CHILDHOOD INTERRUPTED

Child Registration in Jerusalem

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The Society of St. Yves - Catholic Center for Human Right is working under the patronage of the Latin Patriarchate in Jerusalem. It was founded in 1991 by the Latin Patriarch of Jerusalem and the Holy Land, His Beatitude Emeritus Michel Sabbah, to help "the poor and the oppressed" according to the social doctrine of the Catholic Church, and was named after Saint Yves, patron Saint of lawyers and known as "Advocate of the poor".

St. Yves provides gratis legal assistance, counsel, awareness raising events and advocacy to the fragmented members of the community. Today St. Yves manages some nine hundred cases per year and assists around 2000 people.

St. Yves wishes to especially thank Adv. Leora Bechor: lead researcher and author of this report, Adv. Dalia Qumsieh, Adv. Haytham Al-Khatib, Adv. Raghad Helou, Adv. Essam Odeh, Adv. Ruwaida Irsheid and Adv. Yotam Ben-Hillel and Passia for their generous contributions.

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INTRODUCTION

"When the lives and the rights of children are at stake, there must be no silent witness"

Carol Bellamy

The right to raise one's children in one's own city is an inalienable right that has been for long denied to East Jerusalem residents. In 2003, the Israeli Parliament enacted one of its most racist and destructive laws – the Citizenship and Entry into Israel Law (Temporary Order). The "Temporary Order" is now in its 11th year and has wreaked havoc on thousands of East Jerusalem residents and their families. Through the instrument of the Temporary Order and a series of additional laws, regulations and written and unwritten procedures, Israel's Ministry of Interior (hereinafter: the Ministry) has ensured that East Jerusalem resident parents do not pass on residency to their future generations. Instead of sharing their city with their offspring, they bequeath to their children a life of uncertainty, fear, poverty and statelessness.

The Society of St. Yves – Catholic Center for Human Rights has been assisting families attempting to register their children in Jerusalem for the past two decades. St. Yves has represented hundreds of Palestinian families who struggle with the arbitrary procedures of child registration and has succeeded in obtaining status for many of their children.

This report will demonstrate the multiple ways in which the Ministry tears the families of East Jerusalem residents apart. We will show how the Ministry invades the intimate space of the family home, robbing parents of any autonomy in making decisions concerning where and how to raise their children. An East Jerusalem resident who wants to live with her husband and children in Jerusalem must request permission from the occupying power, permission that is denied regularly for a host of reasons. Rather than protect the integrity of the family unit, the Ministry forces families to separate and subjects children to trauma, arrest, deportation and living as ghosts in their own city.

As this report sets out, the Ministry has taken generous liberties with an already rigid law, inventing creative ways to deny residency to as many children as possible. With every passing year, the Ministry gets closer to achieving its ultimate goal: ridding the city of its Palestinian population. This report aims to demonstrate how the rigid process of child registration is one of the tools used by the Ministry to achieve this goal.

The purpose of this report is to highlight the legal framework that governs the child registration regime and the set of policies and practices that accompany it. Moreover, the report aims to stress the tremendous barriers that Palestinian families face in their efforts to register their children in Jerusalem.

The report's objective is to reinvigorate the debate on the subject – to raise awareness and propel action against further entrenchment of the child registration regime.

This report attempts to answer the following questions: How can child registration in Jerusalem be linked to the policy of "silent transfer" of Palestinian Jerusalemites? What are the legal implications of applying the child registration regime in Jerusalem and how does it impact Palestinian families living in the holy city? How does the child registration system violate international law?

To answer these questions, the report will first study the political and historical context of child registration, then examine the legal framework that governs it in addition to the insurmountable barriers that accompany the process of child registration. Finally, the report will discuss the stance of international law on the issue of child registration in Jerusalem.

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1. Background

One cannot comprehend the issue of child registration in Jerusalem without understanding the larger historical and political framework that governs Palestinian Jerusalemites.

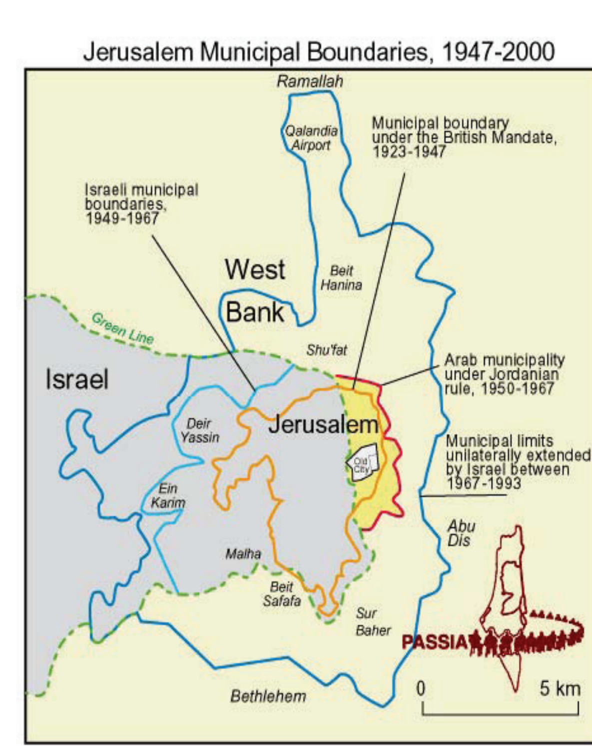
In the aftermath of the 1967 War, East Jerusalem, the West Bank and the Gaza Strip fell under Israeli military occupation. Israel unilaterally annexed about 70,500 dunams (approximately 17,400 acres) of the Jordanian Jerusalem and West Bank land to the municipal boundaries of West Jerusalem. Israel tripled the total area of Jerusalem, making the city Israel's largest in both territory and population. This annexed territory is known as "East Jerusalem".

Israel denied the existence of the military occupation in Jerusalem. It applied its own law, jurisdiction and administration to East Jerusalem. In addition, in 1980, the Knesset (the Israeli parliament) enacted the *Basic Law: Jerusalem, Capital of Israel*. This law stipulates, in Article 1, that "Jerusalem, complete and united, is the capital of Israel," clearly expressing Israel's political position regarding Jerusalem, where Israel claims the right to apply its sovereignty and law over the whole city, including East Jerusalem. According to Israeli domestic law, therefore, not only does Israeli law apply to the territory of East Jerusalem, Israel also considers East Jerusalem an integral part of its territory.

Israel's annexation of East Jerusalem and its application of Israeli law to the area are both unlawful acts under international law. The international community denies the legitimacy of annexation. International institutions, including the UN Security Council and General Assembly, have repeatedly stressed that Israel's annexation of East Jerusalem is in contravention of the rules of international law and that East Jerusalem remains an occupied territory and is not part of Israel. Israel, as the occupying power, has certain obligations to protected persons, which are clearly set out under international law. Consequently, the Palestinians of East Jerusalem are considered "protected persons" under international humanitarian law.[1]

1.1 "Demographic Balance"

Since the illegal annexation of East Jerusalem to Israel in 1967, Israel has made every effort to maintain what has been termed a "demographic balance" in Jerusalem in order to maintain a Jewish majority and realize Jerusalem as the "The Eternal Capital of the Jewish People." Rather than create a "balance" between different Jerusalem populations, the state's unapologetic goal was and remains to maintain a Jewish majority and drive out the Palestinian population at all costs.



Israel has relentlessly pursued acquiring maximum land with minimum people and created a reality on the ground that would make its demographic policy a fait accompli. Residents of East Jerusalem struggle for their right to continue living in the place where they were born and where their families have lived for generations, and despite this, many of them are forced to leave the city due to Israel's ongoing policy of deliberate and systematic discrimination that includes, among other things, revocation of status, strict limitations on building, failure to provide adequate infrastructure,

1 See, e.g., S.C. Res. 252, U.N. SCOR, 23d Sess., U.N. Doc. S/8590/Rev.2 (1968); S.C. Res. 478, U.N. SCOR, 35th Sess., U.N. Doc. S, 14113 (1980).

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and shameful budget allocations for education. In all these areas, Israel marks Palestinian residents of East Jerusalem as unwanted in their own city. Behind the establishment's neglect of East Jerusalem is an aspiration that its residents will seek their future outside the city, which in turn will serve the official goal of maintaining demographic balance in the city.

One of the more concealed elements in the demographic battle over Jerusalem has been the Ministry and its maze of laws, regulations and internal policies. The Ministry has engineered a host of policies designed to dilute the population of East Jerusalem and create what is known as the "silent deportation."

This report will focus on the tools used by the Ministry to ensure that the next generation – children – have no claim to residency. This report will investigate how the Ministry realizes its goal is to provide permanent residency status to as few Palestinian children as possible. We will examine how the Ministry has created a scheme whereby some children born and raised in East Jerusalem have permanent residency, some have temporary residency, others carry military permits that must be renewed each year and still others remain statusless even after adulthood. We will examine how the Ministry's harsh policies tear families apart and the impact that these policies have on children and parents alike.

1.2 Residency

The residents of East Jerusalem received their status as Israeli subjects following the annexation in 1967. Their status was defined as "permanent residents," in accordance with the Entry into Israel Law, 5712 – 1952, an immigration law that addresses the entry of individuals as tourists and their stay as immigrants. Israeli law views residents of East Jerusalem as aliens whose status may be routinely revoked.[2] They are treated as foreigners governed by the Entry into Israel Law when it was Israel who entered their neighborhoods; not they who crossed the borders of Israel to settle therein.

Directly after the 1967 War, Israel conducted a general population census in East Jerusalem. Only those who were physically present in the newly delineated municipal boundaries of Jerusalem received the status of permanent residents in Israel. Those counted within other areas within the occupied territory or those who were out of the country at the time were denied residency, regardless of family ties, origins or connection to the city.

