

# AMNESTY INTERNATIONAL PUBLIC STATEMENT



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## Israel/OPT: Israel must repeal the discriminatory Citizenship and Entry into Israel Law

The Israeli authorities must repeal the discriminatory Citizenship and Entry into Israel Law, which continues to bar family reunification for thousands of Palestinians, Amnesty International said today. Nearly 14 years after the law was adopted as a temporary order, the Israeli authorities can no longer continue to use security grounds to justify institutional racial discrimination.

On Monday 20 February, the Israeli Supreme Court will hear a case that unifies 11 petitions that challenge the constitutionality of the law, and argue that the blanket bans on family reunification cannot be justified by genuine security concerns. The law explicitly discriminates against Palestinians from the Occupied Palestinian Territories (OPT) by preventing them from living with their families in Jerusalem and in Israel. The law also implicitly discriminates against Palestinian citizens of Israel (Israeli Arabs), who form 20% of the population of Israel, and against Palestinian residents of Jerusalem, as it is most often these communities who marry Palestinians from the OPT. Originally adopted in 2003 as a one-year temporary measure based on security grounds, the law has been renewed on an annual basis since then.

Amnesty International has repeatedly [called](#) on the Israeli authorities to repeal it and to resume the processing of family unification applications. This is a process by which Israeli citizens or residents must apply to the Israeli Ministry of Interior to “unify” or provide status that allows their non-Jewish spouses or members of their family who do not hold Israeli citizenship or status, to live in Israel or Jerusalem. Previous attempts by families and Israeli human rights organizations to challenge the law have failed. Israel’s Supreme Court upheld the law in [2006](#) and again in [2012](#), based on security grounds, even though the majority of the judges agreed that the law violated human rights and affected family life to a disproportionate extent.

The law does not allow family unification for Palestinian men aged between 18 and 35 and for Palestinian women aged between 18 and 25 who are residents of the OPT. Relatives not excluded by age can be prohibited for suspicion of involvement in activities hostile to Israel, which are very broadly defined, and could include any criminal offences, stone-throwing, taking part in demonstrations and other political activity.

Crucially, the law prevents spouses from the OPT from obtaining Israeli citizenship or residency rights. Once an applicant (resident or citizen) does establish centre of life in Israel, only military visitation permits may be provided to their partner from the OPT. These military permits do not provide official status however, and do not grant Palestinian spouses the right to work, access healthcare and social benefits; the right to drive legally or open bank accounts. By contrast, such restrictions are not imposed on non-Jewish foreign nationals who are joining their Israeli spouses from anywhere else in the world. As a result, thousands of Palestinians who hold Israeli citizenship and residency in Jerusalem are forced to choose between living without their spouses and leaving Israel to join their spouses in the OPT.

Those who choose to leave Israel to join their spouses in the OPT face a host of legal consequences. Palestinian residents of East Jerusalem, who number about 350,000, face the threat of losing their own permanent residency if they move outside of Jerusalem to join their spouses. Israeli citizens are prohibited from entering Areas A (major Palestinian population centres as defined under the Oslo Accords), and thus have to break Israeli law in order to live with their families, endangering their social and health benefits. If spouses from the OPT stay illegally in Israel with their Israeli spouse and children, they often cannot leave the house for fear of arrest and deportation.

In 2007, an amendment to the law expanded the ban on family unification to spouses from Syria, Lebanon, Iraq and Iran, which Israel considers to be “enemy states”. This exclusion includes spouses from these states with dual nationality.

An “Exceptional Cases Committee” was set up after a 2007 amendment to the law, which was to consider individual cases on a “humanitarian” basis. The five-person committee, which includes a representative of the Ministry of Defence, the General Security Services (*Shin Bet*) and the Population Registry, has been ineffective at best. In fact, the committee has only granted relief in a few rare cases, after very long delays and usually only as a result of cases being brought before the High Court of Justice.

The petitions submitted to the Supreme Court ask for more leniency and discretion in upgrading the status from military visitation permits to temporary and permanent residency in Israel for those who have been in the family unification process for a long time. The first hearing on this issue took place in early 2016, and prompted the Israeli Ministry of Interior to issue temporary residency to Palestinians who had applied for reunification before 2004 and who met the necessary criteria. To date, the Israeli authorities have granted 1,124 temporary permits, while 760 are still in process. This action did not amend the law however, but only provided a one-time relief based on an arbitrary cut-off date.

Israeli government officials have traditionally justified the law as necessary for security reasons. However, [past statements](#) made by Israeli officials appear to show that the real intent of the law is demographic in nature. Any order that continues to be implemented in such a blanket manner for over a decade can no longer be called temporary.

