

3. Residency Problems

a. Problems of Residency and Family Reunification in the West Bank and Gaza Strip

The issue of family reunification of Palestinian families in the West Bank and Gaza Strip with their family members who are not residents has been dealt with by HaMoked for several years. The problem of residency is a painful one for the population of the territories and numerous families find themselves divided in their legal status. The causes of this are many: wars and refugee movements, migration for economic reasons (usually to the Gulf States), the military law, which makes receiving residency difficult and losing it easy and traditional marriage patterns which encourage marriage within the extended family even when the family members live in different countries. For the couples and their children, the meaning of this division is a life without stability: long periods of separation, trips of unknown lengths of time or an illegal stay in the territories with the constant threat of deportation.

In the framework of HaMoked's efforts on this issue, and in the wake of tens of High Court petitions submitted in 1991-1993, several arrangements were made with the IDF which were intended to solve the problems of these families. The arrangements offered the possibility of permitting the spouses of the residents of the territories and their minor children to remain uninterrupted in the territories with no threat of deportation, and over time obtain the status of permanent residents. Even after the conclusion of these agreements, HaMoked continued to aid in the numerous cases in which these agreements were violated by Israel and those in which the families fell outside of the agreed criteria.

The Oslo Accords transferred the subjects of residency in the territories and visitor arrangements from Israel to the Palestinian Authority (PA) (interim agreement, attachment 3, article 28(1)). Even according to this agreement the transfer of authorities is not complete, and numerous actions of the PA in this field are conditioned upon one type or another of Israeli agreement. The transfer of authorities in the field of population registry (which includes this area) occurred in mid-November 1995.

The meaning of the transfer of authorities in many cases was the freezing of the treatment of various requests, as numerous matters were not finalized between Israel and the PA. Thus, for example, decisions are given by Israel concerning old requests for family reunification which were submitted by couples belonging to the "protected population" (those falling within the aforementioned agreements), but the remaining requests will not even be discussed until regulations and criteria for dealing with them will be set. The setting of regulations must be done in the bilateral Israeli and Palestinian committee, which has not met for quite some time and has therefore not discussed this subject.

The division of authorities and establishment of the Palestinian offices resulted in a worsening of bureaucracy for the residents: The new officials had not yet gained experience and expertise, the regulations and division of authorities are not well defined and numerous requests are passed back and forth between the Palestinian and Israeli

authorities. An example of the absurdity of this situation is the "border examination" regulation, which is part of the examination of eligibility for family reunification. The goal of this regulation is to guarantee the family is interested in living in the West Bank and that the family members did not reside abroad for a test period of three months following the principled approval of the request. Today the resident requesting family reunification is required to submit a request for border examinations at the Palestinian offices in his place of residence, and the request is then transferred by the Palestinian Coordination Committee (PCC) to the Israeli CC. From there it is transferred to the Israeli headquarters in the city of Beit El, back to the local Israeli CC and from there the Palestinian CC passes the answer on to the resident, who only now can submit a request to obtain an identity card, which will be dealt with in a similar way.

The changes resulting in the transfer of authorities required an alternation of actions by HaMoked. In those areas in which treatment was not frozen (especially the permit for family reunification and the issuance of identity cards for family members of the protected population), HaMoked renewed its channels of communication with the Israeli authority, and acts to receive answers and facilitate the entire process. In other areas, HaMoked's activities are concentrated in instructing residents and officials of the PA. HaMoked's staff, through intensive contacts with the Palestinian and Israeli authorities and from information coming in from "below," learn the new procedures and the manner in which they are implemented. HaMoked guides the residents through the confusing labyrinth of division of authorities and updates them as to their new rights in the wake of the agreements. Intensive contacts (informal) with the relevant offices of the PA allow for the emphasis of general problems which need to be addressed, and to advance the treatment of specific pending problems. HaMoked also continues its activities in the coalition of human rights organizations in the matter of family reunification.

The Treatment of Requests for Family Reunification

In 1993 the State announced to the High Court, in response to pending petitions filed by HaMoked, that Israel is willing to approve policy in the matter of family reunification in the territories. The policy dealt with three types of population:

a. High Court 1 Population: Residents of the territories who married non-residents before 31 August 1992 and prior to this date the couple has visited or resided in the territories for a period.

b. High Court 2 Population: Every person married after 31 August 1992

In regard to the first population, they are not limited by quotas and are eligible to reside here on a temporary permit and even receive the status of permanent residents (family reunification procedure).

