Residency in Jerusalem

> The provisions of the Citizenship and Entry into Israel Law […] create a reality whose clear result is the curtailment of the rights of Israelis simply because they are Arabs. They legitimize a concept that is foreign to our fundamental beliefs – discrimination against minorities simply because they are minorities. Being based, as they are, on an arrangement of classification by category, which contains everything but an individual examination of the threat posed by a person, they obscure the image of the individual, any individual, as a world unto his or herself, and as a person who bears responsibility for his or her own actions. They open the door to further legislative acts that have no place in a democratic ideology.
>
> Edmund Levy, Supreme Court Justice.[1]

In 1967, Israel annexed more than 70,000 dunums of West-Bank land to the north, east and south of Jerusalem and applied Israeli law to them. Thirty Palestinian villages and refugee camps were annexed to the municipal jurisdiction of the City of Jerusalem. A census was held, and residents who were present at the time, received the status of permanent residents in Israel. Although the annexation was carried out in contravention of international law, so long as Israel controls this area, which will be referred to herein as East Jerusalem, it is must guarantee the human rights of its Palestinian residents.[2]

Permanent Residency

Permanent-residency status is different from citizenship. Despite what the name suggests, this status is not permanent and it "expires," among other things, if the person holding it has been absent from Israel for seven years or acquired permanent status in another country. Permanent residents do not have the right to vote for the Knesset; do not have Israeli passports; and their children do not receive their residency status automatically.

In fact, Israel applies to the residents of East Jerusalem the same arrangements it applies to foreign immigrants, even though East-Jerusalem residents are the original population of the area. They never immigrated to it from somewhere else; it is rather their Israeli status that was forced upon them as part of the occupation and annexation.

The annexation of East Jerusalem created an artificial separation between it and the rest of the Occupied Palestinian Territories (OPT). It has been exacerbated by the closure Israel imposed on the OPT in the early 1990s and the separation wall that splits between East Jerusalem and the rest of the West Bank. Still, despite the many obstacles mounted by Israel, Palestinians from East Jerusalem and from the rest of the OPT maintain close family, business, social and cultural ties.

Israel's policy in Jerusalem since 1967 has been guided by political considerations designed to maintain what Israel calls a "demographic balance" in the city, in other words, maintaining a solid Jewish majority in Jerusalem. This goal has been pursued through various measures that drive Palestinians away from

[1] HCJ 466/07, 5030/07 **MK Zahava Gal-On, HaMoked: Center for the Defence of the Individual et al. v. Attorney General, Minister of Interior et al.** (2012), Judgment, January 11, 2012, §29 of the opinion of Justice Levy.
[2] For more on the status of this area under international law, see HaMoked, **Activity Report 2007**, pp. 109-110.

Jerusalem: land expropriation; restrictions on building and planning; "administrative" house-demolitions; neglect and systematic discrimination in the provision of services, the development of infrastructure, and in budgets for education, culture, health and welfare and so on. Moreover, Israel revokes the residency of Palestinian residents who live outside the city for a number of years and severely limits the grant of status to Palestinians from the OPT or neighboring countries who marry East Jerusalem residents, as well as to their shared children.

East-Jerusalem residents who marry OPT residents and wish to live with them in the city, must apply to the Ministry of Interior to begin the process of family unification, which should initially provide to their spouses with Israeli stay-permits and ultimately with residency status. Israel froze this process in 2002. A year later, the Knesset passed the Citizenship and Entry into Israel Law (Temporary Order), a racist law that for a decade has been fatally violating the right to family life of East-Jerusalem residents , separating Israeli residents from their OPT spouses, and children and from their parents.

In 2011-2012, HaMoked opened 124 new cases relating to status issues of East Jerusalem residents and their relatives, most cases concerning more than one relative. East-Jerusalem residency cases typically remain open for many years. In the period covered in this report, HaMoked also continued working on 236 cases that had opened before 2011. Of these, 57 cases were opened back in the 1990s and 73 were opened between 2000 and 2005. In 2011-2012, HaMoked helped more than 1,000 East Jerusalem residents and their relatives get status.

In the period covered in this report, HaMoked conducted 101 legal actions in East Jerusalem cases, including 48 that were launched before 2011. Most of these actions were administrative petitions to the District Court, and the rest were appeals to the Supreme Court, petitions to the HCJ, Family-Court applications, and other related proceedings. In many cases, HaMoked had to pursue more than one legal action. In this period, HaMoked also handled 181 quasi-legal proceedings (including 144 new ones) – administrative appeals to the Ministry of Interior, appeals to the Appellate Committee for Foreigners, and applications to the Interministerial Committee for Humanitarian Affairs and to the Humanitarian Committee under the Citizenship and Entry into Israel Law.

The Citizenship and Entry into Israel Law (Temporary Order)

In 2011-2012, as in previous years, issues of status in East Jerusalem were addressed under the shadow of the Citizenship and Entry into Israel Law (Temporary Order), whose main objective is to prevent OPT residents from receiving status in Israel by way of family unification with Israeli citizens and residents. The Law was passed ten years ago as a provisional "temporary order," but has since been extended every few months. In January 2012, the Supreme Court dismissed a second wave of general petitions challenging the Temporary Order, including one by HaMoked, and upheld the Law for a second time.

Before the Temporary Order went into effect, once the application of the Israeli spouse on their behalf was approved, OPT spouses of Israelis, like foreign spouses, could enter the graduated family unification procedure that regulated their presence in Israel – initially giving them Israeli stay-permits (issued by the military in the case of OPT residents) for a period of 27 months, subject to security screening and "center-of-life" examinations. They would then receive temporary residency status for three years, and finally, permanent status. However, since May 2002, when Israel froze all family unification processes,[3] full family unification, culminating in permanent status in Israel, is no longer available to spouses from the OPT (designated "residents of the Area") or to spouses from countries defined by Israel as "enemy

[3] Government Resolution No. 1813, May 12, 2002.

states."[4] The 2003 Temporary Order stipulated that OPT residents would not receive Israeli residency or citizenship status, with the exception of children under the age of 12 who have one Israeli-resident parent. In addition, a spouse whose family-unification application was approved before the process freeze, would continue receiving whatever permit he or she was issued when the freeze was announced, without ever progressing to the next phase, or receiving permanent status in Israel.

In 2005, the Temporary Order was amended for the first time, allowing for female OPT residents over the age of 25 and male OPT residents over the age of 35 who marry Israeli residents to legalize their presence in Israel, but only through renewable DCO permits. The Amendment also raised the cut-off age for children's eligibility for Israeli status to 14. However, children between the ages of 14 and 18 would not receive Israeli status, and would remain in their homes only by virtue of DCO permits.

Resident of the Area

The Temporary Order applies to anyone Israel defines as a "resident of the Area." The interpretation of this term has been the focus of many petitions and judgments since 2003.

The term "Area" is defined in the Law as the West Bank and the Gaza Strip. In the original, 2003 version of the Temporary Order, a "resident of the Area" was defined as anyone living in the OPT, whether they were registered as a resident there or not, with the exception of Israeli settlers. In its 2008 judgment in the 'Aweisat case, the Supreme Court accepted the position presented by HaMoked and other petitioners and ruled that the proper interpretation of the term "resident of the Area" – prior to the 2005 Amendment –applied to individuals who actually resided in the West Bank or Gaza rather than to anyone registered in the OPT population registry, as the state had argued.[5]

The 2005 Amendment expanded the definition of "resident of the Area" to encompass "any individual registered in the population registry of the Area, as well as anyone residing in the Area." In 2008, in the Khatib case, the District Court ruled that even after the definition was amended, the Temporary Order should not be automatically applied to anyone registered in the OPT population registry; instead the individual applicant's ties must be examined, such as where they lived for most of their lives, where their family lived, where they studied, etc.[6]

The state appealed this judgment, and in January 2011, the Supreme Court accepted the appeal, overturning the District Court's judgment. The court ruled that the term "resident of the Area," following the 2005 amendment, includes any person who is registered in the population registry of the OPT, even if her or she has never lived there.[7]

[4] The 2007 Amendment to the Temporary Order lists four countries whose residents come under the Law: Iran, Iraq, Lebanon and Syria.
[5] AAA 5569/05 **'Aweisat et al. v. Minister of Interior et al.** (2008).
[6] AAA 817/07 **Khatib et al. v. Ministry of Interior** (2008).
[7] AAA 1621/08 **State of Israel v. Khatib** (2011).