Permanent residency is in no way akin to citizenship. It does not confer nationality or full civil and political rights. Permanent residents have no right to vote in Knesset elections; they do not hold Israeli passports; and their children do not receive permanent residency automatically upon birth. In addition, permanent residency is far from permanent and "expires" if certain conditions are met. Since Israel's annexation of East Jerusalem, more than 14,000 Palestinian residents of East Jerusalem have lost their right to live in their city.[3]

Mass revocation of residency can be traced to the 1998 *Awad* decision by Israel's High Court of Justice.[4] In keeping with the view that Israeli law applies to residents of East Jerusalem, and in contravention of international law, the court ruled that the annexation of East Jerusalem to Israel turned East Jerusalem residents into Israeli permanent residents and that such residency "expires" upon the relocation of the center of one's life. Specifically, the court applied the Regulations on Entry into Israel to residents of East Jerusalem. According to Regulation 11A, a person shall be considered as one who has left Israel and has settled in a country outside of Israel, if he meets one or more of three criteria: (1) residency outside of Israel for a period of at least seven years; (2) permanent residency abroad; and (3) foreign citizenship.

The application of the Entry into Israel Law and Regulations to Palestinian residents of East Jerusalem is an unequivocal declaration by the state that Israel views Palestinian residents of East Jerusalem as aliens, no different than tourists, foreign workers, immigrants, or other persons seeking "entry" into Israel. From the mid-nineties, this attitude was formalized in a broad Israeli policy of revocation of residency, which became known as the "quiet deportation". The revocation of residency status was based on the "center of life" policy,

2 It should be noted that East Jerusalem residents were not granted automatic citizenship. They are entitled to apply for citizenship, but in the process of naturalization, they are required to swear allegiance to the state. Clause 45 of the Hague Regulations forbids the Occupying Power to compel residents of the occupied territory to swear allegiance to it.
3 Http://www.hamoked.org.il/files/2013/1158232_eng.pdf.
4 HCJ 282/88 *Awad v. the Prime Minister* (1988).

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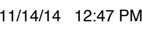
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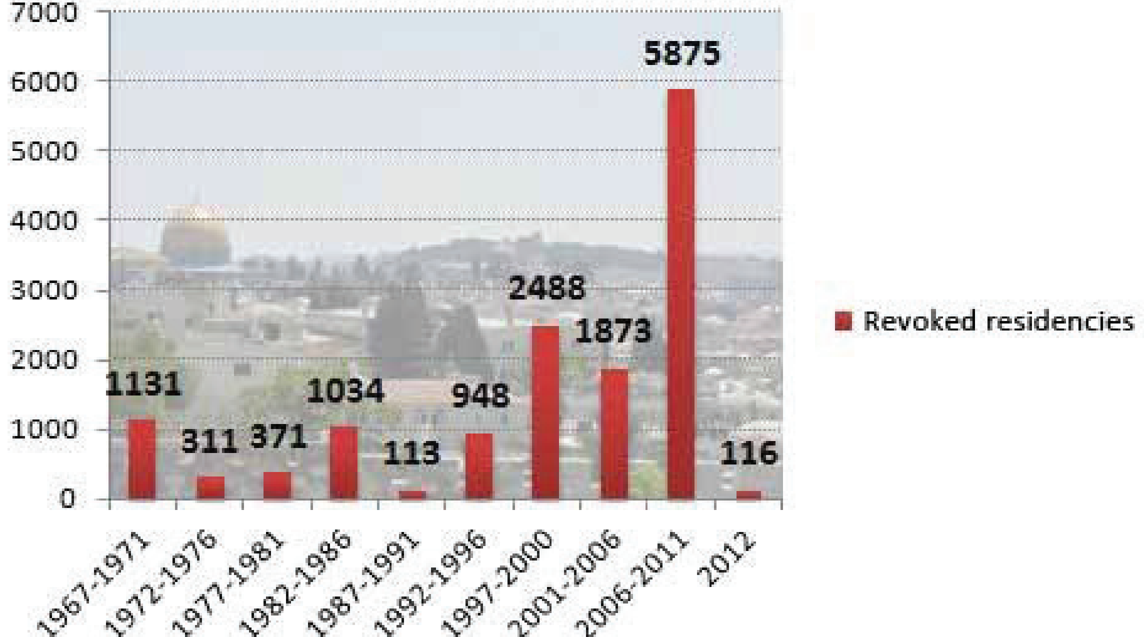

according to which status may be revoked if the Minister of Interior determines that the individual's "center of life" has moved "outside of Israel". This policy was often implemented retroactively, irrespective of the present residency situation of the individual in question. Thus, a current "centre of life" in Jerusalem did not grant rights if for any period of time in the past the "center of life" was considered (by Israel) to be elsewhere. Since the *Awad* decision, the Ministry has used the ruling as a device for revoking the status of thousands and for the "dilution" of the Palestinian population in East Jerusalem. The *Awad* law has become a legal cage that imprisons the residents of East Jerusalem, denies their mobility, and binds them to a narrow and abandoned space in which they were born. The sanctions for leaving the city for a limited period, as well as for acquiring status in other regions, are the loss of the home and the impossibility of returning to the homeland.

Data received from the Ministry for the years of 2006 and 2008 shows that this policy has never stopped. On the contrary, it returned in much larger scale. In 2008, the Ministry revoked the residency of 4,577 residents of East Jerusalem, including the residency of 99 children. The year 2006 saw a similar explosion in the number of revocations, with the number standing at 1,363 persons. Thus, half of the revocations from 1967 through 2008 occurred between 2006 and 2008.

1.3 The Citizenship Law: Barring Family Unification & Child Registration

> 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 (retired).
> HCJ 466/07 MK Zahava Gal-On v. Attorney General (11 January 2012).Sec. 29 of the opinion of Justice Levy.

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Another instrument used by the Ministry to dilute the population of East Jerusalem is its rigid family unification scheme. The annexation of East Jerusalem created an artificial separation between Jerusalem and the rest of the Occupied Palestinian Territories (oPt). Israel's decision to annex certain areas to Jerusalem and not others was completely arbitrary and in no way reflected existing social structures. Even after the annexation, East Jerusalem residents continued to maintaining family, social and economic ties with the West Bank and Gaza.

East Jerusalem residents married to residents of the West Bank and Gaza or to foreign nationals and who chose to live with their families in Jerusalem had to contend with the Ministry's rigid "family unification" procedures in order to live in Jerusalem with their spouses.

In 1995, the new "graduated process" for family unification was implemented. A spouse from the oPt would receive military permits for a period of 27 months (or 27 months with a B/1 visa in the case of spouses from abroad), temporary residency status for a period of three years (A/5 visa), and at the end of the process, he would be "upgraded" to permanent resident. At each stage of the process, the spouse would be subject to security screening and "center of life" examinations. The procedure was long and complicated. The Ministry would send the couple back and forth with new demands for the production of documents, and oftentimes, the couple would have to turn to the courts for redress. Notwithstanding the difficulties, if a couple complied with all the demands of the family unification procedure, the foreign spouse would receive permanent resident status at the conclusion of the process.

In 2002, the Minister of Interior froze the processing of family unification applications in cases where the foreign spouse was a resident of the oPt. In May 2002, Executive Order 1813 was issued regarding the "Handling of Illegal Residents and the Policy of Family Unification with regard to Residents of the PA and Aliens of Palestinian Origin." The Executive Order extended the Minister's freeze, and on July 31, 2003, the freeze was grounded in legislation in the Citizenship and Entry into Israel Law (Temporary Order) (hereinafter "Citizenship Law" or "Temporary Order").

Since 2003, the apparatus of the Citizenship Law has been used to accelerate the silent transfer of Palestinian residents of East Jerusalem from their homes. The Citizenship Law disproportionately impacts residents of East Jerusalem, who are forbidden from family unification not only with their spouses, but with their minor children.[5] First passed as a provisional "temporary order," eleven years later, the Citizenship Law remains in effect. For over a decade, the Citizenship Law, racist at its core, has been violating the right to family life of East Jerusalem residents, tearing their families apart and sentencing their children to an uncertain future.[6]

The children of these unions are the main subjects of this report.

The Citizenship Law's proclaimed purpose is a security one, and it was upheld by the High Court of Justice in two separate constitutional challenges[7]. The legislator argued that the Citizenship Law was necessary to

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As the children of citizens are granted citizenship as of right, the only children affected by the restrictions of the Temporary Order are the children of residents of East Jerusalem. Conversely, children of residents are not entitled to residency by virtue of birth to an East Jerusalem resident.

6 For a detailed analysis of the family unification freeze, see St. Yves Report, *Palestinian Families Under Threat: 10 Years of Family Unification Freeze in Jerusalem* (Dec. 2013).

7 HCJ 7052/03 *Adalah – The Center for Arab Minority Rights in Israel v. Minister of the Interior* (14 May 2006) (: the *Adalah* case); HCJ 466/07 MK *Zahava Gal-On v. Attorney General* (11 Jan. 2012) (hereinafter: the *Gal-On* case).

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protect the state from a security risk that may be foreseen from a family unification of Israeli citizens or residents with residents of the oPt. The claim made is that there may be involvement with terror on the part of those family members who are residents of the oPt and that granting them status in Israel will be exploited by terror organizations for their own purposes. Despite the security arguments and the court's rulings, the Citizenship Law clearly derives from demographic, racist and economic motives.[8] The security argument is not only irrelevant but is undermined entirely when considering the law's restrictions on the legal status of minor children. Nonetheless, as we will see below, the Ministry has remained steadfast in its argument that Palestinian ***adults and minors alike*** remain a security threat to the state.

