



Jerusalem Residency

“Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family.”

Universal Declaration of Human Rights, Article 16 (1)

In 2003, access to the Interior Ministry's East Jerusalem bureau became even more difficult than before, increasing the uncertainty with which Palestinian residents of East Jerusalem had to cope. Several reasons combined to create this situation. In August 2003, the “Law of Nationality and Entry into Israel (Temporary Order) 2003” was passed. This law, reflecting a cabinet resolution from May 2002, suspended all processes of family unification between Israeli residents and citizens and their Palestinian spouses from the Territories, with no exceptions.

This law further undermines the rights of the Palestinian residents of East Jerusalem. Because in 2003 the Ministry's bureau in East Jerusalem was closed due to strikes, work sanctions and holiday periods for

about six months, residents could not inquire as to the practical consequences of this law for outstanding family unification applications. Naturally, the extended strike took a toll on the entire population, which even before the strike had to wait for hours in line outside the bureau in order to get service. Applications to renew laissez-passer papers, replace ID cards, register a new address or enter children in the population registry – trivial, everyday procedures in any other country – are extremely arduous for residents of East Jerusalem. These people are required to get service only at the bureau in East Jerusalem, which deliberately makes the process as difficult and time-consuming as possible.

At the same time, Palestinian residents need the services of the Interior Ministry much

more than Israeli residents and citizens, since unlike Israelis, they are often required to show their papers to police patrols and soldiers at roadblocks that are deployed throughout East Jerusalem. Without papers, they can be humiliated and delayed for hours. Their only other choice is to stay in voluntary house arrest.

The construction of the Separation Wall is

yet another threat to the lives of Palestinian residents of Jerusalem whose applications to the Ministry regarding their legal status are still pending. In addition, once the Separation Wall is completed, this will be yet another hurdle separating between residents and their spouses on the one side of the wall and the services provided in Jerusalem on the other.

The Law of Nationality and Entry into Israel (Temporary Order) 2003

In August 2003, the Law of Nationality and Entry into Israel (Temporary Order) 2003 came into effect, terminating – without any exception or room for discretion – all family unification processes between Palestinians and their spouses from the Territories. Before the law, Israeli residents and citizens could ask the State to grant members of their immediate family legal status in Israel. Ever since the cabinet resolution of May 2002, Palestinian residents of East Jerusalem can no longer apply for such legal status for spouses from the Territories. Moreover, the Interior Ministry has implemented an exceptionally broad interpretation of the term “family unification” and now holds that even the registration of children who were born in the Territories to Palestinian residents is prohibited. The law of 2003 affirmed this interpretation, with a single exception: children under the age of 12 who were born in the OT can be entered into the Israeli population registry as part of the family unification process. Children who are even a few days older cannot gain legal status in Israel or domicile in it, are

not entitled to public education or medical services in Israel and are liable to be deported to the Territories, far from their families in Israel.



M.A. is a native of Jerusalem and an Israeli resident who in 1988 married a resident of Ramallah. Until 1997 the couple alternated between the husband's parents' home in Qalandiya and M.A.'s parents' home in Abu Tur (Surri) in Jerusalem. In 1997 they moved to M.A.'s parents' house and in 2000 they rented an apartment in the Jerusalem neighborhood of Kafr'Aqab and based their lives there. In the course of the years, M.A. and her husband had seven children: the four elders, age seven to 14, were born in Al Bireh, and the three young ones, age six months to three years, were born in Jerusalem. In order that her entire family can live in Israel lawfully, M.A. applied in 2000 to have the children entered in the population registry and for family unification with her husband. In February 2001 M.A.'s

Israel. A year later, in compliance with the graduated procedure, A.D. sent the Ministry additional documents confirming that Jerusalem was the couple's principal place of abode. Five months later the application was approved, and another month after that A.D. was referred again to the DCO to get another permit to stay in Israel. In December 2001 A.D. applied to the Ministry to upgrade his status to temporary residency (A/5), as provided by the graduated procedure. In February 2002 the couple reported to the Ministry's bureau in East Jerusalem with documents certifying that Jerusalem was their principal place of abode and that they had paid all the relevant application fees. However, in March the Ministry went on strike and in May the cabinet adopted the resolution freezing the processing of all family unification applications, including all applications for status upgrades.

HaMoked contacted the Ministry's Bureau in August, September and December 2002, asking for a response to A.D.'s upgrade application. After no response was provided, in February 2003 HaMoked petitioned the administrative court. The Ministry then explained that A.D.'s status could not be upgraded due to the cabinet resolution, and that A.D. would

therefore continue to receive referrals to the DCO, where he can renew his permit to stay in Israel. HaMoked rejected this offer, claiming that the Ministry's implementation of the cabinet resolution was retroactive and therefore unlawful. In its petition, HaMoked argued that the Ministry cannot reject applications that were made in time only because Ministry staff took too long to review them and in the meantime procedures had been changed.