DCO Permits

A "DCO permit" is a temporary military-issued permit of stay given to the OPT spouse (the "sponsored spouse") and to children over the age of 14 upon the approval of the family unification application filed for them by an Israeli resident (the "sponsor"). According to procedure, the Ministry of Interior issues the sponsored individuals a referral to the military's District Coordination Office (DCO) (in the West Bank or at Erez Crossing), where they are given a permit that allows them to remain in Israel for one year. They must repeat the process every year, provided they pass "center-of-life" examinations and security and criminal background checks.

DCO permits allow their holders to live in Israel lawfully, but do not give them status in the country, or entitlement to social rights, such as disability pensions, unemployment benefits, childbirth benefits and health insurance coverage. It also does not allow them to get an Israeli driving license.[8] Following a petition filed by HaMoked, as of January 2013, Israel allows all Palestinians living in Israel with family-unification DCO permits to work in Israel.

Temporary Residency (A/5 Visa)

"Temporary residency" is a temporary status that provides holders with have an Israeli identity card, entitles them to work and drive in Israel and gives them access to social rights. It must be renewed every year at the offices of the Ministry of Interior, subject to center-of-life examinations and security and criminal background checks. Individuals who received temporary status prior to the government resolution that revoked family unification with OPT residents, continue to hold it, but cannot receive permanent status.

In 2006, the Supreme Court dismissed petitions filed in 2003 by HaMoked and other human rights organizations to repeal the Temporary Order. Though a majority of the justices accepted the position that the Law violated the constitutional rights to equality and family life, the court did not repeal the Temporary Order, allowed the state to replace it with another arrangement within a set period of time.[9] In 2007, after the state repeatedly extended the Temporary Order, more petitions were filed against it, including one by HaMoked, which focused on the severe harm the Law was causing to the children of East Jerusalem residents.

As stated, the Temporary Order denies status in Israel to children with one Israeli-resident parent if they are defined as "residents of the Area" and are over age 14. Such children may live in Israel only with DCO permits, deprived of health services, social rights and any sense of security in their ability to continue living in their homes. This Law, that denies status but sanctions permits, cannot be justified on the security grounds argued by the state, given that the permits allow the allegedly dangerous children

[8] In May 2013, HaMoked filed an HCJ petition demanding DCO-permit holders be permitted to drive in Israel. See HCJ 3544/13 **Qweidar et al. v. Coordinator of Government Activities in the Territories et al.**

[9] For more details, see HaMoked, **Activity Report 2006**, pp. 107-108 (in Hebrew); HaMoked, **Activity Report 2007**, pp. 71-80.

freedom of movement inside Israel. The provisions relating to children can only be understood as an attempt to save the state money and serve demographic goals.

In January 2012, the HCJ rejected by a single vote the second wave of petitions against the Temporary Order. Though the majority of the justices acknowledged that a constitutional right to family life derived from the right to dignity, they ruled that it did not necessarily have to be exercised inside Israel. The court further ruled that though the Temporary Order does impinge on constitutional rights, including the right to equality, the impingement is proportionate and therefore the Law is constitutional and should not be repealed. In her opinion, Justice Miriam Naor addressed at length the issue of the harm caused to children of East-Jerusalem residents, the focus of HaMoked's petition, and held that it was sufficient that the state had pledged to allow children who turn 18 to continue living with their parents in Israel using DCO permits, so long as they maintain a center-of-life in Israel, this although this pledge was not entrenched in law. Other justices concurred with this position, ignoring the fact that children over the age of 14 living at home by virtue of DCO permits have no status, social security rights or health insurance coverage. Justice Elyakim Rubinstein even held that this policy was "at least appropriate" and that it was sufficient that parents and children were given the opportunity to live together.

In contrast, the five dissenting justices noted that the previous petitions had been rejected provided that the Temporary Order be amended to be more "proportionate," but in practice, the amendments expanded the restrictions and intensified the Law's infringement on human rights. Therefore, the dissenting justices considered it should be repealed. These justices noted that despite its purported temporariness, the Law had been extended 13 times, remaining in effect for many years, since 2003, with no end in sight. Justice Edmund Levy held that "The injury caused by the Law is severe. Its damage is resounding." Justice Levy wrote further in his opinion:

> The continued existence of the Citizenship and Entry into Israel Law (Temporary Order) 5773-2003, casts a dark shadow over the chances of democracy in Israel to withstand the challenges it has braved so far. Mistaken are those who believe that the majority, by whose decisions this law came into being, would be able to withstand its dire effect in the long run. […]. At the end of the day, this harm, as distant and as creeping as it may be, as authoritative as it may seem, is no less harmful than the harm of the terrorist acts from which we seek to defend ourselves.[10]

The majority of justices expressed dissatisfaction with the mechanism that was meant to answer exceptional humanitarian needs, and noted that it operated inefficiently, according to inadequate criteria, and had, until then, benefited very few people. Ultimately, the court dismissed the petition by six votes to five. The judgment legitimizes a shameful law, which, for demographic-racist motivations, violates the rights to equality and family life. With the Supreme Court's seal of approval, the children and spouses of Israeli residents will continue to live in the country using military-issued permits, without social security rights or permanent legal status. **(Case 50717)**

Ten days after the HCJ gave its ruling, the Temporary Order was extended by another year. In April 2013, the Knesset once again extended the law, bringing the Temporary Order into its 11th year.

[10] Ibid., §§ 45, 29 (respectively) of the opinion of Justice Levy. In the 2006 judgment given in the petitions against the Temporary Order, Justice Levy ruled that the Law impinged on constitutional rights, but that the petitions must be dismissed as the state should be given nine months to come up with an alternative arrangement.

Family Unification with Gaza Residents

As if the disastrous effects of the Temporary Order were not enough, in June 2008, the government decided that family unification with individuals residing or registered in Gaza would no longer be allowed under any circumstances.[11] According to the resolution, the prohibition was to be effective "henceforth and shall not apply, in any case, to individuals whose initial application has been approved." In November 2011, HaMoked filed an administrative petition to the court, asking it to instruct the Ministry of Interior to continue processing pending applications for family unification with Gaza residents that were filed prior to the government resolution.[12] HaMoked argued, among other things, that the government resolution, which took effect retroactively, applied to individuals who had complied with the law and applied long before the resolution was passed. This resulted in an absurd situation, in which people filed applications according to the law, the Ministry of Interior procrastinated and left them undecided for long – until the government changed its policy and decided that all applications should be automatically rejected. In July 2012, the District Court dismissed the petition, finding no cause for intervention in the state's decision.[13] HaMoked appealed to the Supreme Court in October 2012. The appeal is still pending. **(Case 65476)**

In July 2012, following the HCJ's dismissal of the petitions against the Temporary Order, HaMoked contacted the Prime Minister, the Minister of Interior and the Attorney General, demanding the revocation of the government resolution prohibiting family unification between Israelis and Gaza residents. In its letter, HaMoked argued that the government resolution failed to meet fundamental constitutional principles and that it was an extreme departure from the provisions of the Temporary Order. HaMoked noted that while according to the HCJ's judgment, the Minister of Interior had discretion to reject family-unification applications for security reasons, the government resolution established a blanket refusal of applications for family unification with Gaza residents, unfounded on any specific security allegations against any individual applicant. In so doing, the government resolution attributes a "security risk" to all individuals registered as Gaza residents in the population registry (even if they do not live there at all), irrespective of their actions and disproportionately violates basic rights, primarily the right to family life.

In June 2013, after no pertinent response was received from the authorities, HaMoked petitioned the HCJ.[14] Despite the urgency of the matter, the hearing was scheduled for April 2014. **(Case 73866)**

Family Unification and Child Registration

Ever since the annexation of East Jerusalem, families in which one spouse is an Israeli resident and the other an OPT resident, have been facing almost insurmountable bureaucratic obstacles in obtaining status for the OPT-resident spouse or the children. The Temporary Order and the interior-ministry protocols that followed complicated the situation further and only a few manage to see their way through the tangle of sections, subsections, protocols and guidelines.