2. Legal Framework

Under Israeli law, the child of an Israeli citizen is entitled to citizenship by virtue of his parentage, but a child of an East Jerusalem resident is denied any such birth right. There exists no automatic right to residency, and an East Jerusalem resident child, even if born and raised in Jerusalem, cannot "inherit" his parent's status. While a child born to an Israeli parent will receive Israeli citizenship even if the child never set foot on Israeli soil, the child of an East Jerusalem resident parent will only receive residency if the parent proves that her center of life and that of her child is in Jerusalem. While a child born in Israel to an Israeli parent is registered with the Ministry even before leaving the hospital, the child of an East Jerusalem resident born in East Jerusalem is denied this basic right. His parent must file an application for "child registration" and may be required to wait years before the child receives permanent resident status, if at all.

The process by which an East Jerusalem resident parent officially requests that her child receives legal status is known as "child registration." Such a process should be efficient and speedy so that an East Jerusalem resident parent can ensure that she protects her child from being without status or "illegal." However, the Ministry places obstacle upon obstacle to ensure that as few children as possible are registered as permanent residents. It should be noted that while child registration generally applies to children of "mixed marriages" (where only one spouse is an East Jerusalem resident), children of two Jerusalemite parents are not always spared from the arbitrariness of child registration procedures, and in numerous cases, such children have also been denied residency.

Rather than establish clear criteria for child registration, the Ministry has created a bureaucratic nightmare impossible for any layperson to understand. The maze of rules demands that parents obtain legal counsel to demand their most basic legal rights, and only attorneys well-versed in the ins and outs of Ministry rules can successfully challenge Ministry decisions. Until 2006, the severe conditions at the Ministry's East Jerusalem Branch made it virtually impossible to even inquire about one's application. The conditions were so egregious that the branch was forced to shut down and relocate by court order after St. Yves' intervention.[9]

The Ministry's policies regarding child registration changed with such frequency and without being published, making it impossible for even attorneys and advocates to understand what the criteria for registration were. It was only in the course of litigation[10] that the Ministry finally began to disclose child registration policy. It was not until 2011[11], that the Ministry was instructed by court to change three criteria for child registration – six years after the petitioners requested that the rules regarding child registration be published. The court ruled that:

> (1) when the Ministry fails to meet the six-month deadline for a decision relating to registration of children in the population registry it must give the children temporary status in Israel (affording them social security rights), pending a final decision;

8 For example, in the Ministry's presentation before the government on the eve of the vote on Executive Order 1813, the Ministry talked about "foreigners with Arabian nationality" intensifying and giving birth to 10-12 children per couple, which would account for 3.3 billion NIS of the national budget over the course of 10 years in child benefits alone.

9 HCJ 2783/03 *Raffoul Jabra Rofa vs. Minister of Interior, General Director to Ministry of Interior and Director of the East Jerusalem Branch*. Decision delivered on 3/12/2003. Order nisi.

10 Center for the Defence of the Individual (HaMoked) in AP 727/06 *Nofal v. Minister of Interior* (hereinafter: *Nofal*)

11 Jerusalem District Court ruling in *Nofal*

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(2) the Ministry must continue processing applications for children, even if a corresponding application for another family member has been denied;

(3) the Ministry must notify the family both orally and in writing (in Arabic, if needed) that the time has come to upgrade the temporary status to permanent resident.

The Ministry neglected to comply and amend its procedures, leaving petitioners with no choice but to file a motion for contempt of court. It was only in September 2012 that the amended procedure was finally published.

In September 2013, in response to a Freedom of Information request filed by St. Yves, the Ministry provided figures for child registration between 2004 and July 2013. During that time, a total of 17,616 applications for child registration were filed, where the child was born in Jerusalem. Of the 17,616 applications, 3,933 were rejected. The figures show that 24% of all decisions were negative. It should be noted that the Ministry's records only reflect official numbers. It is estimated that about 10,000 children in Jerusalem are not registered.

2.1 Child Registration Prior to the Citizenship Law

While the authority to grant residency under the Entry into Israel Law was delegated to the Minister of Interior, who may for these purposes exercise broad discretion, the process of child registration in the case of minors born in Israel to parents who are permanent residents was outlined in government regulations, mainly Regulation 12 (hereinafter: Regulations). By applying Israeli domestic law to annexed East Jerusalem, Israel ensured that the rules governing child registration applied to residents of East Jerusalem. The status of a child who was born in Israel and for whom the Law of Return does not apply shall be the same as his parents. If the parents are not both permanent residents, the child shall receive the status of his custodial parent or legal guardian[12].

While Regulations give clear instructions regarding a child born in Israel, it does not apply to a child born abroad. Nevertheless, until 2001, the Ministry treated children born in Israel and abroad according to the same rules and procedures, reviewing their cases under the same category of "child registration" application. The guiding principle for both was to grant the child to the maximum extent possible the same status as his parent, provided the child lives with said parent within state limits.

The High Court clarified that the logic behind the Regulations, by which the child obtains the same status as his parents, was to avoid creating a disconnect or chasm between the permanent resident parent and the child, whose mere birth in Israel does not grant him legal status, and to ensure the welfare of the child, his right to family life, and honoring the family unit[13].

The special nature of Regulations as a human rights law, designed to protects the constitutional right of the parent to family life and the independent and autonomous rights of the minor to live alongside his parents was discussed in the High Court[14].

> The second aspect [of honouring the family unit] is the right of the child to a family life. It is based on the independent recognition of the human rights of the child. . . His welfare dictates that he should not be separated from his parents and he should grow up in the lap of both of them. . . . From the viewpoint of the child, his detachment from one of his parents is liable to be perceived as abandonment and will have ramifications upon his emotional development.

12 Regulation 12 of the Entry into Israel Regulations, 5734-1974
13 In clarifications made by HCJ 979/*99 Carlo (minor) v. Minister of the Interior* (22 Nov. 1999) (hereinafter: the *Carlo* case)
14 *Adalah* case, Chief Justice (retired) Barak, ph. 28.

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The High Court's call to protect the rights of the child and his warning concerning the psychologically destructive impact of a child's separation from his parents have been entirely ignored by the Ministry. Rather than strive to comply with the court's instructions, the Ministry has drafted layer upon layer of policy over the years in a manner that maximizes harm and denies the best interest of the child and the right to family life.

Until 2001, children and their East Jerusalem resident parent needed to meet the "center of life" test – they needed to show that Jerusalem was their actual place of residence and center of life. No distinction was made between a child born in East Jerusalem or abroad (abroad included the West Bank and Gaza). Despite the fact that the Regulations were enacted in 1974, it was only in 1994 that the Ministry accepted applications for child registration from East Jerusalem resident mothers. Prior to 1994, requests for child registration were approved for Jerusalem resident fathers only, because of the discriminatory assumption that a Palestinian woman from Jerusalem married to a Palestinian man from the West Bank or Gaza will move to the West Bank or Gaza with her husband and children. It was only in 1996 that the Ministry began processing child registration requests independently of parents' family unification applications. Until that point, child registration was not processed separately from the parents' request for family unification, leaving children's status dependent upon their parents' application.

In 2001, the Ministry stopped granting permanent residency to children born out Jerusalem with only one resident parent. This marked the beginning of the Ministry's practice of drawing a distinction between children born in Israel and children born abroad. Children born in Israel who met the "center of life" test would receive permanent residency, while children born abroad and meeting the "center of life" test would receive temporary residency for two years (A/5 visa), only after which point they would be allowed to apply for upgrading to permanent residency.

2.2 Child Registration Under the Citizenship Law

In 2002, the family unification between East Jerusalem residents and their spouses from the oPt was barred by Executive Order 1813 (hereinafter: Order). While the order speaks only of family unification between spouses and makes no mention of child registration, the Ministry expanded the application of the Order to freeze child registration as well – for both categories of children.

The 2003 Citizenship Law placed an absolute freeze on family unification for oPt adults. But unlike its predecessor – the Order – the Citizenship Law explicitly mentioned children[15] and excluded children under 12 from the freeze for the purpose of avoiding the separation of a minor from his East Jerusalem resident parent. As a result, many children have been cut off from their parents and from siblings who were fortunate enough to receive status. They have been denied legal status as punishment for the crime of being born in the wrong place and at the wrong time.

2.2.1 "Resident of the Area"

The Citizenship Law applies to anyone Israel defines as "resident of the Area" (adults and minors alike). Under the original version of the Citizenship Law, children under age 12 who are "residents of the Area" would receive legal status, while children over age 12 who are "residents of the Area" would be denied any status

15 In the original legislative bill, the matter of children was not mentioned at all, nor was it mentioned during the presentation of the bill In the plenum (June 17-18, 2003).

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and subject to deportation. The law allowed for no discretion, giving the Ministry "no choice" but to apply its cruel restrictions to children from the oPt.

While the definition of "resident of the Area" was amended in 2005, under the original definition, "resident of the Area" was defined as follows:

> "Resident of the Area" – including someone who resides in the Area even if he is not registered in the Population registry of the area, and excluding a resident of a Jewish settlement in the Area."

As stated above, the Ministry's overarching goal is to deny residency to as many children as possible. In that vein, the Ministry was quick to distort the language of the definition to ensure that as many children as possible fell under the category of "resident of the Area." In contravention of Regulations, the Ministry ruled that children born in Israel to an East Jerusalem resident parent who lived their entire lives in Jerusalem would be considered "residents of the Area" based on one criteria alone – being registered in the population registry of the oPt. These children, Jerusalemites by birth but not by right, if over age 12, would remain statusless and would be required to abandon the only city they knew to be home.
The Ministry did not look at the unique circumstances of the minor applicants, nor did it examine here the child's center of life was. The Ministry's position was based on principle – registration alone is sufficient to apply the provisions of the Temporary Order.
It should be noted that children born and raised in Jerusalem are registered in the oPt for various reasons that

> There is no doubt that separating a parent from his child, separating a child from one of his parents and splitting the family unit involve very serious violations of both the rights of the parents and the rights of their children. These violations are contrary to the basic principles of Israeli law and are inconsistent with the principles of protecting the dignity of the parents and children as human beings, to which the State of Israel is committed as a society in the family of civilized peoples.
>
> Salim Joubran, Supreme Court Justice, Ph. 14.
> HCJ 7052/03 Adalah – The Center for Arab Minority Rights in Israel v. Minister of the Interior (14 May 2006).

do not pertain to the center of their lives – for example, parents waiting endlessly for a status determination from the Ministry often feel compelled to register their children in the oPt so as not to leave their children entirely statusless; registration is often done in order to enable children to registered at a school; the Ministry itself often forces parents to register in the oPt as a precondition of their child registration application; and a parent will sometimes register the child of his own accord in order to spite his spouse in the context of a family dispute.

