

Chapter Five: Registration of Children

1. Registration of Children before the Oslo Accords

Prior to 1987, Israel registered in the population registry children sixteen and under, one of whose parents is a resident of the Occupied Territories.²²⁹ These children were allowed to reside in the Occupied Territories with their resident parent.

In 1987, Israel changed the relevant military order and stipulated that a child whose mother is not a resident of the Occupied Territories would not be registered in the population registry, even if the father is a resident.²³⁰ As a result, thousands of Palestinian children, some of whom were born in the Occupied Territories, were prevented from living there with their fathers. The ramifications of the change were particularly grave because in most of the divided families, the wife was not a resident of the Occupied Territories.²³¹ Children with a resident mother and a non-resident father were not allowed to be registered in the population registry and live in the Occupied Territories.²³²

The change in the military order resulted in siblings having different status, with the elder ones being listed in the population registry and holding the status of permanent resident, and the younger children not being registered or entitled to live with their families in the Occupied Territories.

229. The registration is performed pursuant to the Order Relating to Identity Cards and Population Registry (Judea and Samaria) (No. 297), 5729-1969, sec. 11A.

230. *Ibid.*, sec. 11(A), as amended by Order No. 13208, of 13 September 1987. An identical order was issued in the Gaza Strip.

231. According to a 1993 survey conducted by al-Haq covering 1,643 Palestinian families whose request for family unification had been rejected, seventy-four percent of the requests dealing with couples had been submitted by resident husbands on behalf of their wives. Al-Haq, Paper for World Conference on Human Rights (Vienna, June 1993); in seventy-two percent of the separated nuclear Palestinian families handled by HaMoked, the resident husband requested that his wife be allowed to live with him in the Occupied Territories.

232. Concerning these children, they must be registered in the population registry before they reach the age of five, otherwise they will be considered aliens (see the reference in footnote 230 above).

The only way fathers could register their children was by applying for family unification on their behalf. This was necessary even though the children's father is a resident, and even though some of the children had lived in the Occupied Territories much of their lives. Israel's family unification policy made it unlikely that these requests would be granted.

In cases of divided families seeking HaMoked's assistance, forty-five percent of the children were not registered in the population registry (1,426 children). In 92.1 percent of the cases, the mother was not a resident.

In January 1995, a military order was issued that revoked the amendment of 1987. This order stipulated that every child under eighteen is allowed to be registered in the population registry in the Occupied Territories if one of the child's parents is a resident, and if it is shown that the child's permanent place of residence is in the Occupied Territories.²³³ This order was never applied, Civil Administration officials rejecting outright Palestinian requests to register their children under the new order. Therefore, the harsh policy continued, under which Israel denied the right of residents of the Occupied Territories to live with their children in their home, until November 1995, when the registration power was transferred to the PA.

Palestinian adults born in the Occupied Territories who had lived their entire lives there but had not been registered as a child because of the family's mistake also had to go through the family-unification process. Israel refuses to offer a simple procedure to register these persons, and requires their families to submit a family unification request on their behalf.

The same procedure is also required for children where the Islamic Court, which rules on personal-status matters, appointed guardians who are residents of the Occupied Territories. Israel refuses to allow such guardians to register the child on their identity cards and grant them the status of a permanent resident, even though these guardians are residents and their legal status is equivalent to that of a parent. For the child to be recognized as a resident, the guardian must submit a request for family unification, which will almost certainly be rejected.

233. Order Relating to Identity Cards and Population Registry (Judea and Samaria) (No. 1421), 5755-1995, which replaces sec. 11A of the Order Relating to Identity Cards and Population Registry (Judea and Samaria) (No. 297), 5729-1969.

2. Registration of Children after the Oslo Accords

A. Registration of Children under Age Sixteen

The Interim Agreement empowers the PA to register in the population registry, without Israel's approval, "... all persons who were born abroad or in the Gaza Strip and the West Bank, if under the age of sixteen years and either of their parents is a resident of the Gaza Strip and West Bank."²³⁴

However, since Israel did not transfer to the PA the central computer for registering the population, Israel also continued to control this process. As with other procedures, the PA serves only as a broker between residents wanting to register their children and the Israeli authorities.