The overall conduct of the Ministry of Interior in East Jerusalem over the years suggests that it acts with rigidity and reluctance in implementing the limited civil-status procedures available to the city's Palestinian residents. The ministry's policies are vague, its procedures cumbersome, complicated and

[11] Government Resolution No. 3598, June 15, 2008.
[12] AP 10144-11-11 **Ahmad et al. v. Minister of Interior et al.** (2012).
[13] AAA 7212/12 **Ahmad et al. v. Minister of Interior.**
[14] HCJ 4047/13 **Khadri et al. v. Prime Minister et al.**

costly, it processes applications recklessly and with incessant foot-dragging and denies applications as much as possible, using various pretexts. Thus, bureaucracy is used as a weapon in Israel's demographic war against East Jerusalem's Palestinian population. In While the Ministry of Interior boasts the slogan "Ministry of Interior – Looking Ahead – At Your Service," the Palestinian population's contacts with it involve distress, humiliation and endless uncertainty. Residents who are able to face all this wait months and years for an answer to their application. The Ministry of Interior answers applications at an excruciatingly slow pace, disrespecting applicants' time and dignity.

Obtaining permanent status for spouses and children often involves a battle that could last for more than a decade. In many cases, several bureaucratic and legal proceedings are required in a single application, until the Ministry of Interior deigns to grant the spouse or child the status they are entitled to. The decision to refuse a status application can be appealed to the Ministry of Interior. If the appeal is denied or left unanswered, an objection can be submitted to the Appellate Committee for Foreigners. Only if this objection is denied or unanswered, can a person file an administrative petition to the District Court, and if dismissed, appeal to the Supreme Court.

i The Appellate Committee for Foreigners

The Appellate Committee for Foreigners is an internal instance at the Ministry of Interior meant to provide quasi-judicial review of decisions made by other departments of the ministry. Despite its title, the "committee" is in fact a one-person body.

As stated, when the Ministry of Interior rejects child-registration or family-unification applications, applicants may appeal the decision to the Ministry of Interior. If the appeal is also rejected, or if the Ministry of Interior fails to answer, applicants may submit an objection to the Appellate Committee for Foreigners. This action is a prerequisite for taking court action. The proceedings of the appellate committee rely exclusively on written submissions of the resident (or his counsel) and the Ministry of Interior (through specially appointed counsel).

The committee was established in late 2008, by the decision of the Minister of Interior and the Attorney General in response to the backlog in the courts. But in practice, the committee not only added to the exhaustion of administrative remedies required before taking legal action, but its own conduct is marred by unreasonable foot-dragging. According to the committee's working protocol, the Ministry of Interior is required to submit its response within 30 days from the objection's submission date; the committee must make its decision within 60 days of receiving the interior ministry's response. But in most cases, the Ministry of Interior fails to meet the deadline and receives one extension after another – sometimes without asking for one – from the committee's chair,[15] an interior-ministry official himself. In 2011-2012, 60 objections filed by HaMoked were resolved; the average decision time was 5.8 months. Fifteen additional objections from this period are still pending, all of them for more than six months.

[15] The chair of the Appellate Committee for Foreigners is subordinate to the Ministry of Interior. He or she makes decisions according to ministerial protocols, and, at least in Jerusalem, has an office in the same location as the ministry's lawyers, and uses their secretarial and office services – all contrary to the Ministry of Interior protocols that require "separation between the chair of the appellate committee and the Population Administration, including the location of his office and other administrative aspects of his work," in order " to ensure his impartiality and independence." See Population and Immigration Authority, Protocol No. 1.5.0001, **Appellate Committee for Foreigners at the Ministry of Interior – Jerusalem and Tel Aviv Districts**, Sect. 9(b).

As stated, the general petitions to the HCJ against the Temporary Order were rejected, but in 2011-2012, HaMoked continued its extensive legal affecting the fate of hundreds of thousands of families in East Jerusalem. Individual cases have often resulted in significant changes and new guidelines in interior-ministry protocols and in the implementation of the Temporary Order.

"The Effective Age"

Children with only one Israeli-resident parent are subject to "child registration" procedures (if they are born in Israel) or to "family unification" procedure (if they are born outside Israel). Originally, the Temporary Order, passed in 2003, stipulated that children who are defined as "residents of the Area," who have one Israeli-resident parent, may receive status in Israel only up to age 12. In 2005, the Knesset raised the "effective age" to 14. However, the Ministry of Interior took further initiative, and also changed its own protocols following the Amendment. Under the revised protocol, children who were "residents of the Area" with only one Israeli-resident parent could not receive permanent status once the child-registration application filed for them was approved. Instead, they could receive temporary status for two years, and only then permanent residency. The same protocol stipulated that if the child turned 14 during this two-year period, the Ministry of Interior would not upgrade the child's status to permanent residency, and the child would continue living at home with temporary residency status that had to renewed annually, subject to stringent examinations. In this, the ministry essentially brought the effective age for status back down to 12, despite the amendment to the Temporary Order.[16]

Since 2008, the District Court has ruled against this protocol in several judgments, on the grounds that it frustrated the purpose of the amendment to the Temporary Order.[17] The court ruled that the effective date for receiving permanent-residency status should be the filing date of the child-registration application, namely, if the application is filed before the child turns 14, the child should receive permanent residency after two years of temporary residency, even if he or she turns 14 in the duration. For many months, the Ministry of Interior ignored these judgments; without appealing or complying with the rulings, it continued to implement the protocol that had been struck down, depriving children of the permanent status they were entitled to receive.. In June 2009, the District Court once again ruled against the protocol, in an administrative petition filed by HaMoked on behalf of the Srur family.[18] The state appealed to the Supreme Court, claiming, among other things, that there was no obligation under the Temporary Order to grant permanent status to children who have one resident parent, and that temporary residency was enough to prevent their separation from their parents.[19] In April 2011, the Supreme Court dismissed the appeal and ruled that the interior-ministry protocol could not stand as it "denies the minors the possibility of receiving status given to them directly in the primary legislation. This is a direct and substantive violation of their right, which does not conform to the statutory arrangement." The justices added that "[t]he Minister of Interior is not authorised to create out of nothing a distinction between minors under the age of 12 and minors between the ages of 12 and 14 for the purpose of receiving status in Israel. Such a distinction has no mention in the language of the Temporary Order Law and Regulation 12 or in the legislative history that preceded them, and it is also inconsistent with their underlying objectives." The court ruled that granting children permanent

[16] The protocol was first published as "Decision table regarding the granting of status in Israel to a minor only one of whose parents is registered as a resident of Israel (update August 1, 2005)". See Population and Immigration Authority, Protocol No. 2.2.0010, **Procedure on registration and granting of status to a child only one of whose parents is registered as a permanent resident in Israel.**

[17] See, e.g., AP 8295/08 **Mashahara v. Minister of Interior** (2008).

[18] AP 8890/08 **Srur et al. v. Minister of Interior** (2009).

[19] AAA 5718/09 **Minister of Interior v. Srur et al.** (2011).

residency was required not only in order to prevent their separation from their parents, but also in order equalize the status of both parent and child, thereby serving the child's best interest and upholding the right to family life. Ultimately, the court ruled the Temporary Order should be interpreted such that the effective age for receiving status is the child's age at the filing date of the application. **(Case 38247)**

In September 2012, almost a year and a half after the Supreme Court's ruling – and only following HaMoked's motion of Contempt of Court on this issue[20] – the Ministry of Interior finally changed the protocol. Yet, even before the protocol was changed, following the Supreme Court ruling, judgments were issued in individual petitions filed by HaMoked.

The Wadi Hummus Neighborhood, Sur Bahir

In 1967, Israel annexed most of the land belonging to the village of Sur Bahir, located southeast of Jerusalem, and gave its inhabitants status in Israel. But about a tenth of the village lands – including the area of the Wadi Hummus neighborhood, built later on – was arbitrarily left outside the annexation boundaries. For years, this demarcation line appeared only on maps, and had no practical meaning. However, Israel's planned route for the construction of the separation wall in West Bank lands around Jerusalem threatened to split Sur Bahir in two, on the basis of this arbitrary line. In 2003, the village inhabitants petitioned the HCJ against the route of the wall.[21] In the proceedings in the petition, the state acknowledged that the inhabitants of Sur Bahir formed "a single organic community," and therefore changed the route of the wall so it did not cut through the village. Thus, all the inhabitants, including those living in Wadi Hummus, remained on the western – "Israeli" – side of the wall.

