



רופאים לזכויות אדם - ישראל (ע"ר)
أطباء لحقوق الإنسان - إسرائيل
Physicians For Human Rights - Israel



Granting "Social Residency" Status to Women Affected by the "Nationality Law"

"Physicians for Human Rights-Israel" and "Kayan" estimate that the amendment to the Nationality and Entry into Israel Law (Temporary Order) from 2003 (henceforth 'Nationality Law' or 'Law') has harmed, until now, more than 15,000¹ couples, by leaving one of the two partners without civil status. Among the women harmed by the Law², it is estimated that about one third³ live in Israel on "staying visas", which allow them to live in Israel without social rights, and the remainder are illegal.

The policy of the State of Israel leads to the creation of a broad population segment, which lives permanently in Israel without social rights. Today, social rights depend upon and are conditional to the citizenship status of the individual. Accordingly, in the absence of a citizenship status, women affected by the Nationality Law lack the rights to health, social security, and dignity. The victims of the Law are not eligible for public health services, have no access to welfare services or national insurance and, in fact, are excluded from all social support services.

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¹ According to the statistics of the Population Administration, between 1993 and 2001, 24,789 family unification requests were submitted wherein one partner was a resident of the Palestinian Authority and 71% of these were processed. Simple calculations show that, on average, about 1,955 requests are received annually and it is reasonable to assume these would have been approved had the law not been passed. Accordingly, since 2000, nearly 15,645 couples have been harmed by the law. The calculation relates to couples harmed since 2000 as all those requests in process at that time were frozen. We do not have statistics regarding marriage between Israelis and citizens of Syria, Lebanon, Iraq and Iran or regarding minors that have reached 14 years of age and are still in Israel, who are allowed to live in Israel without social rights. .

² The relation only to women stems from the assumption that they are the primary victims of the amendment. Due to the patriarchal norms of the societies, most women live in the state of the male partner, in this case, Israel. Nevertheless, it is important to note that the law likewise discriminates against men.

³The 2005 amendment to the Law, which added a section that allows partners who have reached a specific age to receive a staying permit in Israel, presented as an 'achievement that can allow the processing of about 28.5% of the applicants for family unification'



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What is the Nationality law?

In May 2002, the government of Israel suspended the "family unification" process of granting civil status for residents of the Palestinian Authority who are married to a citizen of Israel. The decision was backed by security arguments and anchored in the "Nationality Law" of 2003, whose validity has been extended annually since then. The Law is retroactively effective and has suspended the lengthy (several-years-long) processes of family unification in the phase in which they were at the time the Law took effect. Thus, the Law also affects those who had submitted their requests prior to its adoption. Over the ensuing years, the Law was expanded to include citizens of Syria, Lebanon, Iraq and Iran, in addition to the Palestinian Authority.

After severe criticism, including appeals to the Supreme Court, and in an effort to appear 'clean of hand', the Law was amended. Since 2005, the government allows women over the age of 25 and men over the age of 35, whose partners are Israeli citizens, on condition that they present no security or criminal threat to the State, to receive "staying visas" that allow them to live in Israel for purposes of family unification. The ability to receive permits to live in Israel emphasizes the absurdity of the amendment and its racist character – as any threat of criminal or security danger has already been negated and a staying visa has been granted – why is it necessary to deny from these people social rights?

What can be done?

We, Physicians for Human Rights-Israel and Kayan, vehemently object to the Nationality Law, as it is a racist law, and therefore must be repealed. Nevertheless, as long as the Law remains in force, the State of Israel is obliged to provide for the women the Law affects. The prolonged disregard of the existing situation, wherein a large segment of the population is prevented from realizing its civil and social rights, is unconscionable. It is necessary to cut the connection between civil status and social rights and pave the way to the realization of these rights by granting "social residency" to the women affected by the Law, until the social injustices created by this law are addressed.

Kayan - a feminist organization founded in 1988 by Palestinian Israeli women in order to achieve social change and raise a feminist consciousness within Palestinian women in Israel in particular, and the Israeli Jewish and Palestinian population in General.

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What is Social Residency?

Social Residency is a status that bestows social rights and in particular health rights, as distinct from 'Citizenship' or 'Residency', which also bestows political rights (the right to vote). In reality, while Social Residency status is given by the Ministry of Health and Welfare, residency or citizenship are given by the Ministry of Interior. Social Residents are thus recognized by the State for purposes of National Insurance and National Health Insurance, even though they are not recognized by the Ministry of Interior.

Who is Authorized to Grant the Status of Social Resident?

The authority to grant Social Residency status rests with the Ministers of Health and Welfare. The Minister of Health has the authority to determine registration in Health Funds and the manner in which health services are provided to non-residents of the State, according to Public Health Law, section 56.a.5.d. In addition, the National Insurance Law, section 378.b.6 allows the Minister of Welfare to determine the legal rights and obligations of non-residents of Israel and, in practice, to recognize the individual, in the absence of citizenship status, as a Social Resident. The joint practice and use of this authority by the Ministers of Health and Welfare can bring about a fundamental change in the manner in which the State relates to those currently affected by the Law and bring about the acknowledgement of universal values and principles of human rights, enabling these victims to finally achieve a life with dignity.

Summary

The policies currently practiced in the State of Israel lead to the creation of a social strata living in Israel permanently with their family, without basic social rights, such as the right to health. The issue is not a population living temporarily in Israel,

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but women who live permanently in Israel. At the minimum, the State has the obligation to permit these victims of the Law to live in dignity, and to leave the issues of demography and security to other branches of the government. The Public Interest dictates against the creation of a population without health rights, which is exposed to health risks, disease and lack of treatment. Immigration policies, such as they are, cannot be allowed to crush the rights of the immigrants, their health, social security and life with dignity.

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