

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

application for family unification was denied and in May the same year the Ministry of the Interior rejected the appeal too, claiming that Jerusalem was not the couple's center of life. In August 2001 the Ministry of the Interior also turned down the application to register the children arguing that "it has not been established that the couple's center of life" was in Jerusalem. In July 2002 HaMoked made another application to have M.A.'s children registered, attaching numerous documents proving that the family does indeed live in Jerusalem. In September, the Population Registry's response was received: the two younger girls can be registered, "but registration of the four children who were born in Al Bireh and are registered in the Territories can only be accomplished through an application for family unification; however, at this time, following the cabinet resolution dated May 12, 2002, no applications of this kind are being processed."

Despite repeated requests, HaMoked never received a copy of the new procedure according to which the registration of minors can only be accomplished through family unification. In December 2002 HaMoked petitioned the administrative court to enter M.A.'s children in the Population Registry and void the interpretation of the cabinet resolution which provides that registration of children can only be carried out as part of the family unification process and that all such registration procedures must therefore be halted. HaMoked also demanded that regulations or laws be passed, clarifying the status of children born to Israeli residents abroad and in the Territories.

The administrative court indeed issued an interim injunction barring the deportation of the children until a final decision, but despite HaMoked's protest also ruled that the final decision would only be handed down after the High Court of Justice decides the petitions challenging the cabinet resolution.

In September 2003 the court decided to shelve the petition, without any explanation. HaMoked withdrew its petition and filed a new, updated petition, which also addressed the implications of the new law regarding the status of children. At first, the HCJ consolidated HaMoked's petition with those filed by human rights organizations Adalah and the Association for Civil Rights in Israel (ACRI), which called for the new law to be abrogated. Later on, HaMoked's petition was separated from the two others and a hearing was set for July 2004.

As of the time that this report was compiled, M.A.'s three older children (age 12, 13 and 14) were in virtual detention, unable to leave their neighborhood because soldiers at the roadblock do not allow children who are not registered in their parents' IDs to pass. **(Case 16670)**

The Interior Ministry also implemented the law retroactively. Before the law was passed, the cabinet resolution completely halted family unification processes and discontinued the progress up the hierarchy of residency status. The resolution also applied retroactively to all outstanding applications, in complete disregard of the deliberate foot-dragging practiced by the Ministry's East Jerusalem bureau, due to which applications take years to process. On average, the processing until approval

of applications for family unification took five years. Thus, many applications that were made years prior to the cabinet resolution were also shelved. The law slightly improved the situation, since it provided that applications submitted prior to the cabinet resolution would be nevertheless processed. However, the Interior Ministry does not resume the processing of these applications of its own volition; it only does so if the applicant has made a new request since August 2003. The Ministry did not release any new instructions regarding the new condition for resuming the processing of applications, so that applicants are not even aware of this situation. Many are therefore barred from living lawfully in Israel with their spouses simply because they are uninformed. It was HaMoked that published notices in the Palestinian press about the implications of the law and the new policy. While the law does not apply retroactively to applications made before the cabinet resolution, it does apply retroactively to the residency status procedure. This hierarchical procedure was implemented in the end of 1996, when a decision was made that a graduated process of five years and three months would take place between the approval of an application and the granting of full residency status. In the course of this interval, the spouse from the Territories may stay in Jerusalem thanks to temporary permits, which are reexamined by the Interior Ministry every year. In the first 27 months (two years and three months) of the graduated process, the spouse is to receive the permits from the District Coordination Office in the Territories (DCO permits); in the last three years, the Interior Ministry is to grant the spouse the status of temporary residency (A/5), which must be renewed

annually. Applications to extend permits to stay in Israel or to upgrade the spouse's status must be submitted on set dates. Decisions about such applications are to be delivered by the Ministry within three months of application. Applicants must accordingly file their applications at the bureau three months before their current permits expire, in order not to be stuck without legal permits – even though the family unification has been approved and the graduated process has begun. In reality, though, in most cases it takes more than a year for an upgrading application to be approved. When the cabinet decided to freeze family unification processes, it also decided to halt upgrading procedures – as reflected in the new law. Consequently, some Palestinians have no choice but to stay in Israel for extended periods with only temporary permits, no welfare and social security rights and no foreseeable prospect of gaining such security, which Israel is committed to grant under international conventions that it has signed.



I.D. is an Israeli resident who was born and raised in Jerusalem. In 1998 she married A.D., a resident of Hebron. The couple moved to Shu'fat, within the city limits of Jerusalem. Immediately after their marriage, I.D. applied to the Interior Ministry for family unification with her husband, so that he could get legal status and live with his family in Israel. Two years later, in December 1999, the Ministry approved the application and implemented the graduated residency procedure on the husband. In January 2000, A.D. was referred to the DCO in Hebron, where he received a permit to stay in

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