In 2004, the National Insurance Institute (NII) began notifying Wadi-Hummus residents informing them that their status as residents under the National Insurance Law had been revoked because they were residing outside the Israeli annexed area. Around the same time, health funds also began sending these same residents letters informing them of the cancellation of their health insurance. The residents filed a claim with the Jerusalem Regional Labor Court, whereupon, the NII – under instructions of the Attorney General – announced it retracted its decision: Sur Bahir "is a single homogenous village" and so long as the wall separates it from the rest of the West Bank, all its inhabitants will be recognized as Israeli residents for the purpose of their social security rights and come under the National Insurance Law and the National Health Insurance Law."[22]

Center-of-Life

One of the major conditions for having an application for family unification or child registration approved is for the family's center-of-life to have been in Israel for the two years prior to submission of the application, as well as in each subsequent year during the long process leading up to approval of the application.

As part of the Ministry of Interior's examination-cum-investigation, the family is required to produce many documents that prove they reside in Jerusalem (homeownership confirmation, lease agreements, household bills such as municipal tax, electricity, water and more); work in the city (payslips); receive

[20] AP 727/06 **Nofal et al. v. Minister of Interior et al.** (2011).
[21] HCJ 9156/03 **Jabur et al. v. Seam Line Administration et al.** (2003).
[22] NI 10177/05 **Sur-Bahir Village Committee et al. v. National Insurance Institute** (2005).

medical services in the city (health fund documents, confirmations of treatments received); and raise their children in it (birth certificates, immunization records, daycare and school enrollment documents, etc.). In addition, the Ministry of Interior holds a hearing for the applicants, in which it confronts them with various documents, and even relies on the findings of NII investigations, despite the uncertainty surrounding these investigations.

Even after an application for family unification or child registration is approved, the family must continue proving, year after year, that its center-of-life remains in Jerusalem by submitting all the required documents, in order for the Ministry of Interior to renew the visa or permit of the sponsored individuals. Any doubt regarding the family's center of life a Ministry of Interior clerk might have could lead to the rejection of the application or the cessation of the procedure.

In 2008, HaMoked petitioned the court on behalf of a permanent Israeli resident from Wadi Hummus, demanding the Ministry of Interior be instructed to register two of the man's children in the Israeli population registry, the same as their nine other siblings.[23] The Ministry of Interior refused to register the children because the family lives in Wadi Hummus, outside the annexed area. HaMoked argued that the children's center-of-life had been and still was in Jerusalem and therefore, they should be registered as permanent residents of Israel. The District Court dismissed the petition, having accepted the state's position that the family resided outside Israel's sovereign territory, therefore, its center-of-life was outside Israel.

HaMoked appealed to the Supreme Court, arguing, inter alia, that the finding that the children did not maintain a center-of-life in Israel was unreasonable, especially considering the circumstances that were created after Israel had built the separation wall trapping the children on the "Israeli" side – the very same circumstances that had led the state to recognize, in two different court actions, that Wadi Hummus was an inseparable part of Sur Bahir.[24] In November 2011, the Supreme Court dismissed the appeal by a majority vote. Justices Edmund Levy and Asher Grunis ignored the complex reality Israel imposed on the inhabitants of Wadi Hummus, giving Regulation 12 of the Entry into Israel Regulations a narrow interpretation, namely, that a person whose home was not in Israel would not receive status in Israel. The justices also cited the state's allegations regarding the "broad ramifications" of granting the children status in Israel, allegations which had no support either in the state's submissions or the judgment. Supreme Court President Dorit Beinisch, in a dissenting opinion, accepted HaMoked's arguments and held that in severing Wadi Hummus from the rest of the West Bank, the separation wall erected Israel created a situation whereby "the Appellants' center of life is effectively in Israel." Beinisch added that "[t]his situation, in which the children have no status either in the Area or in Israel, is improper […] clearly, a reality where in a single family unit the parent's status differs from the children's status could undermine the stability and balance which are so very vital for the formation of a normal family unit, and so to the proper development of a minor."[25]

On December 7, 2011, HaMoked petitioned the Supreme Court a further hearing in the appeal before an extended panel.[26] In the decision, Supreme Court Vice-President Eliezer Rivlin noted that: "Indeed, the petition points to a complex reality, in which the center-of-life of the Petitioners' entire family is within Israel, while their home is located outside it, and this against the backdrop of the difficulty to establish a

[23] AP 8350/08 **'Attoun et al. v. Minister of Interior et al.** (2009).
[24] AAA 1966/09 **'Attoun et al. v. Minister of Interior et al.** (2011).
[25] See Ibid., Judgment, November 22, 2011, §§ 25, 22, 20 (respectively) of the opinion of Supreme Court President Beinisch.
[26] AFH 9081/11 **'Attoun et al. v. Minister of Interior et al.** (2012).

center-of-life outside Israel given the existence of the separation fence." Nonetheless, Vice-President Rivlin held that there was no room to accept the motion.[27] The court's ruling left the two children without status anywhere in the world, without social rights or health insurance, trapped in tiny area between the separation wall and municipal boundary of Jerusalem. **(Case 53836)**

Child Registration Procedure

The policy of Ministry of Interior on the registration of children who have only one Israeli-resident parent was made public in 2007, following HaMoked's petition filed a year earlier.[28] Until then, the protocols governing the ministry's conduct had been kept from the public. Following HaMoked's comments during the hearings in the petition, the Ministry of Interior updated the procedure several times.

In May 2011, the court issued its judgment, instructing the Ministry of Interior to change three aspects of its procedures: when the Ministry of Interior fails to meet the six-month deadline for a decision relating to children, it must give the children temporary status in Israel which affords social security rights, pending final decision; the ministry must continue processing applications for children, even if a corresponding application for another family member has been denied; lastly, the ministry must notify the family both orally and in writing – and also in Arabic, if needed – that the time has come to upgrade the temporary status to permanent status.

A year went by and still the Ministry of Interior did not implement the court's instructions. In late May 2012, HaMoked filed a motion under the Contempt of Court Ordinance, asking the court to issue an injunction ordering the Ministry of Interior to amend the procedure. The state replied that it was acting to amend the procedure "without delay" and that the formulation of the amended procedure is in "its final stages." In September 2012, the amended procedure was finally published. **(Case 25474)**

As stated, unlike citizenship, the status of temporary residency in Israel, does not automatically pass down from parents to children. Regulation 12 of the Entry into Israel Regulations stipulates that a child born in Israel will have the same status as the parents.[29] The HCJ has ruled that the purpose of Regulation 12 is to prevent disparity between the status of child and parents, and thus to uphold the integrity of the family unit and the child's best interest.[30]

However, the law does not regulate how children born outside Israel to Israeli-resident parents are to be granted status. In April 2011, HaMoked filed an administrative petition on this issue; in December 2011, the Jerusalem District Court gave the force of a judgment to the parties' agreement in principle whereby children living in Israel but born outside it to two Israeli-resident parents would receive permanent residency immediately.[31]

[27] Ibid., Judgement, January 17, 2012.
[28] See AP 727/06 **Nofal et al. v. Minister of Interior et al.** (2011); Population and Immigration Authority, Protocol No. 2.2.0010, **Procedure on registration and granting of status to a child only one of whose parents is registered as a permanent resident in Israel.**
[29] Regulation 12 of the Entry into Israel Regulations, 5734-1974.
[30] HCJ 979/99 **Carlo et al. v. Minister of Interior et al.** (1999).
[31] AP 22556-04-11 **Arafat et al. v. Minister of Interior** (2011).

In cases where only one parent is an Israeli resident, under interior-ministry protocols, if the child is born in Israel, he or she will be registered as a permanent Israeli resident pursuant to Regulation 12, subject to proving center-of-life,[32] and subject to the Temporary Order restrictions concerning children defined as "residents of the Area" (namely, a child above age 14 will receive DCO permits only); if the child is born outside Israel, the parents must submit a family-unification application for said child, who will receive temporary residency for two years, to be followed by permanent residency – subject to proving center-of-life and subject to the Temporary Order restrictions.

Confused? Now try understanding this tangle of procedures that are only published in Hebrew, when you do not speak the language.[33]

Stateless Individuals

Many Palestinians who live in East Jerusalem have no civil status anywhere in the world. The reasons for this are varied, mostly originating in the many obstacles Israel places in the path of East-Jerusalem Palestinians who seek to register their children in the population registry, especially when the registration is not done shortly after birth. Other stateless individuals are members of families who returned to live in Jerusalem when some of the children were over 18, and missed the chance to be registered as residents. Others are residents whose residency had been revoked by the Ministry of Interior. The inaccessibility of the Ministry of Interior, the hard line attitude of its staff and their tendency to avoid handling out-of-the-ordinary cases, combined with the fact that many Palestinian families are afraid to assert their rights in encounters with Israeli authorities, all join to promote the creation and consolidation of this situation.