According to the Ministry's position, registry in the oPt is different from registration in "regular" population registries in that it expresses the legal connection of "quasi citizenship." The Ministry holds that registration contains within it the duty of loyalty to the Palestinian Authority. By extension, the act of registration becomes a political statement, and the person being registered becomes a security risk. By explicitly demanding that the expanded definition of "resident of the area" apply to children, the Ministry exposed its underlying position: **that a minor child – whether age 2 or 12 - born in Jerusalem and registered by his parents in the oPt represents a potential threat to the state.**

As early as September 2003, the Ministry's application of the law and its position on considering children whose only connection to oPt is registration was challenged and rejected by the Jerusalem District Court, ruling in different decisions that registration alone was insufficient to define a child born in Israel as "resident

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of the Area." However, the Ministry flagrantly violated these binding court rulings and continued to rigidly adhere to its policy. Only in 2008, the Court considered the Ministry's position as "excessively rigid" and in contravention of the Temporary Order.[16]

The Ministry proposed an amendment to the Temporary Order, with the aim of expanding the definition of "resident of the Area" to ensure that its goal of denying the maximum amount of children status would be realized. In addition, the Ministry continued denying residency to children registered in the oPt, claiming that the 2005 amendment applied retroactively. According to the amendment, the term "resident of the Area" was defined as:

> "Resident of the Area" – a person who is registered in the population registry of the Area, and any person residing in the Area, even if he is not registered in the population registry of the Area, and excluding a resident of an Israeli settlement in the area.

According to this new definition, the facts contained in the population registry cannot be disputed under any circumstances. Registration and residency become synonymous, and the mere act of registration automatically creates a tie to the oPt that cannot be severed. Such a broad and rigid legal definition is unprecedented, and it was designed for the illegal and sole purpose of applying the Temporary Order to the largest number of children possible.

The 2005 Amendment also included humanitarian changes designed to "soften" the law's impact on Palestinian families. For the first time since 2002, female residents of the oPt over the age of 25 and male residents over the age of 35 who marry Israeli residents (or citizens) were permitted to legalize their presence in Israel. But rather than be entitled to temporary or permanent residency, the Citizenship Law instructed that spouses in these categories would be eligible for military permits, renewable each year.

2.2.2 Military Permits for Children and Security Denials

The 2005 Amendment also raised the cut-off age for children's eligibility for residence to 14. The Citizenship Law[17] distinguished between children of different ages and created two statuses, radically different from one another:

- Children **until age 14**: Children regarding whom the Minister of Interior may grant **status in Israel**.
- Children **over age 14**: Children regarding whom the Minister of Interior is not entitled to grant status in Israel and, at most, will be granted a **permit to stay in Israel**.

The Amendment reveals that the right of granting identical status to parent and child was no longer a concern, but rather, all that was required was a mechanism to prevent separation between parent and child. The Ministry and the Knesset saw no harm in denying legal status to minor children.

Like their oPt resident parents, children ages 14-18 would receive renewable **military** permits under the new scheme and would not be eligible for an upgrade. The Amendment did not discuss the fate of children with military permits **once they reached age 18**.

16 The Supreme Court sitting as the Court of Administrative Appeals in Adm.A. 5569/05 *Awisat v. Minister of the Interior* (hereinafter: *Awisat*), 10 August 2008

17 Section 3A of Citizenship Law

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For example, the Citizenship Law did not explain what will happen to a woman who reaches the age of 18 and wants to marry. Will she lose her right to a permit? Will she have to leave Jerusalem? Yet again, only after litigation, the Ministry finally committed to renewing adult children's permits so long as they remained in Jerusalem [18]. And it was only in September 2012 that the issue of adult children was finally published in the Ministry's policies[19].

Under the Temporary Order, children over age 14 are deprived of any sense of security regarding their ability to continue living in Jerusalem with the rest of their family. The military permits granted to children over age 14 only allow these children to remain in Jerusalem for one year upon the approval of the family unification file.[20] Each year, a new application must be submitted by his parent, and the child must pass the "center of life" test, as well as security and criminal background checks.

The permit allows the child to live in Israel lawfully but does not grant "legal status" or any entitlement to social rights. The child is not eligible for health insurance coverage[21], disability or child benefits, or the right to an education – despite residing in Jerusalem with his mother.

> F.'s family live in a house located in Jerusalem's Beit Hanina neighbourhood but situated outside the city's municipal boundaries. The mother of the family is an East Jerusalem resident, but her children are without legal status. When the separation wall was constructed next to the family's home, the family was separated from the city. The children received permits to continue to access Jerusalem and attend their schools, after which they were denied entry into the city. At the same time, the Ministry began proceedings against the mother and revoked her residency. After St. Yves intervention, the mother's residency was restored; the children under 14 received resident status, and the children over 14 received permits.

At least once a year if not more, the child must leave his home in Jerusalem and travel to the oPt and secure a new permit from the army's District Coordination Liaison Offices (DCO). Oftentimes, the Ministry's referral to the DCO is delayed or the DCO has not completed processing of the child's application or the DCO is closed for one reason or another, leaving the child without a valid permit for months on end and forcing him to live in a state of house arrest for fear of travelling without a valid permit.

The child cannot travel freely in Jerusalem, since most checkpoints in Jerusalem and its environs allow travel for residents only. This reality makes the possibility of movement of all family members together extremely difficult, lengthy and expensive. St. Yves receives regular complaints from families regarding their struggles with travel restrictions. In addition, because of the heightened security presence in Jerusalem and the cutting off of Palestinian neighbourhoods from the rest of the city due to the separation wall, almost all movement carries with it the risk of being stopped and detained by police or army. Children carrying military permits are often harassed and detained unnecessarily, and many simply choose not to leave their neighbourhoods. Permit holders were finally granted the right to work in January 2013[22]. For years, young men carrying permits have expressed their overwhelming frustrations regarding their inability to find employment and contribute to the family income. In 2005, an additional legal provision was added to the Temporary Order, placing yet another cruel restriction on minor children. A new basis for denying a permit on security grounds was added[23], having nothing to do with the actions of the applicant, according to which, neither a permit to stay in Israel nor a license to reside in Israel will be granted:

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18 HaMoked in the course of litigation in the *Gal-On* case
19 in compliance with the *Nofal* ruling (after petitioners were forced to file a motion of contempt of court for non-compliance).
20 Only recently have permit holders begun receiving permits for two years, and in the past, permits were often issued for six months.
21 On 6 February 2014, the National Health Insurance Regulations were amended to provide health insurance to minors and spouses carrying military permits.
22 Following a petition filed by HaMoked
23 Section 3(d) of the Citizenship Law

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> If the Minister of Interior or the Area Commander, as the case may be, shall have determined, in accordance with an opinion from the competent security personnel, that the resident of the Area or the other applicant or **a member of their family may constitute a security risk to the State of Israel**; in this section, a "Family Member" – **spouse, parent, child, brother and sister and their spouses**.

This section applies to adults and to minors ages 14-18. According to the above provision, no security suspicion is required against the child himself in order to separate between him and his mother or father. The relative in suspicion does not have to be a close one. No conviction is required against the relative in suspicion – he does not need to be wanted, arrested or even under investigation. It is enough that an unnamed and unidentifiable member of security personnel determined that the child's distant relative "may constitute" a security risk. What results is "guilt by association" and is particularly severe when applied to children.

2.2.3 The Security Threat

> R. is less than 18 years old. The rest of his family is registered under permanent resident status, while he alone must annually apply for military permits. Given the multiple barriers prohibiting R.'s legal stay in Israel, he often finds himself without a permit. On one occasion, he was arrested on the grounds of "illegal stay" in Israel. Because of the arrest and his new criminal record, he was denied a permit (and future permits) on "security grounds" – all because the Ministry and army failed to provide him with a permit in a timely manner.

In many occasions, Israel declared that law is indispensable to achieve its proclaimed "security need". For example, in response to a petition filed by Adalah [24], the state claimed that twenty- three oPt residents who received a status in Israel were involved in "attacks" against Israel, without providing any additional information on the identity of the claimed attackers. The role of courts in Israel seems to only confirm the state's "security need": where the security need is brought up by the state, courts, including the High Court, often refrain from addressing the rights breached as a result of this claim, even when it comes to those of a child.

Figures published by the Ministry in 2002 show that between 100,000 and 1400,000 residents of the occupied territories came into Israel after a family unification process[25]. Some 0.02 percent of them were, according to the state, involved in attacks on Israelis. Yet, after more than a decade since the enactment of the law, the question of its effectiveness in achieving the security need remains unresolved.

St. Yves, based on the Freedom of Information Act, contacted the Israeli administration, and enquired on its figures on child registration refusals based on security grounds (among other questions). Surprisingly, the figures showed that between the years 2000- 2013, only 13 child registration application were refused for security reasons. In other words, one application per year is being refused for security reason. Moreover, only 0.3% of the entire refusals were based on security reasons in East Jerusalem. Between the years 2000- 2013, only one application for family unification for minors was refused for a security reason. Accordingly, only 2% of all rejections of child registration applications in East Jerusalem were refused for security reasons between the years 2000- 2013.