The court denied HaMoked's petition and made the petitioners pay NIS 7,500 in court costs. The decision was based on the Law of Nationality and Entry into Israel (Temporary Order), which became effective in August 2003 – six months after the petition was filed – and provides that the legal status of persons in the graduated procedure cannot be upgraded as part of the family unification process. In other words, the court interpreted the law as having retroactive effect. HaMoked appealed the decision, arguing that neither the Ministry nor the court is entitled to give the law retroactive force and that the decision of the administrative court was therefore misguided. The appeal is yet to be heard by the Supreme Court. **(Case 13559)**


The Interior Ministry's Bureau in East Jerusalem

Some 240,000 Palestinians, who became Israeli residents after the annexation of East Jerusalem to Israel, live in the city and require the services of the Interior Ministry's Population Registry bureau in East Jerusalem. Because of the special status

of these residents, they need these services quite frequently. While other Israelis can get services – such as ID renewal, registration of children in the population registry, changing a registered address or getting travel documents – at any bureau, regardless of

their registered address, East Jerusalem residents can only get them at the local East Jerusalem office.

The service standard and physical conditions at the East Jerusalem bureau are deplorable. Although procedures and office hours change frequently, the bureau systematically refrains from publicizing any such information. There is no notice board at the bureau and no active information desk. Lines outside the bureau are excruciatingly long, and people must wait for months to get an appointment. This has made bribery and trade in appointments a de facto norm. In August 2003, the supervisor of the bureau's security unit was arrested under suspicion that he had received sexual favors from women for expediting the process.⁷

Clients are supposed to fill out various forms at the bureau – but often there are no blank forms available there. Six months after the State pledged to do so, following  HaMoked's petition to the High Court from 2001,⁸ application forms for an exemption from fees could still not be found at the bureau. It took another petition to make these forms available at the bureau – but even then, only in Hebrew.

The Ministry is so slow in processing applications, that sometimes the applications are no longer relevant. Applicants cannot just walk in and be served; they must schedule appointments three or four months in advance. Following a petition about the impossible physical conditions at the bureau, the HCJ instructed that staff be increased to 42, office hours extended and that the office be physically relocated within 19 months.⁹

Applicants are required to submit numerous documents. Naturally, the information provided in these documents

must be up to date. However, due to the drawn-out processing of applications, which takes months and even years, applicants are required to resend the documents time and time again. Bureau clerks also require “additional documents” as they see fit. For example, they refused to register a woman's children in her ID if she did not produce an old divorce certificate – from the same husband she had since remarried, although certified copies of this certificate had been submitted on several occasions. Applicants are instructed to have all mail-delivered documents certified by an Arabic-speaking attorney and attach an affidavit signed by a lawyer, confirming all the details for which no documentation is provided. These requirements make the service – which is supposed to be free of charge – an expensive luxury.

Although the Ministry's decision-making process pertains to basic human rights and is carried out by a public body, this process is not transparent and decisions are not always explained. In some cases the bureau does not even bother to respond to applications at all, and in others it makes do with laconic answers such as “center of life has not been established” or “the authenticity of the marriage has not been established.” Evidently, the secrecy shrouding these decisions gives clerks the power to wield arbitrary authority in making fateful decisions.

Since the beginning of 2003, HaMoked was pursuing different avenues in order to combat the standard of service and physical conditions at the bureau. HaMoked's representatives participated in discussions that the Knesset's Interior and Environment Committee dedicated to this subject. Following these meetings, and at the

request of the Committee Chair, HaMoked and ACRI prepared a detailed report about the prevailing conditions, including recommended action items. The report was submitted to the Committee and presented to the Minister of Interior. Human rights organizations and private lawyers who deal with the issue of residency status meet several times a year to get updates about the situation at the bureau, consult and decide on modes of operation.

The issues uncovered at the bureau do not seem to be the result of coincidence or oversight. Rather, they reflect a pattern in the way that the authorities treat Palestinian

residents. The Interior Ministry systematically violates the rights of Palestinian residents of East Jerusalem when it delays them in long lines, draws out the processing of applications, mistreats clients at the office and gives unsupervised power to office clerks. Abuse of this kind is a daily routine at one of the most important arms of the Executive.

⁷ **Haaretz**, December 14, 2003, item by Jonathan Lis.

⁸ High Court Petition 6029/01, **Abu Sharf v. Population Registry Director**.

⁹ High Court Petition 2783/03, **Rufa Rafoul Jabra v. Minister of the Interior et al. (Takdin Elyion 2003 (4), 385)**.