The right to civil status is a condition for exercising many other rights, which stateless individuals are denied. People who have no status in Israel are not eligible for the services and benefits provided by the NII, or for the health services offered by health funds. They cannot enroll in schools, open bank accounts, work lawfully, own property, get a driver's license or travel documents. Every encounter they have with security forces may end up with their arrest. The result of all this is that they also have difficulties starting families and maintaining social ties.

[32] It is important to note in this context, that the Ministry of Interior requires proof of center-of-life in Israel in the two years prior to submitting the application. Therefore, a child who returns to Israel at age 13, will not be able to file an application for status until age 15, by which point, he or she will no longer be eligible for residency status, but only DCO permits. A child who returns to Israel at age 16 and a month will not receive any sort of permit to live with his or her family in Jerusalem, because the Ministry of Interior requires the family to wait for two years before they can file the application. In October 2011, the District Court rejected an administrative petition filed by HaMoked on this issue. See AP 41294-05-11 **Radwan et al. v. State of Israel - Minister of Interior**. HaMoked appealed this decision to the Supreme Court, AAA 8630/11 **Radwan et al. v. State of Israel - Minister of Interior**. The appeal is pending.

[33] In June 2011, HaMoked wrote to the Ministry of Interior asking it to translate its documents - procedures, forms, letters, particularly those used by the East Jerusalem office which serves only Palestinians – to Arabic, an official language in Israel. Two years later, the situation remains as it has been, with the exception of a handful of forms that were translated into Arabic **(Case 68242)**. For example, although the state pledged to translate the child registration protocol into Arabic, and to post it at the East Jerusalem office, a pledge that was given the validity of a judgment in AP 727/06 **Nofal et al. v. Ministry of Interior** (2011). As at mid-2013, this has not yet been done.

The Convention relating to the Status of Stateless Persons determines that the country where stateless individuals reside is responsible for their naturalization and it must make efforts to expedite this process. Israel did sign the convention in the 1950s, but the Ministry of Interior has no procedures to regulate the grant of status to Palestinians who have been living in Israel for many years without status.[34] The only avenue open to stateless individuals who wish to get a permit to remain in their homes, is the Humanitarian Committee under the Citizenship and Entry into Israel Law (Temporary Order), or the Interministerial Committee on Humanitarian Affairs.

The Humanitarian Committee under the Citizenship and Entry into Israel Law (Temporary Order)

The Humanitarian Committee under the Citizenship and Entry into Israel Law (Temporary Order) is a Ministry of Interior committee that was established pursuant to the 2007 amendment to the Temporary Order. It may give the minister of interior recommendations to issue stay-permits or grant temporary status in Israel for "special humanitarian reasons." It receives applications only from OPT residents or subjects of states defined as enemy states, whose right to obtain status in Israel through family unification or child registration has been denied by the Temporary Order.

The law sets forth narrow criteria for the types of applications that may be brought before the committee and the types and duration of permits it can recommend. The Ministry of Interior may also cap the number of humanitarian cases that are approved. Capping the number of approved humanitarian cases is antithetical to the concept of a "humanitarian exception."

The committee accepts applications from individuals who suffer from severe physical or mental conditions and cannot obtain status in Israel because of the Temporary Order, or individuals who need status in Israel in order to care for immediate relatives who suffer from such conditions. According to the Temporary Order, the committee must make a decision on applications within six months. However, in practice, the committee does not follow the protocols or schedules defined for it and HCJ petitions regarding lack of response are often required in order to get the committee to expedite processing.

In 2011-2012, HaMoked filed 21 applications to the humanitarian committee established under the Temporary Order. As of June 2013, the committee has reached a decision in only ten applications. The average response time was more than 14 months. Only one decision was given within the six-month deadline set for the committee. Eleven applications are still pending.

The committee's deficiencies are not limited to failing to meet time frames. For example, no protocols are taken during hearings, only short summaries. Worse still, though the law empowers the committee to grant temporary status, it does so very rarely and usually only after legal action is taken. In January 2012, HaMoked filed a freedom-of-information application to find out in how many cases the

[34] Until 2007, individuals who were absent at the time of the 1967 census were granted permanent residency if they proved that they had lived in the city continually since before the census. In 2007, Government Resolution No. 2492 put an end to this practice. According to the resolution, West Bank residents who have been living in Jerusalem without status since at least 1987 continually, and who applied by the end of April 2008, would receive DCO permits, which are not status. For more on this see HaMoked, **Activity Report 2008-2010**, pp. 50-51.

committee had used its power to grant temporary status. The answer was "no information on this matter is available." **(Case 68654)**

It is worth noting that in the judgment given in the general petitions against the Temporary Order, the justices of the Supreme Court criticized the manner in which the committee operates and the fact that it refrains from using its powers to the fullest extent. For example, Supreme Court President Beinisch stated in her opinion: "Although it has been argued before us that there has been an attempt to reduce the reach of the law by establishing a committee for reviewing special humanitarian cases, in practice, the small number of permits that have thus far been granted by the committee indicates that the establishment of the committee did not shift the balance toward conducting individual examinations, as opposed to a general examination, as we thought appropriate in the first judgment."[35]

The Interministerial Committee on Humanitarian Affairs

The Interministerial Committee on Humanitarian Affairs is an advisory committee to the Ministry of Interior. It reviews humanitarian applications for a grant of status in Israel to foreign nationals who do not meet the eligibility criteria stipulated in the Law, with the exception of individuals whose right to status was denied due to the Temporary Order (their matters are reviewed by the Humanitarian Committee under the Citizenship and Entry into Israel Law (Temporary Order)). The committee is composed of representatives of various authorities, including the Ministry of Interior, the Israel Police, the Ministry of Health and the Ministry of Welfare.[36]

Applications to this committee are submitted in the local population authority offices, where the Ministry of Interior reviews them prior to deciding whether or not to transfer them to the committee. Many applications are rejected at this preliminary stage, mostly without any explanation. The criteria that guide the committee are unknown. The committee members are the ones who give meaning to the word "humanitarian," or, more accurately, empty it of meaning. The committee's session dates and session minutes are not made public and it is impossible to request to attend these sessions or appear before the committee.

Over the years, the interministerial committee has been severely criticized. Most of the criticism was directed at the Ministry of Interior's arbitrary decisions not to transfer applications to the committee, the committee's inaccessibility, the lack of right to argue before it, its lack of transparency, the absence of clear criteria for granting status, the arbitrary decisions given without explanation and the long wait for a decision after an application is submitted, a time during which many applicants are forced to remain in Israel without a permit.

The criticism has led to changes in the committee's work protocol in March 2011. The updated protocol stipulates that applicants would be summoned to a hearing at the Ministry of Interior office, during which they will be allowed to present their case, and any visas they may have will be extended pending

[35] See HCJ 466/07, 5030/07 **MK Zahava Gal-On, HaMoked: Center for the Defence of the Individual et al. v. Attorney General, Minister of Interior et al.** Judgment, January 11, 2012, §2 of the opinion of Supreme Court President Beinisch.

[36] Population and Immigration Authority, Protocol No. 5.2.0022, **Protocol Regulating the Work of the Interministerial Advisory Committee on Determination and Grant of Status in Israel for Humanitarian Reasons.**

a decision. The protocol also stipulates a timetable for the various bureaucratic phases of processing, but does not set a deadline for providing a response.

Even after these amendments were made, foot-dragging continues. In 2011-2012, HaMoked filed ten applications to the interministerial committee, but until June 2013, a decision was reached only in five. The average time for a final answer in these applications was more than a year. Five applications are still pending, more than 14 months on average after they were submitted.

The applications submitted by HaMoked to the Interministerial Committee on Humanitarian Affairs include serious humanitarian cases: a child without a mother whose status had never been looked after and who has spent her entire childhood in institutions, a divorcee without status who cares for her daughter and grandchildren in Jerusalem, a young stateless woman who has been living in Jerusalem since age five. The interministerial committee rejects many of the applications it receives and stateless individuals are forced to leave Israel and their homes, but sometimes, the bureaucratic-legal battle pays off.