These figures establish a confusing conclusion: on the one hand, and according to the Israeli government, the

24 HCJ 7052/03, *Adalah- The Legal Center for Arab minority Rights et al. v. Minister of the Interior et al*

25 Jerusalem Population Administration, Ministry of the Interior, *Immigration and Settlement of Aliens in Israel,* May 2002.

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purpose of the law is maintaining security. On the other hand, figures of security refusals challenge and contradict this claim, as only one child registration application was rejected in the last thirteen years for security reason.

The application of the law to children, who cannot possibly represent any threat to public safety, exposes the falsehood of the security objective. This law explicitly denies rights on the basis of nationality. The official reliance on security needs is an attempt to create a legal cover for the law, on the assumption that the state would otherwise have difficulty defending the real reason behind it, which is, maintaining the demographic balance.

2.3 Denying Permanent Residency Status to Children over Age 10

In late 2003, the Ministry also began instituting a new policy regarding child registration not found anywhere in the language of the law. The Ministry began referring to the requirement of a "family unification" application for children born outside Israel. Families and advocates were confused. No procedures had been published, and there was no guidance as to what the new "family unification" process would entail, the length of the process, what status would be received upon its conclusion, whether a filing fee would be required, etc.

Yet again, litigation was required in order to force the Ministry to disclose its policies[26]. The Ministry stated that regarding the children of East Jerusalem residents born outside of Israel, they would receive permanent residency by way of a family unification application. The family unification process would last two years. For two years, they would receive temporary residency (A/5 visa), at the end of which they would be "upgraded" to permanent resident. The family unification "graduated process" was also applied to children under 12 who fell under the definition of "resident of the Area."

In cases where the Citizenship Law applied, the graduated process postponed and in many cases entirely prevented children's eligibility for permanent residency status since eligibility was only determined after the child completed two years under temporary residency status. An additional policy of the Ministry also worked to further reduce the number of children from East Jerusalem who would receive status by postponing postpone the submission date of the initial applications.

A mother from East Jerusalem would have to wait two years after relocation to Jerusalem before submitting her child registration application on behalf of her children. Only after having proven that the "center of life" of her and her children was in Jerusalem for the two years prior to submission would she be permitted to submit her application. Following submission, she would have to wait an even longer period – often a matter of years – before a decision was reached in her case, and only then would her children begin taking part in a probationary review process for their arrangement of their status. And yet, there was no way for a parent to learn of the two-year waiting period since it **was never put in writing, neither in Hebrew or Arabic – not even after the child registration policy was finally published under courtorder.**[27]

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26 In AP *402/03 J'uda v. Minister of the Interior* (24 October 2004)

27 As was mentioned in the previous discussion of the Ministry's written policies on page 10 above, It was not until September 2012 that the two-year waiting period requirement was finally put into writing.

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Despite the language of the law, the Ministry insisted that a child's age for purposes of child registration would be the child's age two years **after** center of life had been established. The Ministry also insisted that children who were "residents of the Area" would receive temporary residence for two years before receiving permanent residence and that for purposes of permanent residence, the relevant age was the age at the completion of temporary residence. Thus, despite the 2005 Amendment and in violation of it, any child who submitted an application when he was between age 12 and 14 would be entirely unable to receive permanent status in Israel.

Temporary residency is as its name implies – temporary. While it grants the child access to social rights, it is easily revocable. It must be renewed annually and is subject to the center of life test and other limitations, among them the requirement not to have a family member who is a threat to the State of Israel.

Under the Ministry's convoluted original scheme, permanent residency status would only be granted to children who relocated to Jerusalem prior to age 10. Only a child under age 10 would be able to prove "center of life" for two years – then submit her application for status before turning 12 – receive temporary residence and complete two years with an A/5 visa – **all prior to turning 14** – making the child then eligible for permanent residency. A child who was 10 and one day when she relocated to Jerusalem would **never** be eligible for permanent residency. So while the 2005 Amendment raised the "effective age" for permanent residency to 14, the Ministry's strict policies lowered the age to 10, ensuring that the amendment would not actually serve its intended purpose.

The above scenario assumes that the East Jerusalem resident parent who relocates to Jerusalem will be able to prove residency from the moment of her return to the city. In other words, a 9 and a half year old who relocates to Jerusalem with her mother will only be granted residency if her mother can successfully prove that the family **actually** returned to Jerusalem when the child was 9 and a half. Few families can actually prove that relocation occurred when it did.

The center of life test is so burdensome that few are able to meet its requirements in a timely fashion. As part of the Ministry's examination, the family is required to produce a host of documents to prove residency, many of which are extremely difficult to obtain in East Jerusalem neighborhoods. Families are required to show lease agreements; household bills such as electricity, municipal taxes and water; proof of the child's enrollment in a Jerusalem school; birth records and immunizations; pay stubs; receipt of health services in the city, etc. This bureaucratic hurdle must be met **every year** that a child registration or family unification application is renewed.

As far as Israel's National Insurance Institute (hereinafter: NII) is concerned, the more children residing in Jerusalem translates into the more money the state must expend in benefits to these children and their families. NII is motivated by reducing spending and invests tremendous energy and money in investigating East Jerusalem residents. NII investigators are known for their unethical investigative "techniques" that blatantly invade privacy and due process. The goal is to claim that as many people as possible have failed to prove residency or at a minimum, to declare that families did relocate to East Jerusalem, but relocated far later than the periods reported to NII. NII tactics pose a constant threat to child registration.

Children often "lose" their right to residency because the Ministry remains unconvinced regarding the date of their return to the city. A failure to prove residency by one year or even one month can often be the difference between a child receiving permanent residency, a military permit or nothing at all. For example, under the two year center of life requirement, children who are over age 16 upon return to Jerusalem will remain statusless and subject to deportation. It cannot be overstated **that it is under the Ministry's own instruction that the children of East Jerusalem residents are required to live in the city illegally during the two-year waiting period**. Obviously, a parent struggling to raise her statusless children without exposing them to the risk of deportation will have tremendous difficulty proving her center of life in Jerusalem.

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2.4 Recent Developments in Child Registration

Since 2008, the Jerusalem District Court issued a number of decisions ruling against the Ministry's policy of denying an upgrade to children who turned 14 during the period of temporary residency. The court ruled time and again that the Ministry's policy frustrated the purpose of the Temporary Order, and yet, the Ministry did not appeal these judgments, continuing its illegal practice in contempt of court. Ultimately, the Ministry, in one of its appeals[28], argued that there was no obligation to grant **permanent status** under the Temporary Order and that temporary residency was enough to prevent separation between these children and their parents. The Supreme Court dismissed the Ministry's appeal and made clear that:

> … **the Minister of Interior does not have the authority to create, out of thin air, 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 and Regulation 12 or the legislative history that preceded them and it is also inconsistent with the purposes underlying them. *Srur*, Ph. 46.

Despite the ruling's unequivocal language, it was only in September 2012 that the Ministry changed its written procedures to reflect the Supreme Court ruling.

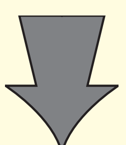
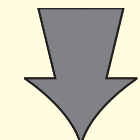
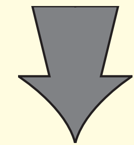
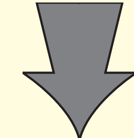
As stated above, the decision of whether a child will have the same status as his parents or will remain without status, a stranger in his own city, is based on the child's age at the date the application on his behalf is submitted. The question of ***when*** an East Jerusalem resident may apply to arrange the status of her minor children was litigated at the district court level as early as 2006[29]. In a court ruling in 2008, the Ministry **ordered to accept** an application for the arrangement of a child's status even in the absence of a two-year center of life, and the relevant age shall be the age at the time of filing. In addition, the court ruled that in the interim period, a child shall be given temporary status which will enable the child lawfully live in Israel with his parents[30].

Despite the above rulings, it was not until the issue was raised before the Supreme Court that the Ministry finally changed its harsh policy regarding the two-year waiting period[31]. In May 2014, the Ministry revised its policy as a result of the appeal. The new policy allows for a parent to file an application before s/he has "proven" a two-year center of life in Jerusalem. Once the two years have been proven, the Ministry will determine the child's status based on his or her age at the time of filing. However, the Ministry still retained its right to restrict granting residency status, refusing to grant retroactive application to the new "leniency."

28 case of the Srur family. In Adm.A. 5718/09 *Minister of Interior v. Srur* (2011)
29 See AP 1140/06 *Za'atra v. Minister of the Interior* (30 November 2007).
30 AP 8340/08 *Abu Gheit v. Minister of the Interior* (10 Dec. 2008) (hereinafter: *Abu Gheit*)
31 Adm.A. 8630/11 Radwan *v. Minister of the Interior* (11 June 2014)

Chart from Ministry's Policy regarding Child subject to Regulation 12

(For child born in Israel, where only one of parents is registered as permanent resident)

Registered in the Area or a child who resides in the Area even though he is not registered in the population registry Palestinian National ID Number (over 14 years of age) 	Registered in the Area or a child who resides in the Area even though he is not registered in the population registry Palestinian National ID Number (under 14 years of age) 	Registered abroad Foreign passport or resided outside of Israel on a permanent basis. 	Not yet registered Does not have a National ID number 	
Granting license to reside to child according to Regulation 12. Two year center of life in Israel required.* Military permits only.	Granting license to reside to child according to Regulation 12. Two year center of life in Israel required.* Temporary residence (A/5) for two years, after which point will receive permanent residence subject to continued center of life in Jerusalem* and the restrictions of the Citizenship Law and Section C.1.2.3.6 of the policy.	Granting license to reside to child according to Regulation 12. Two year center of life in Israel required.* Temporary residence (A/5) for two years, after which point will receive permanent residence subject to continued center of life in Jerusalem.* .	Granting license to reside to child according to Regulation 12. Two year center of life in Israel required.* Receipt of permanent residence.	Born in Israel (Regulation 12)

