figures on family unification applications between the years 2000 to 2013, child registration applications from 2004-2013 and cases in front of the Humanitarian Committee from 2007-2013 released by the Ministry of Interior after a request by the Society of St. Yves under the Freedom of Information Act

A. Requested by St. Yves: What is the number of applications submitted between 2000 and 2013 requesting a legal status in Israel in the aftermath of the marriage of a citizen/resident of Israel to somebody holding a Palestinian ID (family unification with a Palestinian husband/wife). How many applications were approved? How many rejected? Of those rejected, how many were rejected based on security reasons? How many were rejected due to the center of life policy? How many were rejected due to negligence (application that was not processed as it was not followed up by the applier during one year)? How many were rejected because the Palestinian husband/wife was below the requested age?

	2000	2001	2002	2003	2004	2005	2006
Total Family Unification Applications	863	1234	567	345	566	1181	1869
Total of Approved Family Unification Files	513	665	208	9	19	303	1101
Total Refused Applications	264	452	283	291	356	704	625
Refused for Security reasons	74	104	19	/	/	50	211
Refused Based on Center of Life Policy	42	83	41	/	/	39	172

	2007	2008	2009	2010	2011	2012	2013	2000-2013
Total Family Unification Applications	943	920	921	887	801	809	378	12284
Total of Approved Family Unification Files	535	495	521	541	471	228	20	5629
Total Refused Applications	273	284	271	193	133	104	16	4249
Refused for Security reasons	92	71	71	52	38	61	9	852
Refused Based on Center of Life Policy	62	50	38	25	14	3	/	569

No indication of delayed applications due to negligence

No indication of number of files delayed because the husband or wife is under the required age

B. Requested by St. Yves: How many applications for registering a child whose one parent is holding a Palestinian ID were submitted between 2000 and 2013? How many were approved? How many were rejected? Of those rejected, how many were rejected based on security reasons? How many were rejected due to the center of life policy? How many were rejected due to negligence?

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004-2013
Total Child Registration Applications	1150	1865	1929	1893	2074	2129	2024	1838	1819	895	17616
Approved Applications	822	1113	1318	1389	1512	1617	1592	1381	1216	287	12247
Refused Applications	312	685	536	477	534	486	374	318	184	27	1125
Refused for Security reasons	/	3	/	5	4	/	/	/	/	/	12
Refused Based on											
Center of Life Policy	235	428	414	371	400	322	268	198	135	25	2796

No indication of delayed applications due to negligence

Numbers only after 2004 because before they were not inserted into the computerized system

- C. Requested by St. Yves: How many applications were submitted between 2000-2013 for requesting a legal status in Israel for a child whose one parent is holding a Palestinian ID and is less than 18 but born outside the country (Family Unification of son/daughter)? How many were approved? How many were rejected? Of those rejected, how many were rejected based on security reasons? How many were rejected due to the center of life policy? How many were rejected due to negligence?

	2000	2001	2002	2003	2004	2005	2006	2007
Total of Files	8	4	1	/	18	55	32	20
Approved Applications	2	/	1	/	7	35	16	11
Refused Applications	4	4	/	/	5	15	16	6
Refused for Security Reasons	/	/	/	/	/	/	/	1
Refused Based on Center of Life Policy	1	/	/	/	1	10	10	4

	2008	2009	2010	2011	2012	2013	2000 - 2013
Total of Files	25	13	22	20	14	7	239
Approved Applications	13	7	14	11	1	2	120
Refused Applications	9	5	6	4	1	/	75
Refused for Security Reasons	/	/	/	/	/	/	1
Refused Based on Center of Life Policy	7	5	3	2	1	/	44

No indication of delayed applications due to negligence

- D. Requested by St. Yves: How many applications were submitted between 2000-2013 for requesting a legal status in Israel for a Palestinian based on humanitarian reasons (not including applications for regular family unification and child family unification)? How many were approved? How many were rejected? Of those rejected, how many were rejected based on security reasons? How many were rejected due to the center of life policy? How many were rejected due to negligence? How many were rejected because the humanitarian reason did not fulfill the criteria set by the Ministry of Interior?

	2007	2008	2009	2010	2011	2012	2013	2007-2013
Total of Applications	52	191	113	148	120	176	100	900
Approved Applications	7	44	24	28	18	/	/	121
Refused Applications	39	110	56	87	64	59	/	415

Excluding regular family unification where age criteria is met