Status Revocation

Israel does not treat Palestinians living in Jerusalem who received permanent residency status when the city was annexed the same way it treats the rest of the country's residents. As stated, permanent residency is substantively different from citizenship. In a judgment given in 1988 (the 'Awad rule)[37], the Supreme Court ruled that permanent residency, granted under the Entry into Israel Law, may "expire" if its holder leaves Israel for more than seven years or receives permanent status in a different country. The Ministry of Interior has used this rule as a pivotal tool in a policy designed to deny the rights of Jerusalem's Palestinian residents and change the city's demographics. This policy has been known as the "quiet deportation." [38] The "quiet deportation" is aided by discrimination against East Jerusalem residents and neglect in terms of infrastructure, housing, education, health care and welfare. These create a housing shortage and a low standard of living which drive residents out of the city. As stated, those who transfer their center-of-life to other parts of the OPT or abroad, lose their permanent residency status in Israel. The "quiet deportation" was blocked in 2000, following legal work by HaMoked and other human rights organizations, and in the years that followed the number of East Jerusalem residents whose residency was revoked by the Ministry of Interior declined. However, beginning in 2006, status revocation activity returned to, and eventually surpassed, what it was in the second half of the 1990s.

Between 1967 and 2010, the Ministry of Interior revoked the Israeli status of 13,987 Palestinians from East Jerusalem. In 2011, the ministry revoked the status of 101 more residents, including 51 women and 20 minors. In 2012, it revoked the status of 116 residents, including 64 women and 29 minors.[39]

The 'Awad ruling, issued 1988, has caused severe harm to the Palestinian population of Jerusalem, particularly women. According to the interior-ministry policy in effect until 1994, while men from East Jerusalem could apply for status for their foreign spouses, women married to non-residents were denied

[37] HCJ 282/88 '**Awad v. Prime Minister et al.** (1988).
[38] For more details, see HaMoked and B'Tselem, **The Quiet Deportation – Revocation of Residency of East Jerusalem Palestinians**, 1997.
[39] According to figures provided by the Ministry of Interior in response to HaMoked's freedom of information application.

family unification with their spouses. Consequently, women residents of East Jerusalem who married non-residents had to leave the city and raise their families in the OPT or elsewhere abroad. This resulted in the revocation of their status. In cases of divorce or widowhood, the fact that these women are denied their right to return to their families in East Jerusalem diminishes their ability to decide on their own fate, to the point of helplessness.

In addition to providing assistance in individual cases, in 2011-2012, HaMoked continued its efforts to effect a change in the rules and laws governing the civil status of East Jerusalem residents. In April 2011, HaMoked and the Association for Civil Rights in Israel (ACRI) petitioned the HCJ claiming that the residency revocation policy implemented by the Ministry of Interior (the 'Awad rule), traps East Jerusalem residents in their city, denying them the freedom of movement ordinary people have and binding them to the narrow confines of their birthplace.[40] HaMoked and ACRI asked the court to rule that since East Jerusalem is a territory that was occupied and annexed by Israel and since its residents were forced to become permanent residents of Israel, their status does not expire, even when they live abroad for some time, or obtain status in another country and that they have a right to return to their homeland whenever they choose to do so. The permanent right to return to the homeland should be read as a condition that is built into their permanent residency visas. The organizations said that East Jerusalem residents are not just "residents of Israel" (as per Israeli law) but also "protected persons" under the international law of occupation, and therefore, they are entitled to continue to live in the occupied territory. Moreover, an individual's right to return to his or her own country is an accepted norm in international human rights law and even if the civil status of East Jerusalem residents is regulated by the Entry into Israel Law, as ruled in the 'Awad case, it is unlike the status of any other resident. It is certainly not like the status of immigrants who enter Israel.

This petition was filed after HaMoked and ACRI sought in 2010, to join proceedings as amicus curiae in an appeal against a District Court's decision in the Khalil case to uphold the revocation of status of an East-Jerusalem resident.[41] During the appeal, the bench instructed the organizations to present their general arguments regarding the policy employed by the Ministry of Interior to the ministry itself, and, should the response not be satisfactory, the matter could be brought before the court in a petition that focuses on the subject. The organizations did as the court instructed, and when no pertinent response was given by the Ministry of Interior, filed the petition.

On March 21, 2012, the organizations had to withdraw the petition, on the advice of the Supreme Court bench, headed by President Asher Grunis. The justices refused to review the petition on its merits, since, as they claimed, "there is no reason for the court to grant theoretic relief just so a person will be able to consider his or her actions in advance."[42] The justices gave this recommendation despite arguments made by HaMoked and ACRI that the petition had been filed on behalf of a specific petitioner who was clearly harmed by the policy of the Ministry of Interior, a policy that puts him between a rock and a hard place, pitting his right to leave his home for a limited period of time in order to fulfill his potential, start a family, receive an education, gain employment or participate in modern social life against his right to a home and a homeland. The organizations emphasized that the petitioner's fundamental rights are violated when he must make his choices knowing that any choice that means leaving the city for an extended period involves punishment – the revocation of his status. **(Case 66284)**

[40] HCJ 2797/11 **Qarae'en et al. v. Minister of Interior** (2012).
[41] AAA 5037/08 **Khalil et al. v. Minister of Interior**.
[42] See HCJ 2797/11 **Qarae'en et al. v. Minister of Interior** (2012), hearing transcript, March 21, 2012.

After the judgment was handed down, HaMoked and ACRI rejoined the Khalil appeal as amicus curiae. In a hearing held in March 2013, the justices urged the state to "handle these cases in a localized manner, using a flexible interpretation of the rules in order to resolve these cases individually."[43] As at June 2013, the appeal is still pending. **(Case 63863)**

The only explanation is that the court prefers not to make a ruling on the issue of principle. In so doing, it leaves East Jerusalem residents trapped inside a legal cage that violates their human rights. The sanction which Israel imposes on Palestinians for leaving the city for a limited period of time and for receiving status elsewhere is the loss of a home and the possibility of returning to the homeland.

Branch Office of the Interior Ministry

East-Jerusalem residents must go to the Ministry of Interior offices often to attend to various matters – not just to file applications and receive services, but also to submit center-of-life documents in family unification and child registration procedures, obtain travel documents and more. The congestion and overcrowding at the Ministry of Interior East Jerusalem branch office along with the difficult conditions at the entrance to the building considerably added to the foot-dragging that normally characterizes the processing of civil status matters at this office. Following HCJ petitions filed beginning in 1999, in 2006, a new East Jerusalem office was opened, but a few months later, the employment service office moved into the same building, and the congestion and overcrowding at the entrance returned. Standing in the lineup to enter the building has turned into a long, humiliating, and sometimes dangerous experience.

HaMoked described access conditions at the new East Jerusalem branch office in a letter it wrote to the Ministry of Interior in back March 2007: The lineup at the entrance to the building is extremely long and many of those waiting have no shelter from the weather. The congestion forces them to crowd into remotely operated electric turnstiles. The security guards treat people who arrive at the building in a rude and disrespectful manner, which does not conform to the basic standards of public service in a governmental office. There are no benches, drinking fountains or bathrooms in the entire waiting area, where people may have to spend many hours.

In September 2011, as part of HaMoked's correspondence with the authorities, the employment service acknowledged the congestion and its effects. The agency explained that the reason for this was that people who come to the employment service have to stand in the same line with people who come to the Ministry of Interior. The employment service said it would move the automated employment service sign-in terminals outside the building and that the awning covering the waiting area would be made longer in order to "provide the waiting public with shelter from the sun, rain and terrible congestion." However, the employment service noted that these steps do "not purport to resolve congestion entirely, but rather to minimize it."

In January 2012, after no improvements had been made despite these promises, HaMoked petitioned the HCJ.[44] HaMoked argued, inter alia, that the waiting conditions were intolerable and unreasonable and that they violated the service seeking public's rights to dignity and equality. Another year went by, and in early 2013, the employment service automated sign-in terminals were finally removed from the building. The lines did get shorter, but no benches, drinking fountains or bathrooms were installed to serve the waiting public. The petition was deleted and HaMoked continues to monitor the conditions and any changes in them. **(68323)**

[43] See AAA 5037/08 **Khalil et al. v. Minister of Interior**, hearing transcript, March 13, 2013.
[44] HCJ 176/12 **Al-Batash et al. v. Senior Division Manager, Population Authority, Ministry of Interior et al.** (2013).