* Two year center of life with permanent resident parent

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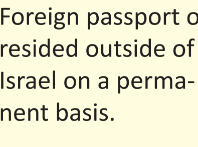
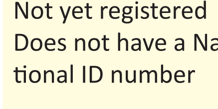
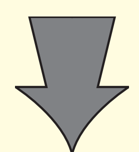
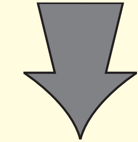
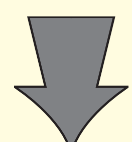
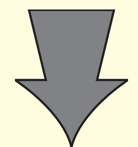
Chart from Ministry's Policy regarding Child Born Abroad to a Permanent Resident Parent

Registered in the Area or a child who resides in the Area even though he is not registered in the population registry Palestinian National ID Number (over 14 years of age)	Registered in the Area or a child who resides in the Area even though he is not registered in the population registry Palestinian National ID Number (under 14 years of age)	 Registered abroad Foreign passport or resided outside of Israel on a permanent basis.	 Not yet registered Does not have a National ID number	
				
Request for license to reside in Israel** Two year center of life in Israel required.* Military permits only.	Request for license to reside in Israel** Two year center of life in Israel required.* Temporary residence (A/5) for two years, after which point, will receive permanent residence subject to restrictions of the Citizenship Law.	Request for license to reside in Israel** Two year center of life in Israel required.* Temporary residence (A/5) for two years, after which point, see Section C.3.7..	Request for license to reside in Israel** Two year center of life in Israel required.* Temporary residence (A/5) for two years, after which point will receive permanent residence.	Born outside Israel – in a foreign country

* Two year center of life with permanent resident parent

** Family unification for children

3- Insurmountable Barriers to Child Registration

As if the process of child registration by itself was not troublesome enough for Jerusalemite families trying to register their children, the Ministry has designed a series of additional preconditions for child registration, preconditions that are often illogical or impossible to meet.

> *"my name is M. However, I do not know who I am, do not ask me who I am because I really do not know, and I really want to know who I am".*

-Child beneficiary of St. Yves, unable to obtain a status

3.1 Refusing to Process Applications

The Ministry regularly makes demands of applicants that, sometimes, would force families to create facts on the ground that ultimately lead to the denial of the application. Many applicants seeking to register their children have been told by the Ministry that in order to receive status, their children must first be registered in the oPt – an obviously illegal and unreasonable demand that seals the children's fates as "residents of the Area."

> S. returned to Jerusalem with her two daughters after living in Venezuela. Her application was "accepted" three years after submission, but only on condition that she obtain Venezuelan pass-

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ports for her children or alternatively prove that her children are not eligible for passports. S. refused to comply, claiming that no such demand was found in law or in the internal procedures of the Ministry; Israel and Venezuela no longer maintained diplomatic ties making it likely that Venezuela would refuse to assist her; and if she left the country with her daughters, there would be no guarantee that the Ministry would permit their re-entry.

While S. was fighting to have her daughters registered, the Ministry was waging another battle against her by trying to revoke her residency. From the Ministry's perspective, revocation was the perfect solution. If S. is no longer a resident, then she has no right to apply for status for her children.

S. won her revocation war (at least temporarily). However, she was left with no option but to comply with the Ministry's demand for passports, and her daughters finally received A/5 visas (temporary residence) for two years. However, at the end of the two years, the Ministry refused S.'s application to upgrade the children to permanent resident status. The Ministry claimed that S. had failed to sufficiently prove "center of life" in Jerusalem, and that as a result, the Ministry was ordering that her daughters spend an additional two years with A/5 visas. Ten years after returning to Jerusalem, S. is still battling the Ministry, and her daughters are still living without permanent resident status. Last year, S. bought a house in Jerusalem so as to prove once and for all that her daughter's center of life and hers is Jerusalem.

SA. returned to East Jerusalem with her children after escaping from her abusive husband in Jordan. Of her four children, two received permanent resident status, while two were denied. SA. submitted her initial application in 2006. The Ministry required her to submit a host of documents that she could not possibly produce.

One of the Ministry's demands was that she change her son's name (her ex-husband name), which was Bin Laden. A name change would have required her to travel to Jordan, which would have been impossible given the danger to her life posed by her ex-husband. In addition, the Ministry's demand was in contravention of -Jordanian law, according to which a mother is not allowed to change her child's name without the father's express permission. SA. appealed the issue but was then served an additional blow: her application was now denied because both her sons were learning in the town of Izariyeh in the West Bank and therefore, the Ministry concluded that the family's center of life was not in Jerusalem. SA. only registered her children including Bin Laden in the West Bank after her multiple attempts to register them in Jerusalem school failed precisely because they were without status.

Bin Laden is now 11 years old and may already lose an opportunity to receive permanent resident status should he attain the age of 14 prior to registration in the population registry . In the meantime, SA. appealed her case to the Appeals Court.

The Ministry has often made oppressive demands of East Jerusalem resident fathers, requiring them to prove paternity as a precondition of child registration. In cases where there is no hospital documentation of the child's birth, the Ministry has even required proof of maternity. The Ministry refuses to rely on documents, witness testimony (including the testimony of the delivering doctor) and other relevant evidence and forces families to hire counsel and petition family court for a declaration of parentage. The family court judge will often require DNA testing, which is not only prohibitively expensive but depending on the context, may be forbidden according to Islam.

B. is 21 years old and has lived his entire life in Jerusalem as a ghost. He has four siblings and is the only child in the family without permanent resident status. While B.'s parents married in

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1992, they only signed an official marriage contract in 1995, after B.'s birth. The Ministry has refused to register B. without a DNA test and to this day, he remains statusless in his own city. B.'s father refuses to undergo DNA testing based on religious and social considerations, and St. Yves demanded that the family court reviewing the case issue a declaration of paternity based on the evidence submitted before it. The claim was denied by the court on the grounds that the case cannot proceed without a DNA test and despite the fact that proving paternity under Israeli law is a matter of civil law subject to civil means of proof.

B is psychologically traumatized by the whole ordeal. On several occasions, he has been detained for several hours at a time by the Jerusalem police. People routinely ask why he isn't registered on his father's I.D. card, and he cannot work. He is afraid to leave his house and has begun developing mental health problems from the daily stresses of being statusless.

The delays in the processing of applications force East Jerusalem residents to raise their children in the city "illegally" and jeopardize the health, safety and well-being of these children. Children born in Jerusalem are entitled to national health insurance for 1.5 years after birth, under the assumption that this period is sufficient to ensure registration with the Ministry. However, this period is rarely sufficient. At the end of the period, children revert to being uninsured, and their parents lack the funds to secure private insurance for them. Parents watch in horror as their children are denied medical care.

Parents efforts to enroll their "illegal" children in Jerusalem nurseries and schools are often futile. Feeling powerless, parents often resort to registering their children in the oPt so that at a minimum, their children are registered somewhere, or as in the case of Bin Laden above, they make the hard choice to send their children to schools in the West Bank. Unfortunately, these acts of desperation subject children to even greater risk that their applications will be denied.

3.2 Refusing to Recognize Children's Legal Guardian and Rejecting the Authority of the Sharia Court

Where the parents of the child born in Israel are not both permanent residents, the child shall receive the status of his custodial parent or legal guardian[32]. Where the legal guardian is not the parent but a grandparent or other relative, the Ministry fights relentlessly to deny child registration by refusing to recognize the guardianship and the ruling of the Sharia court.

St. Yves has handled numerous cases in which the Ministry failed to recognize a grandparent as the legal guardian and has been forced to turn to the courts to seek redress. In some of these cases, the East Jerusalem resident parent failed to register his own children because of incarceration or death or because he himself had to fight a protracted legal battle to restore his own residency after it had been revoked. In many cases, the children in question were born in Jerusalem, have lived their entire lives in Jerusalem and find themselves without any legal status in their own city.

M. is an East Jerusalem resident and the grandfather of three orphan children seeking legal status. B., the children's father and M.'s son, left Jerusalem for the United States in the late 1980s in order to work and help contribute to the family income. In the U.S., he met his future wife, a U.S. citizen, and together, they returned to live in Jerusalem in 1995. B. died at the age of 47, leaving behind three children, all of whom were born in Jerusalem and received American citizenship by virtue of their parents. Aside from carrying American passports, the children have no ties to the United States.

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32 According to the provisions of Regulation number 12

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B. could not file an application for his children or for his wife because after his return, he learned that the Ministry revoked his residency in his absence. He spent the next several years fighting the revocation. Shortly before he died, his residency was ultimately restored, but his time on earth came to an end before he could apply for status for the rest of his family. And thus, a mother and her three children who have been living in Jerusalem for the past 20 years with no ties to the United States find themselves being punished for their father's sudden death – fated to live without status in the only city they call home simply because the father ran out of time and wasn't able to register them before his death.

After his son's death, M. petitioned the Sharia Court and received legal guardianship over the children. He is the sole supporter of the children and their mother and lives with the family in the same apartment complex. The children's mother is herself without any legal status and is unable to support her children emotionally and financially.

The Ministry denied M's petition to register the children, without any legal explanation or basis and with complete disregard of the Sharia Court's judgment. The Ministry stated that the mother was the guardian, thereby rejecting M.'s guardianship and Regulation 12's requirement to grant the child identical status to his legal guardian.

St. Yves has filed an appeal with the Appeals Tribunal and is awaiting decision.

3.3 Punishing Children for the Incarceration of their Fathers

As was mentioned above, children (over 14) and oPt/foreign spouses are subject to criminal and security examinations. However, East Jerusalem residents are also subject to their own separate criminal examinations. A conviction or even an indictment can mean the difference between having one's application approved or denied. If an East Jerusalem resident father is sentenced to significant jail time, he will be denied the right to register his children, even if they were born and raised in Jerusalem.