In regard to the second population, the State of Israel permits a quota of 2,000 permits for family reunification per year (for all of the territories) while those of the second population are eligible, by acceptance of their requests, to remain here on temporary permits.

In regard to the remaining population, these persons are not eligible to remain here, and their cases will be decided upon in the framework of the yearly quotas.

Since the announcement of the positive change in Israeli policy concerning family reunification, human rights organizations claim that the yearly quotas are limited and not enough to solve the difficulties of the family members. It should also be noted that one who is not included in the first or second populations and presents a request for family reunification for a spouse residing abroad, the spouse is not eligible to visit the territories until the final answer for the request is given.

If the resident requesting family reunification for his or her spouse joins the spouse on the "outside" in order not to wait apart for years until the response to the request, the request will not be approved as the resident is not here. In addition, due to the difficulties in the connections between the Palestinian Authority and Israel, the rights of the first population are the only ones honored, and HaMoked acts so that these persons finally receive permanent status in the territories.

Registration of Children of Those Born in the Territories and Never Registered in the Population Registry

There exists a group of people who were born in the territories, never left this area but whom were never registered in the population registry. The vast majority of these are women.

For example, N.M. was born in 1961 to parents, both of whom were residents of the West Bank. For unknown reasons, her parents did not register her in the population registry upon her birth.

The treatment of her request to receive the status of a resident began in 1991. The Civil Administration announced that her husband must request family reunification for her. Although it recommended this course of action, the Civil Administration knew quite well that she was born and lived in the West Bank her entire life. N.M. was instructed by HaMoked to ask for a late request to register with the population registry. This request must now be placed, following the transfer of authorities, with the Palestinian Coordination Committee (PCC). The PCC informed her that regulations have not been established to treat persons like her, and there were also no procedures for transferring requests such as this to the Israeli Coordination Committee (ICC).

Registration of Children Aged 16-18 in the Territories

In Israel, an eighteen year old is considered an adult. In the territories it was determined that a sixteen year old is an adult. In an order issued by the IDF on 17 January 1995, a new and progressive policy was determined which equalized the age of children in Israel and the territories and permitted the registration of children in the territories.

This permit has not been cancelled or altered, and in the paper from 28 September 1995 on the implementation of the Interim Agreement between Israel and the PA, it was even determined that "the laws and security regulations existing...on the date of the entrance of this paper into force, will remain valid as long as they have not been cancelled..."

The Interim Agreement also determines that the PA has the authority to register children of residents of the territories in the population registry if they have yet to reach the age of 16. However, when a resident of the territories requests to register his 16-18 year old child, he is refused.

The actual position of Israel in this matter is that a request for family reunification must be made for children of this age. Not only is Israel violating the law with this approach, but it has already been explained how limited this entire process is and that apart from those falling within the High Court 1 population, it has been frozen.

The aforementioned details describe only part of the extreme difficulties characterizing the subject of family reunification. HaMoked continues to treat the various aspects of this issue.

During 1996, HaMoked dealt with 277 different cases, of them 25 requests for assistances which were first received in 1996. Of these 277 cases, 17 of them dealt with families living in the Gaza Strip. During 1996, HaMoked succeeded in solving the problems of 125 of these families. In seven instances, Israel refused to grant the requests for family reunification.

B. Problems of Residency and Family Reunification for Families in Jerusalem - the Quiet Deportation

The issue of residency in Jerusalem is distinguished from that of the West Bank and the Gaza Strip. Already in 1967, Israeli law was extended to great sections of the metropolitan of Jerusalem which had previously been under Jordanian rule. One who was present during the census that was conducted in Jerusalem in the new areas under Israeli law, received Israeli identity cards and the status of permanent residents (but not citizens) in Israel. Residents of Jerusalem enjoy a number of advantages compared to the other residents of the territories: they are eligible to live and work in the city (and in Israel), even when a closure prevents residents of the West Bank and Gaza from entering Jerusalem and Israel; they are also eligible for social security and health insurance.

During the previous year, we were witness to the quiet deportation of Jerusalem residents from their city. Since 1967, the Israeli authorities have implemented policies intended to alter the "demographic balance" in Jerusalem by decreasing the number of Palestinian residents of the city. Among other actions, the building of new structures in East Jerusalem was prevented, not enough classrooms were built and there was a refusal to permit requests for family reunification for women from East Jerusalem for their spouses from the West Bank, Gaza, Jordan or other countries. In addition, whoever travelled abroad and did not renew his or her travel documents on time, lost the right to return to the city. Currently, the tool for lessening the number of Palestinian residents in East Jerusalem is the criteria of "center of life."