The Right to Pray at the Ministry of Interior Office

At some point, a sign was posted in the Ministry of Interior East Jerusalem branch office in Arabic only. It read: "To all visitors, please do not perform the duty of prayer while on the office premises. With apologies." In March 2011, HaMoked contacted the Ministry of Interior demanding the prayer ban be retracted. HaMoked said that the prohibition on prayer in a government office was a violation of the right to freedom of religion and religious worship, a fundamental human right to which individuals who seek the services of the office are entitled. HaMoked added that freedom of religion is a basic tenet of Israel's constitutional system and that it is enshrined in the Declaration of Independence. HaMoked noted that the fact that the notice was posted in Arabic only raised real concern of wrongful discrimination based on religion.

The response of the director of the regional population administration office in East Jerusalem was received two days later. Oddly, the ministerial representative stated that the notice "was written out of consideration for those wishing to pray, to allow them to perform the rite in a dignified manner […]." The director added that the Ministry of Interior did not forbid prayer and that no one had ever been disturbed during prayer. However, "prayer is impossible inside the building, in areas used as passageways for the public, given that usually people pass through there."

When Haaretz newspaper asked the ministry to comment on the issue, the response changed: "The notice is a small sign which was apparently posted in the past, and did not form any official instruction on our part." Several days after HaMoked's communication, the notice was removed from the wall of the Ministry of Interior office. **(Case 31490)**

Social Security Rights in East Jerusalem

Most social rights in Israel are given only to residents of the country, people whose center-of-life is inside the Green Line or the area annexed to Israel, so long as they have permanent or temporary status in Israel. Special legislation confers these rights also on settlers. "Residency" according to the NII, is not the same as "residency" according to the Ministry of Interior. The NII determines residency according to where an individual resides permanently solely for the purpose of granting social rights, including health insurance. A person can be registered as a permanent resident in the population registry, but lose his or her status as a resident with respect to social rights under the National Insurance Law.

HaMoked offers assistance to Palestinian residents of East Jerusalem whose entitlement to social rights has been revoked by the NII, on the claim that they live outside the area annexed to Jerusalem. The NII is required to inform these residents of its intention to disqualify them as residents for the purpose of the National Insurance Law and give them a chance to present their case, but most people who have contacted HaMoked for help found out that they had been disqualified only after their pensions and benefits were not deposited in their bank accounts, or when they needed medical care and discovered that their health insurance had been cancelled. The NII often reverses its decisions after a Labor Court claim is filed, even before the action is concluded. This strengthens the suspicion that the revocation of social benefits and health insurance entitlements – which are disastrous for the persons affected – is done in a perfunctory manner. In other cases, court intervention is required.

In 2011-2012, HaMoked processed 185 cases regarding social rights in East Jerusalem, including 65 new cases opened in that period. As part of its work on these cases, HaMoked handled 143 legal actions, including 71 new ones. The individual cases have resulted in a number of precedential achievements that have a significant impact on thousands of families in East Jerusalem.

Children's Health Insurance

The National Health Insurance Law stipulates that "any resident is entitled to medical services."[45] However, the obstacles the Ministry of Interior places in the path to child registration in East Jerusalem have a particularly harsh impact on children's eligibility for health insurance, given the NII's position that individuals who are not registered in the population registry are not entitled to health insurance. A child who has two resident or citizen parents is given an ID number by the Ministry of Interior immediately after birth, and can be immediately registered in the NII's health insurance database. In the case of children who have only one resident parent, the parents have to prove that their center-of-life was in Israel in the two years before the child's birth. Registering such children in the population registry and obtaining ID numbers for them takes a very long time, from months to years. As a result, registration in the health insurance database is delayed, and even though these children have a parent who is an Israeli resident and is ensured with the national health insurance program, the children are left without health insurance.

Following an HCJ petition filed by human rights organizations, including HaMoked,[46] an expedited protocol was put in place in 2001. According to this protocol, the NII gives children who have only one Israeli resident parent a temporary number within a week from birth (or immediately after birth in cases in which urgent medical care is required). These temporary numbers allow the children to exercise their right to health insurance. Once the children are registered with the Ministry of Interior, the temporary NII numbers are replaced with permanent ID numbers. However, over the years, the NII has eaten away at this HCJ-endorsed arrangement. Although the protocol mentions only "children" without any age restriction, at some point, the NII took the position that it relates only to infants under 12-months-old. The NII stopped issuing temporary numbers to children who are older than 12 months, thereby denying them health insurance, unless an application for their registration had been submitted to the Ministry of Interior. In 2009, the NII issued a new protocol, which made its practices official. The new protocol stated that the NII would revoke the temporary numbers – and the health insurance – of children who reach the age of 18 months (or earlier, depending on the circumstances of their registration).

The failure to follow the conditions agreed upon as part of the HCJ petition has led to many claims against the NII, many filed by HaMoked, concerning children's eligibility for health insurance and the issuance of temporary numbers. In view of the large number of claims, in 2011, the Jerusalem Regional Labor Court decided to hold a general review of the issue of health insurance for children who are not yet registered in the population registry and have one resident parent.[47] HaMoked argued that children are entitled to health insurance pursuant to the National Health Insurance Law which does not subject the right to health services to registration in the population registry. Moreover, the NII's conduct is a blatant and unilateral breach of the HCJ-endorsed arrangement. It is a violation of the right to health services, which is a fundamental right as a component of the right to bodily integrity and to life. It is also a violation of the right of children of Israeli residents to equality. HaMoked added that the violations are particularly grave, given that registration does not depend only on the parents' and children's conduct,

[45] National Health Insurance Law 5754-1994.
[46] HCJ 2100/89 **Physicians for Human Rights - Israel et al. v. Minister of Health et al.** (2001).
[47] NI 10382/10 **Khalaileh et al. v. National Insurance Institute**.

but also on the way the Ministry of Interior processes applications, which is often drawn out. This results in an absurd situation in which children who live in Israel with a parent who is recognized by the NII as entitled to health services, as a resident, are not entitled to health services.

In its response, the NII argued that children over the age of 12 months who were not registered in the population registry were not "residents of Israel" and, therefore, not entitled to health insurance. Despite this, the NII said it would change its policy and extend the validity of the temporary numbers to age two. If the families prove that a child registration application had been submitted to the Ministry of Interior and that processing has been protracted "due to matters that are unrelated to the resident parent," the temporary number would be extended to age 2.5. In light of the change in the protocol, the NII asked that the claims be dismissed. Judgment is still pending at the time of writing.

The extension of the temporary numbers to age two or 2.5 is a welcome change, but it is not enough. HaMoked continues its efforts to ensure interminable health insurance coverage from the moment of birth to every child with at least one Israeli resident parent who is covered by the national health insurance program. Such an arrangement would be consistent with the National Health Insurance Law and would uphold human rights and basic rights. **(Case 63700)**

Work Permits

As stated, the 2002 government resolution to freeze family unification procedures with OPT residents, and the Temporary Order passed by the Knesset in its wake have halted all status upgrades for Palestinian residents of the OPT living in Israel as part of a family unification procedure. Many of them have since been living in their homes with DCO permits, which are military-issued permits that do not confer any civil status in Israel. DCO permit holders have difficulties finding work in order to support their families, as the permit they receive says: "This permit does not constitute a permit to work in Israel." In order to get an Israeli work permit, they must enter into a complicated procedure of requesting an Israeli entry permit, though they live in Israel lawfully, and their potential employers must file an application to employ them. This type of application requires protracted procedures involving the Ministry of Interior and the military. Approvals are given subject to quotas placed on employers and only in a few sectors, and the permits that are issued bind the workers to a specific employer. This procedure was designed for Palestinians who live in the West Bank and the Gaza Strip and return to their homes at the end of the work day in Israel. In this case, it is imposed on spouses of Israeli residents who live in the country lawfully.