Only days after M. was born, his father, an East Jerusalem resident, was convicted and sentenced to 15 years in prison. By the time his father completes his sentence, M. will be 15 years old. M.'s paternal grandmother was granted legal guardianship by the Sharia Court after the mother willingly agreed to give the guardianship of her child to her mother-in-law. M.'s mother had to abandon M. to her mother-in-law's care and return to the West Bank, after her own parents died, she was forced to return and single-handedly raise her three under-age siblings.

Multiple applications to grant M. legal status were denied, as was St. Yves' most recent appeal on behalf of M. The Ministry's position throughout the process has been that the applicant (M.'s grandmother and legal guardian) failed to prove that M.'s biological mother was unable to meet her obligations as the natural custodian. The Ministry claims that the grandmother is using guardianship as a way to "cheat the system," once again denying the authority of the Sharia Court's decision regarding guardianship.

The presence of the East Jerusalem resident parent is a prerequisite to filing for child registration. Thus, even if the East Jerusalem resident parent is not subject to an extended prison sentence, he may fail to register his children for a host of other reasons. For example, a parent who is a repeat offender and finds himself in and out of jail on a regular basis will not be able to properly coordinate the required visits to the Ministry offices in order to file a request for legal status or file renewal applications. The parent's self-destructive behavior can force his children into a life without status.

G. is an East Jerusalem resident married to a Jordanian woman. They have four children, all of whom were raised in Jerusalem and most of whom have already reached adulthood. Through-

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out the course of his marriage, G. found himself in and out of jail. Because of his repeated detentions, he was unable to fulfill the Ministry's requirement of being present during application submission. As a result, all four children are without legal status in Israel, as is their Jordanian mother. One of the children was caught without any papers and sat in detention for several months, until St. Yves attorneys succeeded in securing his release. The case is currently pending before the Appeals Tribunal.

3.4 Forcing "Proof" of Residence

The documentation needed to prove "center of life" is so cumbersome that few succeed in "convincing" the Ministry of their place of residence. Moreover, since the "center of life" test and the accompanying two-year waiting period had not published prior to 2012, East Jerusalem residents often failed to realize that the Ministry would not accept their return home as a matter of fact but would demand that proof be presented. The Ministry operates under the assumption that East Jerusalem residents are guilty until proven innocent, i.e. they are "pretending" to live in Jerusalem to take advantage of state benefits and in actuality reside in the oPt or elsewhere.

R. divorced her husband and returned to Jerusalem with her children. After submitting the necessary documentation for the "center of life" test, she was summoned to the Ministry for a series of hearings. R. did not understand what was being asked of her and could not properly articulate herself. The Ministry representative assumed that she was lying, and instead of granting her children permanent resident status, the Ministry granted A/5 visas as "probation" and continued doing so year after year.

3.5 Statusless Children

Throughout this report, we have provided examples of statusless children living in Jerusalem with their families. Oftentimes, these children are the only ones in their families with a military permit, making their lack of status a constant source of stress and often hostility, jealousy and resentment. There are other families in which some if not all of the children are "illegal," entirely ineligible to receive resident status or military permit.

The Ministry avoids handling exceptional or out-of-the-ordinary cases at all costs. It insists that it is under no obligation to ensure that an East Jerusalem parent is not separated from her adult child, even when that child has nowhere else to call home. The Ministry regularly orders young adults to leave Jerusalem and live their lives alone in the oPt or elsewhere. The fact that it is culturally taboo for an 18 year old girl to live by herself in a foreign country has not stopped the Ministry from ordering the deportation of young women and their separation from their families.

While the Ministry has finally committed itself to continue providing military permits to children even after they reach 18, the Ministry has made no declarations of this sort regarding **married** adult children who had originally received permits under the Temporary Order. If an adult child chooses to marry a spouse from the oPt and live with him outside Jerusalem, she thereby surrenders her right to live legally in Jerusalem.

It is not uncommon for an East Jerusalem resident to return her city as a single mother because of death, divorce, incarceration, domestic violence, or otherwise. Such a parent is entitled to no accommodations if she returns home after her children have reached age 18. If a single mother needs to return home so that she can receive the support and assistance of her extended family, by returning home, she exposes her children to life as stateless individuals.

> Y. married a man from the West Bank and together with him, raised six children. In 2010, her husband began suffering from a severe mental illness and ultimately committed suicide by hanging himself. The father's suicide was a tremendous family tragedy, leading the family to move to Jerusalem, having nowhere else to go, because Y. holds a Jerusalem ID. However, by the time the family arrived in Jerusalem, three of the children had already reached age 18, and only one remains under 18. St. Yves submitted a humanitarian request on behalf of the 3 children since the Citizenship Law does not allow for registration of children over age 18. The application is still pending.

4. Child Registration Under International Law

Children are the most vulnerable group in any society, and as such, a particular attention is required to safeguard their rights. International law grants a special care afforded to the protection of the minors, including their right to association with both parents, equal protection of the child's civil rights, non-discrimination on the basis of the child's race, gender, national origin, religion, color, ethnicity, or other characteristics. The policy and process of child registration in Jerusalem not only violates the principles of international law, but also has consequences on 3rd state Parties as a result of such violation.

4.1 Status

The principle of the child's best interest is a core principle of international law.

The International Convention on the Rights of the Child, which was ratified by Israel along with most nations around the globe, establishes a host of provisions regarding protection of the family unit.

> The state parties to the present convention] are convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community.

Article 3 of the Convention on the Rights of the Child states that the "best interests of the child" must be a primary consideration in all actions concerning children undertaken by the state. Under Article 7(1) of the Convention on the Rights of the Child, every child has the explicit right to be **registered immediately after his birth** and shall have the right from birth to a name, the right to **acquire a nationality**, and, as far as possible, the right to know his parents and be cared by them.

The U.N. General Assembly reaffirmed the centrality of the rights of the child and specifically addressed the issues of minority children and **child registration** in its Resolution 63/241. The U.N. declared that it:

> 12. Once again urges all States parties to intensify their efforts to comply with their obligations under the Convention . . . to allow for the registration of the child immediately after birth, to ensure that registration procedures are simple, expeditious and effective and provided at minimal or no cost and to raise awareness of the importance of birth registration at the national, regional and local levels.

The child registration scheme in Israel fails to meet the most basic standards and is in direct violation of Israel's obligations under international law.

An additional right exclusive to children is the right to development. By denying children over 14 residency, the Citizenship Law violates the right of children to protect their health and to develop capabilities and qualifications that will allow them to live with dignity. The right to development has found expression in Article 6 of the Convention on the Rights of the Child, which recognizes the natural right of every child to life and the

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state's obligation to ensure the survival of the child and his development. This right constitutes the basis for the proper development of children and includes within it a state obligation to provide for children's physical, emotional, social, economic and cultural needs. This right has been denied to children residing in East Jerusalem. In almost every aspect of their lives, they are discriminated against relative to other residents and citizens of Israel. They are denied equal access to education, welfare, housing, health, etc. The application of the Citizenship Law to these children only further exacerbates their sense of discrimination and exclusion.

The child registration scheme also violates the right to family life, a right broadly defended in international law. One example, Article 10(1) of the International Covenant on Economic, Social and Cultural Rights, states that the "widest possible protection and assistance should be granted to a family, which is the natural and fundamental group unit of society, particularly for its establishment and as long as it is responsible for the care and education of dependent children." Article 8 of the European Convention for the Protection of Human Rights states that everyone has the right to respect for his private and family life and that there shall be no interference by a public authority with the exercise of this right, except as is necessary.

4.2 Third State Obligations

The international community has even directly addressed Israel's Citizenship Law. In July 2010, the U.N. Human Rights Committee, responsible for the implementation of the International Convention on Civil and Political Rights, found Israel to be in violation of the Convention and called for the immediate cancellation of the Citizenship Law. The Committee concluded that "the Citizenship and Entry into Israel Law (Temporary provision) should be revoked and that the State party should review its policy with a view to facilitating family reunifications of all citizens and permanent residents without discrimination. The U.N. Committee on the Elimination of Racial Discrimination, the U.N. Committee of Economic, Social and Cultural Rights and the U.N. Committee on the Elimination of All Forms of Discrimination against Women also called on Israel to revoke the Citizenship Law.

Article 1 in all four Geneva Conventions states to "respect and ensure respect" for these conventions in all circumstances. This also means the obligation to neither encourage a party to an armed conflict to violate International Humanitarian Law nor take action that would assist in such violations.

The International Committee of the Red Cross lists the following options as possible action that third states could undertake to uphold their responsibility in regard of International Humanitarian Law:

- States should engage in confidential, discreet negotiations with parties to an armed conflict, to encourage respect for International Humanitarian Law.
- Where International Humanitarian Law is being violated, states should consider exerting diplomatic pressure on violating States or making public denunciations of the violations.
- States should utilize the existing mechanisms of International Humanitarian Law, for example by referring situations of conflict to the International Fact Finding Commission, or by offering to serve as a Protecting Power.
- Where a situation has arisen through violations of International Humanitarian Law, states should refuse to recognize the state of affairs politically and should withdraw aid or assistance until the issue of the International Humanitarian Law violations has been addressed.

States should consider undertaking coercive measures against violating states (including refusal to enter into treaties or agreements with a violating State; expulsion of diplomats; severance of diplomatic ties; and suspension of public aid [33].

33 83 ICRC, Improving Compliance with International Law, supra ft. 83. 84 ICRC, Improving Compliance with International Law, supra ft. 83, p. 3.

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SUMMARY AND RECOMMENDATIONS

Alongside mass revocation of residency stands an equally nefarious tool used by the Ministry to rid Jerusalem of its Palestinian residents. The process of "child registration" is used by the state not to grant residency but to bar registration of as many Jerusalemite children as possible. The goal is for East Jerusalem to become a city of ghosts, in which children age into adulthood without any legal status or "right" to live in their city.