During the initial months of the transfer of powers, no children were registered because of the dispute between the parties over fees. Another dispute, which remains unresolved, involves registration of children who are not present in the Occupied Territories. According to the PA, Israel directed that children between five and sixteen who are entitled to be registered in the population registry may be registered only after they enter the Occupied Territories as visitors.²³⁵

Upon transfer of the power over registration of children, PA personnel examined previously filed requests to register children. Officials in the PA Ministry of the Interior office in Ramallah found that Israel had not processed more than twenty percent of requests to register children, even though the parents had provided the requisite documents and paid the fee. Some one thousand children in the Ramallah area were not registered in 1996, even though they were entitled to registration. They consequently had no status, which prevented them from receiving various services. To correct this, the ministry office in Ramallah again obtained the relevant documents from the parents and forwarded them to Israel.²³⁶

The Interim Agreement does not relate to registration of children with guardians. Children with non-resident parents but guardians who are residents continue to be refused registration in the population registry. In such cases, Israel requires the guardian to submit a request for family unification, with negligible chances of approval.

234. Art. 28(12) of Annex III, Appendix I of the Interim Agreement. The definition of a minor under this article is a person under sixteen, a regression in comparison with the definition in the military order referred to in the previous footnote.

235. This information was provided to HaMoked and B'Tselem on 5 February 1998 by a senior official of the PA.

236. This information was provided to B'Tselem on 21 August 1996 by officials of the PA Ministry of the Interior in Ramallah.

B. Registration of Children Aged Sixteen to Eighteen

The Interim Agreement does not relate to the registration of children between sixteen and eighteen. The military order, which provides for the registration of children under eighteen one of whose parents is registered in the population registry, continues to apply to them.²³⁷ Despite this, Israeli DCLs ignore the order and refuse to deal with requests to register these children other than through a request for family unification. The PA does not pressure Israel to comply with the order.

HaMoked tried to solve the problem faced by these children by pursuing the case of 'Ilan Shaqir. 'Ilan was born in Russia in 1979. His parents, Dr. 'Ilan 'Ali Shaqir, a resident of Abu Dis, Bethlehem District, and Nesterenko Petrovna, a Russian citizen, divorced shortly after he was born, and he remained in Russia with his mother. In 1991, his mother remarried. The child, who did not get along with his stepfather, came to live, pursuant to a visitor's permit, with his father in Abu Dis. The Islamic Court subsequently appointed the father guardian of his son.

Because of the prohibition on registering in the population registry Palestinian children whose mother is not a resident of the Occupied Territories, Dr. Shaqir submitted, in July 1994, a request for family unification on behalf of his son. The request remained unprocessed for a long time, during which the youth turned sixteen.

Starting in January 1996, the Civil Administration contended that handling of the request had been frozen, just like other applications for family unification of children sixteen and above, and that the process would be handled by the PA when the procedures for family unification would be agreed upon by the two sides.²³⁸ However, the request had been submitted to Israel and the fee paid well before the transfer of powers, while the child was still a minor, but the request had not been processed. The Israeli DCL rejected the request to register the youth, which the PA forwarded to Israel in April 1996.

237. Art. XVIII (4)(a) of the Interim Agreement retains the validity of military orders issued by the military government if they are not inconsistent with provisions of the agreements; also, sec. 7 of the IDF Proclamation Relating to Implementation of the Interim Agreement (Proclamation No. 7), of 23 November 1995.

238. Letter of 5 September 1996 from Lt. Col. Alice Shazar, head of the international organizations division of the Civil Administration in the West Bank, to HaMoked.

While waiting all these years, 'Ilan continued to live with his father. He had no legal status in the Occupied Territories, no rights, and was subject to arrest and deportation.

In April 1997, HaMoked petitioned, in *Shaqir*, the High Court of Justice on behalf of 'Ilan and his father, requesting that the Court order the Israeli DCL to approve the registration, pursuant to the relevant military order, of Palestinians aged sixteen to eighteen. HaMoked subsequently added other petitioners, who were also Palestinians aged sixteen to eighteen whom Israel had refused to register.