This red tape forces DCO-permit holders to work in Jerusalem without a work permit, or, for lack of choice, in the West Bank, far away from their families. Doing so jeopardizes the family unification procedure, as the Ministry of Interior might draw the conclusion that these individuals have moved their center-of-life to the West Bank. HaMoked has contacted the Ministry of Interior and the military many times with respect to this issue, and has not received a pertinent response to the arguments it made on issues of principle. In September 2011, HaMoked petitioned the HCJ, demanding that individuals whose family unification applications had been approved and who live in Israel with DCO permits be able to work and make a living in Israel without any further processes or restrictions.[48] HaMoked argued that the Ministry of Interior policy is arbitrary and unreasonable. It also violates the principle of equality as Palestinians are discriminated against compared to other foreign nationals undergoing family unification. The latter receive visas which also constitute work permits. HaMoked also said that denying Palestinians who live in Israel lawfully for many years the option of working as part of the stay-permit

[48] HCJ 6615/11 **Salhab et al. v. Ministry of Interior et al.** (2013).

they receive, and subjecting them to a process designed to grant work permits to Palestinians who live in the OPT are administrative measures that violate the rights to dignity, a livelihood, equality and freedom of occupation and that they do not serve a legitimate purpose.

In November 2012, in its response to the petition, the state announced that as of January 1, 2013, the stay-permits given to Palestinians whose family unification applications had been approved would read "This permit allows the holder to work in Israel." In addition, individuals who have stay-permits given as part of a family unification procedure would be able to work as paid employees in any sector, without further processes. The new permit will impact the lives of many families of Israeli residents and citizens who married OPT residents and have suffered the economic consequences of the Temporary Order. **(Case 66601)**

Professional Training Courses

Living in Israel with DCO permits greatly limits the options available for professional development. In January 2011, HaMoked contacted the Ministry of Trade and Labor with respect to a Palestinian woman who had been living in East Jerusalem since 1993 with DCO permits given to her as part of a family unification procedure with her spouse, an Israeli resident. The woman had finished with honors a family daycare management program in a Jerusalem college. However, when she went to take the Ministry of Trade and Labor accreditation exam, she was told she would not be able to do so as she did not have an Israeli ID card.

HaMoked argued that it is not reasonable that an individual who has Israeli stay-permits, lives in Jerusalem lawfully for many years and cannot upgrade her status due to the Temporary Order, is unable to get professional training, build a professional future and support herself and her family with dignity, which includes the ability to study and take Ministry of Trade and Labor accreditation exams. HaMoked argued that denying access to government accreditation programs does not serve the alleged security purpose of the Temporary Order and disproportionately harms the individuals that fall within its reach. HaMoked further claimed that limiting people's ability to study and receive vocational training in their chosen profession, fulfill themselves, pursue their talents and provide for their families with dignity limits freedom of occupation, freedom of expression and the right to dignity which is enshrined in Basic Law: Human Dignity and Liberty, a law which applies to all individuals inside Israel.

In August 2011, HaMoked received the response of the Ministry of Trade and Labor: "Individuals living in Israel due to a family unification procedure […] will be able to take professional training courses and professional exams." **(Case 65710)**

Income Support for "Divided Families"

Under the income support law, individuals who are entitled to income support benefits will stop receiving them if they travel abroad twice in the same calendar year. The reason for this is that income support benefits are meant to ensure a minimal standard of living, rather than provide luxuries. In 2011-2012, HaMoked received complaints from Israeli women who rely on income support benefits who had been warned that if they travel to Gaza more than once a year, their entitlement would be at risk. These women are Israeli residents or citizens who are married to Palestinians living in the Gaza Strip ("divided families"). In order to maintain a family life with their spouses, they sometimes visit the Gaza Strip with their children.

In November 2012, HaMoked contacted the NII, stating that the trips made by these women to the Gaza Strip should not be considered as foreign travel. Women from divided families do not take these trips

for pleasure. They are forced to go to the Gaza Strip in order to exercise, in a most restricted manner, their right to family life. These families have no possibility to live together in Israel. HaMoked added that denying income support benefits to these women misses the purpose of the legislation and subjects families who are already in a dire situation to added financial difficulties. About a month later, HaMoked received the NII's response, accepting its arguments. The response stated: "According to a legal opinion […] the Institution does not view trips made to Gaza by women as foreign travel that precludes income support benefits." The NII added that "following your communication, and in light of the outcome of the review, a policy review has been conducted among branch staff members." **(Cases 75122, 75123)**

In March 2013, HaMoked contacted the NII with respect to Israeli residents who travel to Gaza to visit immediate relatives for humanitarian reasons, as part of the strict limitations the military places on entry into Gaza by Israelis. In this case, too, the NII accepted HaMoked's arguments, determining that travel to Gaza for family visits will not serve as grounds for denying NII benefits. **(Case 76842)**

Interpretation in Medical Committees

Palestinian residents of Israel who live in East Jerusalem are entitled to all social benefits provided by the NII, including disability pensions. However, although many East Jerusalem residents are not fluent in Hebrew, the medical review committees held by the NII in order to determine pension eligibility almost always conduct their sessions in Hebrew. The NII does allow applicants to bring along an interpreter, but this solution is ineffective, given that in most cases the interpreter is an untrained individual who is not proficient in both languages, much less in medical terms in both languages. This interpretation, or mediation, often causes misunderstandings and confusion.

In March 2012, HaMoked contacted the NII with a request to provide an accredited translator for the medical review committees in East Jerusalem. The request was made on behalf of the Forum for the Development of Mental Health Services in East Jerusalem, which is composed of many civil society organizations, community institutions and local activists. In its communication, HaMoked said that disability benefits are pensions intended to guarantee a basic dignified existence to those who have lost their earning capacity through disability, leaving them unable to provide for themselves and their families. Holding medical review committees in a language applicants do not understand violates their right to social security, dignity and equality. This violation is made worse by the fact that Arabic is an official language in Israel, and therefore the public should be able to use it in all state institutions.

In its response to HaMoked's letter, the NII agreed that "translation services should be provided to the Arabic speaking public during medical review committees." However, the NII took no action to bring this about. In November 2012, HaMoked, together with Physicians for Human Rights-Israel and the Israel Religious Action Centre, petitioned the HCJ to instruct the NII to assign a professional interpreter to the committees reviewing disability-pension claims made by East Jerusalem residents.[49] HaMoked appended to the petition an expert opinion by Dr. Michal Schuster of Bar-Ilan University, discussing language gaps and their impact on the diagnosis and treatment of members of linguistic minorities; the danger of relying on untrained interpreters and the importance of professional interpretation in medical encounters. A hearing is scheduled for December 2013. **(Case 72335)**

[49] HCJ 8031/12 **HaMoked: Center for the Defence of the Individual et al. v. Director General of the National Insurance Institute et al.**

National Insurance Institute Investigations

In order to determine eligibility for social rights, the NII regularly conducts investigations to ascertain whether or not an applicant actually lives inside Israel. In East Jerusalem, these investigations are a matter of routine, particularly in the case of families in which one spouse is an Israeli resident and the other an OPT resident. Investigation files HaMoked has obtained show that the NII is not selective when it comes to the means used in these investigations, whether open or clandestine. NII investigators enter homes without prior notice, take statements from both the home's occupants and neighbors, demand documents, check and photograph rooms and their contents – all in order to determine whether the family members actually live in the home. NII investigators also visit OPT homes belonging to relatives of the spouse from the OPT, where they ask family members and neighbors questions and check the contents of the home. So, for example, children's toys found in the grandparents' home in the OPT may be cited by the investigators as proof undeniable that the couple and their children live outside Israel. The NII often determines that individuals do not have a center-of-life in Israel based on a single attempt to enter their homes, or on statements given by neighbors, without making any attempt to find supporting evidence or cross check the information. Moreover, in the investigation files it has obtained, HaMoked has often found inconsistencies between the conclusions of the investigation and the statements made by the individuals under investigation in their conversations with the investigators – transcribed by the investigators themselves.

NII investigations Conducted by Private Companies

In May 2011, HaMoked sent an application under the Freedom of Information Act to the NII, asking for information about the investigation of residents. The NII's response indicated that in the East Jerusalem branch of the NII, and only in that branch, investigations are also carried out by private investigators. This mode of operation is problematic on many levels. First, private investigators do not receive the same training as investigators who are public servants, and abide by different norms. The same holds true for oversight and disciplinary action in case of complaints against investigators. Second, private investigators do not provide the NII with all the materials collected during an investigation, only a summary report. The NII's decision as to the residents' social rights is not based on the raw materials of the investigation, but rather on partial, processed information which is often biased. Third, hiring private investigators raises concerns that decisions on social rights would be made out of extraneous economic considerations. For instance, private investigators would strive to produce results considered favorable by their client, the NII, which is the institution that pays the pensions. **(Case 68995)**