A 14 year old forced to carry a military permit is robbed of his childhood, his security, and his sense of identity and self-worth. He is a mere 14 years old, and yet Israel considers him to be a wanted man and a terrorist threat. He lives out his childhood as a prisoner, terrified to leave his home, and when he does venture out, he knows that every potential encounter with an Israeli official may lead to his arrest.

He carries the mark of Cain on him wherever he goes, and the older he gets, the more torturous life in Jerusalem becomes. He is a ghost with no claim to the city. He cannot partake in any legal activity. Until recently, he could not work nor drive. He has no social benefits and dare not get sick without any health care. As he reaches the age of marriage, his parents cannot find him a match because without legal status, he is considered an "undesirable" partner. He lives each day with the knowledge that he may be deported and forever separated from his family. And the envy of his younger resident siblings and the resentment towards his parents is often too much to bear.

What are the psychological ramifications of an entire generation of children who live with such daily trauma? What are the psychological ramifications of a generation of parents who cannot protect their children from a life of constant fear and misery? A generation of parents who are burdened with guilt - about having lived outside the city for any period of time; having registered their children in the oPt; not being able to prove center of life in Jerusalem, etc. A generation of parents finding themselves waging separate legal battles for their multiple children – fighting for one to receive permanent residency and for the other to receive a military permit. No parent should have to make the difficult choices being asked of East Jerusalemites, and no parent should be denied the right to raise her children in the city she calls home.

The Ministry's child registration policies ensure that there will be no future generations of East Jerusalem residents. These draconian policies succeed in cutting off the line from parent to child, ensuring that no parent can bequeath what should be an inalienable right – the right to reside in Jerusalem and to raise one's children in Jerusalem. A city free of resident children ensures that the demographic balance remains intact and that the state realizes its vision of Jerusalem as "The Eternal Capital of the Jewish People."

For the past two decades, St. Yves has been representing residents of East Jerusalem and their children in child registration cases. St. Yves has borne witness to the pain inflicted upon children and their parents in their efforts to obtain residency and has seen hundreds of children for whom obtaining residency will never be possible.

The Society of St. Yves calls upon the international community to exert pressure on Israel and insist upon:

- **Non-extension of the law and its validity which results in serious breaches to the rights of the children and their families.**

- **Exclusion of children and the child registration process from the application of the law, should it be continue to be renewed.**

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- **Urgent redress of the serious problem of registration for the thousands of children who are above the age of 14 and below 18, and finding a specific solution so that they become able to obtain a status and identification.**

- **Urgent intervention to set a fixed time frame for processing the child registration applications, and minor family unification, in order to avoid the lengthy bureaucratic procedures that may last for long months or even years (6.6 years to obtain an initial decision on average) and the negative effects resulting from this delay, mainly on the child's health and education.**

- **Utmost consideration and application of the principle of the best interest of the child in Israel's policies and legal system, to enable the children under its jurisdiction to indiscriminately grow up in a stable and supportive family environment.**

- **Addressing the severe psychological, social and cultural effects resulting from of the law, which leaves thousands of children without an identification, education or health care.**

St. Yves calls upon the State of Israel to immediately comply with its obligations under international law and to repeal the web of laws and policies designed to deny children their natural right to registration, development and protection of family life.

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ANNEX

1. “The citizenship and entry Into Israel law” (Temporary order) – 2003; as passed by the Knesset (Israeli Parliament) on 31 July 2003, translated by Adalah [http://adalah.org/features/famuni/20030731fam_uni_law_eng. pdf]
Definitions

1. In this Law –

“region” – each of these: Judea and Samaria and the Gaza Strip;
“Nationality Law” – Nationality Law, 5712 – 1952;[85]
“Entry into Israel Law” – Entry into Israel Law, 5712- 1952;[86]
“regional commander” – the commander of forces of the Israel Defense Force in the region;

“resident of the region” – including a person who lives in the region but is not registered in the region’s Population Registry, excluding a resident of an Israeli community in the region.

Restriction on nationality and residence in Israel

1. During the period in which this Law shall be in effect, notwithstanding the provisions of any law, including section 7 of the Nationality Law, the Minister of Interior shall not grant a resident of the region nationality pursuant to the Nationality Law and shall not give a resident of the region a permit to reside in Israeli pursuant to the Entry into Israel Law. The regional commander shall not give such resident a permit to stay in Israel pursuant to the defense legislation in the region. Reservations

2. Notwithstanding the provisions of section 2 –

(1) The Interior Minister or the regional commander, as the case may be, may give a resident of the region a permit to reside in Israel or a permit to stay in Israel, for purposes of work or medical treatment, for a fixed period of time, and also for other temporary purposes – for a cumulative period that shall not exceed six months. A residency permit or a permit to stay in Israel [may also be given] in order to prevent separation of a child under the age of 12 from his parent who is legally staying in Israel.

(2) The Interior Minister may grant nationality or give a permit to reside in Israel to a resident of the region if he is convinced that the said resident identifies with the State of Israel and its goals, and that the resident or his family members performed a meaningful act to advance the security, economy, or another matter important to the state, or that granting nationality or giving the permit to reside in Israel are of special interest to the state. In this paragraph, “family members” means spouse, parent, child.

Transition provisions

4. Notwithstanding the provisions of this Law –

(1) The Interior Minister or the regional commander, as the case may be, may extend the validity of a permit to reside in Israel or a permit to stay in Israel that was held by a resident of the region prior to the commencement of this Law.

(2) The regional commander may give a permit allowing temporary stay in Israel to a resident of the region who submitted an application to become a national pursuant to the Nationality Law, or an application for a permit to reside in Israel pursuant to the Entry into Israel Law, prior to 12 May 2002 and who, on the day of the commencement of this Law, has not yet been given a decision in his matter, provided that the said resident shall not be given, pursuant to the provisions of this paragraph, nationality pursuant to the Nationality Law or a permit for temporary or permanent residency pursuant to the Entry into Israel Law.

Validity

5. This Law shall remain in effect until the expiration of one year from the day of its publication. However, the government may, in an order, with the approval of the Knesset, extend the validity of the Law, from time to time, for a period that will not exceed one year each time.

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2- Requested by St. Yves: General information on average years the Ministry takes in processing family unification and child registration applications:

Year of First Decision on Application																	
Total Number of Applications	Unprocessed Applications	2014	2013	2012	2011	2010	2009	2008	2007	2006	2005	2004	2003	2002	2001	2000	Year of Application
310	4								1		1	2	3	161	113	25	2000
556	4										5	7	2	457	81		2001
190	1										2	1	2	184			2002
3											1	2					2003
142	6							1	3	12	41	79					2004
600	5					1		4	17	185	388						2005
1391	9			1	3	10	25	108	686	549							2006
575	5		1	2	3	11	78	329	146								2007
606	9	1	2	1	8	65	321	199									2008
602	7		5	19	42	392	134										2009
520	9	1	14	58	224	214											2010
517	19	11	144	269	74												2011
493	120	69	205	99													2012
436	284	54	98														2013

85 Book of Laws 5712 [1952], p. 146. 86 Book of Laws 5712 [1952], p. 354.

3- Requested by St. Yves: How many applications for registering a child whose one parent is holding a Palestinian ID were submitted between 2000 and 2013? How many were approved? How many were rejected? Of those rejected, how many were rejected based on security reasons? How many were rejected due to the center of life policy? How many were rejected due to negligence?

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2004 -2013
Total Child Registration Applications	1150	1865	1929	1893	2074	2129	2024	1838	1819	895	17616
Approved Applications	822	1113	1318	1389	1512	1617	1592	1381	1216	287	12247
Refused Applications	312	685	536	477	534	486	374	318	184	27	1125
Refused for Security reasons	/	3	/	5	4	/	/	/	/	/	12
Refused Based on Center of Life Policy	235	428	414	371	400	322	268	198	135	25	2796

No indication of delayed applications due to negligence
Numbers only after 2004 because before they were not inserted into the computerized system

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4- Requested by St. Yves: How many applications were submitted between 2000-2013 for requesting a legal status in Israel for a child whose one parent is holding a Palestinian ID and is less than 18 but born outside the country (Family Unification of son/daughter)? How many were approved? How many were rejected? Of those rejected, how many were rejected based on security reasons? How many were rejected due to the center of life policy? How many were rejected due to negligence?

	2000	2001	2002	2003	2004	2005	2006	2007
Total of Files	8	4	1	/	18	55	32	20
Approved Applications	2	/	1	/	7	35	16	11
Refused Applications	4	4	/	/	5	15	16	6
Refused for Security Reasons	/	/	/	/	/	/	/	1
Refused Based on Center of Life Policy	1	/	/	/	1	10	10	4

	2008	2009	2010	2011	2012	2013	2000 - 2013
Total of Files	25	13	22	20	14	7	239
Approved Applications	13	7	14	11	1	2	120
Refused Applications	9	5	6	4	1	/	75
Refused for Security Reasons	/	/	/	/	/	/	1
Refused Based on Center of Life Policy	7	5	3	2	1	/	44

No indication of delayed applications due to negligence

5- Requested by St. Yves: How many applications were submitted between 2000-2013 for requesting a legal status in Israel for a Palestinian based on humanitarian reasons (not including applications for regular family unification and child family unification)? How many were approved? How many were rejected? Of those rejected, how many were rejected based on security reasons? How many were rejected due to the center of life policy? How many were rejected due to negligence? How many were rejected because the humanitarian reason did not fulfill the criteria set by the Ministry of Interior?

	2007	2008	2009	2010	2011	2012	2013	2007-2013
Total of Applications	52	191	113	148	120	176	100	900
Approved Applications	7	44	24	28	18	/	/	121
Refused Applications	39	110	56	87	64	59	/	415

Excluding regular family unification where age criteria is met