### **Broken families**

The case of one couple petitioning in this case highlights the lack of “security reasoning” as a premise for the ban and the disproportionate impact on their lives. Mahmud Mahamid is an 83-year-old Israeli citizen applying with his 56-year-old wife, Siham, who is from the Jenin area in the OPT. The couple have been married since 1995, living in a village near Umm al Fahim in Israel and have two adult children, both of whom are Israeli citizens. Mahmoud married Siham, while still married to his first wife Zahia who was in a coma. He had immediately applied for unification with Siham in 1995, but was rejected. After Zahia’s death a few months after his marriage to Siham, Mahmoud attempted to apply once more and was stalled without reason by the Ministry of Interior. Once the Mahamids turned to Israel’s State Comptroller and filed a petition to the Supreme Court, Israel’s Ministry of Interior agreed to process their request and in 1999 Siham finally received a temporary residency. However, because of the current law, Siham is unable to apply for permanent residency and end the cycle of renewal of residency each year. Each year, for nearly 20 years, Siham has been subjected to a Ministry of Interior full review of her centre of life and background check, and faces the risk that she will be denied a renewal of her status. This process has been extremely costly on the couple. Mahmud explained to Amnesty International, “I am retired and we both live off of my pension payments, but the costs of getting a lawyer to go through this process is making our life more difficult financially. I keep giving out checks that I will keep paying off a little bit at a time from my fixed income. It’s too much.”

At the moment, both Siham and Mahmud suffer from various illnesses. Chasing documents and submitting them to the Ministry of Interior in order to extend Siham's status is extremely difficult for the older couple, and the future frightens them. Siham fears that she may lose her ability to renew her temporary status and remain in her home of 20 years should anything happen to her husband. Mahmud told Amnesty International how this fear was dismissed: “I told the clerk at the Interior Ministry, ‘I am old, I won’t live hundreds of years. What will happen to Siham once I pass away? Who will help her?’ The man looked at me and smiled and then said, ‘Then it will be your kids’ turn, they can ask for their mother.’” Siham has been living in Israel for over 20 years, and there does not appear to be any security purpose for her lack of permanent status. The only reason for her living in limbo appears to be that she is Palestinian from the West Bank.

In another case, (F)<sup>1</sup>, a Palestinian woman who was a resident of Jerusalem, married a Palestinian resident of the occupied West Bank in 1989, and they had six children. At the time, Palestinian

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<sup>1</sup> The names in this case are being withheld for confidentiality reasons.

Jerusalemite women were [not allowed](#) to apply for family unification and the family was forced to live outside of Jerusalem in another part of the OPT. In 1994, the Ministry of Interior overturned this policy and (F) was finally allowed to apply for family unification. However, her request was denied in 1997 because her family could not establish that their centre of life was in Jerusalem – a requirement that had not yet been published. (F) appealed and asked to register her children in the Israeli registry, but her request was rejected and instead, her Jerusalem residency was revoked because of her time away from Jerusalem.

(F)'s lawyers claim that she did not receive an official denial notification. Believing her application was never answered, she turned again to register her children in 2005, 2006 and 2007. After long and exhausting legal procedures, including petitions to the Israeli Supreme Court, the Israeli Ministry of Interior finally accepted the claim that (F) has been a resident of Jerusalem since 2005. (F)'s children who were under the age of 14 at the time of the decision, were granted residency. (A) and (I) were over 14 in 2005, and though they had been under 14 when the family moved to Jerusalem and the first applications were submitted, they only received temporary military visitation permits allowing them to enter Jerusalem, which must be renewed on an annual basis. Although they are allowed to work with such permits, they are denied social and health benefits and are prohibited from driving. (F) says that she is unable to work because of arthritis pain, and her husband faces difficulties finding a job because of his status as a resident of the OPT. As a result, (A), the oldest child now in his twenties, supports the family financially. In addition to the arduous yearly renewal process, (A)'s temporary status exposes him to exploitation by his employers. (A) and (I) state that they are unable to plan their lives because of the uncertainty of their status.

### **Israel's international legal obligations**

In enacting and extending this law, Israel violates its obligations under international humanitarian and human rights law. Israel's obligations under international human rights law include the obligation to respect the absolute prohibition on discrimination set out in Articles 2 and 26 of the International Covenant on Civil and Political Rights (ICCPR), Article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Article 2 of the Convention on the Rights of the Child (CRC), and Article 2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). Israel has ratified all of these treaties and is bound to respect their provisions. Under the ICCPR, which Israel ratified in 1991, even "in time of public emergency which threatens the life of the nation," Israel is prohibited from taking measures that would "involve discrimination solely on the ground of race, colour, sex, language, religion or social origin."

In addition, Israel is also bound by its obligation to protect the family as a fundamental unit of society, including the establishment of families. These obligations are set out in Article 10 of the ICESCR, Article 23 of the ICCPR, and Articles 7 through 10 of the CRC. According to the authoritative commentary of the UN Human Rights Committee, which monitors state compliance with the ICCPR, international law "recognizes that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

The law is so egregious, that [in 2007](#), and again [in 2012](#), the United Nations Committee on the Elimination of Racial Discrimination voiced its concern on the discriminatory nature of the law and called for its revocation. Israel must fulfil its international legal obligations without discrimination based on national, ethnic or other grounds. The Israeli authorities must repeal this discriminatory law and ensure the right to family life and other human rights of all individuals without discrimination.