In its response, the State argued that, following the transfer of power over the population registry to the PA, Israel was allowed to approve a request for residency in the Occupied Territories only if the request was submitted to it by the PA. The State further argued that it no longer had the authority to implement the military order of January 1995. The State indicated that Shaqir's request for residency, forwarded to Israel by the PA, was discussed and approved. As for the other petitioners, Israel stated that only after the PA forwards requests dealing with them would the circumstances of each case be reviewed and decided.

In November 1997, the High Court of Justice accepted the State's position in its entirety and denied the petition, declining to rule on the fundamental question dealing with the registration of children aged sixteen to eighteen.

3. Consequences of the Family-Unification and Registration-of-Children Policies

Children in split families are compelled to live with one of their parents, and siblings often find themselves living apart from each other. Children who are not registered in the population registry are not allowed to live in the Occupied Territories with both their parents. Even if one of their parents lives in the Occupied Territories as a resident, they are permitted to see the parent only during brief visits. Children from the same family who are registered in the population registry are forced to suffer the prolonged absence of the non-resident parent and separation from their unregistered siblings.

Children in families reuniting in the Occupied Territories every few months on the basis of visitor's permits suffer a cyclical severance from one of their parents and their siblings. The unregistered children are compelled to accustom themselves to moving from country to country and to repeated separations from their immediate family. As a result,

these children have no permanent center of life to give them a sense of security and stability. Furthermore, they have no continuity in their education and social life.

According to psychological research, children, primarily very young children, suffer from changes in their external environment and from severed relations with their immediate family. Israel's policy on family unification and registration of children leads to prolonged periods of separation between children and their parents and frequent movement from place to place. Such circumstances severely affect these children and can cause irreversible damage to their development.

Ninety-two percent of unregistered children of separated families being assisted by HaMoked were twelve years old or younger when the family first contacted HaMoked. Fifty-eight percent of the registered children were in that age category. Of the unregistered children, at the time the family contacted HaMoked for assistance, sixty-two percent were five years old and under; thirty-two percent were two and under.

Psychological Consequences of Separation of Children from their Parents

Research conducted by UNESCO after World War II indicated that severance of a child from his or her parents and surroundings was much greater than the damage caused by the war itself:

When we study the nature of the psychological suffering of the child who is a victim of war, we discover that it is not the fact of war itself... which have affected him emotionally.... It is the repercussion of events on the family affective ties and the separation with his customary framework of life which affect the child, and more than anything the abrupt separation from his mother.²³⁹

239. T. Brosse, *War-Handicapped Children* (Paris, 1950), quoted in the commentary to the Protocol, p. 909.

According to psychological studies, changes and upheavals in a child's external surroundings are liable to damage or stop his or her physical, emotional, intellectual, social, and ethical development.²⁴⁰ A long period of separation between child and parent is liable to damage the child irreversibly. The younger the child, the shorter the time after which the parent's absence will be experienced as a permanent loss, which is accompanied by profound insecurity. Infants and small children separated from their parents for more than a few days are liable to suffer from diminished quality of contact – a shallower contact providing less security. For infants up to eighteen months, "such moves from the familiar to the unfamiliar cause discomfort, distress, and delays in the infant's orientation and adaptation within his surroundings."²⁴¹ Any change in routine causes the child to suffer a loss of appetite, digestive problems, difficulty in sleeping, and weeping.

Achievements resulting from an intimate relationship with a permanent parental figure are easily lost by children up to age five where the relationship with the parent is lost. For example, after separation from their mother, young children lost control over their bodily functions and their ability to verbally express themselves. Most children under five suffer from a parent's absence lasting more than two months.

For school-age children, severance of relations with a parent primarily affects achievements based on identification with social demands, prohibitions, and ideas the parent instills in the child. If a child feels abandoned by a parent, such identification often does not occur.

Numerous changes in surroundings at this age remove many children from the domain of educational influences and lead directly to disorderly, anti-social, and even criminal behavior.

240. These statements and those presented below are taken from Anna Freud, Joseph Goldstein, Albert Solnit, *Beyond the Best Interests of the Child* (New York: The Free Press, 1973) 31-43. See, also, N. Boothby, E. Ressler, D. Steinback, *Unaccompanied Children: Care and Protection in Wars, Natural Disasters and Refugee Movement* (New York: Oxford University Press, 1998) 174.

241. Freud, Goldstein, and Solnit, *Beyond the Best Interests of the Child*, p. 32.