



مركز مساواة
لحقوق المواطنين
العرب في إسرائيل
(ج.م.)

מרכז מוסאווה
לזכויות האזרחים
הערבים בישראל
(ל.ר.)

Mossawa Center
The Advocacy
Center for Arab
Citizens of Israel

NATIONALITY AND ENTRY INTO ISRAEL LAW (TEMPORARY ORDER)

Introduction

Israel's *Nationality and Entry into Law* (Temporary Order) (the "Citizenship Law") has sparked much debate since its enactment. The law prevents Palestinians and residents of "enemy states" from gaining citizenship, or permanent residency, through marriage to an Israeli citizen, purportedly in the interest of national security. However, the Middle East conflict has divided many families, and it is common for marriages to occur between Palestinians on opposite sides of the border. The *Citizenship Law* therefore constitutes an undue restriction on family life for the affected Arab population, and has drawn considerable opposition from the Arab community and human rights groups.

Background

The *Citizenship Law* was initially passed as a temporary provision on July 31, 2003, restricting the eligibility of Palestinian spouses of Israeli citizens to gain citizenship, or permanent residency permits. Despite being a temporary order the law has been annually renewed. Amendments in 2005 and 2007 changed the age criterion of the law and extended its application to citizens of Lebanon, Syria, Iran, and Iraq, respectively. Organized action in opposition of the law has met with resistance. Following its enactment, the *Citizenship Law* was met with petitions and legal challenges from local human rights organizations and Members of the Knesset (MKs). Despite the outcry and challenge to its legality, the law was upheld by the Supreme Court of Israel in a May 2006 decision. Most recently, in January 2012, the Supreme Court rejected a petition in a 6-5 decision, further entrenching the controversial law.

Government Rationale

In the 2012 decision, the Supreme Court of Israel - Justices Eliezer Rivlin, Asher Dan Grunis, Miriam Naor, Elyakim Rubinstein, Hanan Melcer and Neal Hendel – upheld the law on the grounds of national security. The argument in favor of the law based on national security concerns suggests that granting citizenship to citizens of "enemy states," those facing restrictions under the *Citizenship Law*, pose a threat to the safety and security of Israeli citizens. Justice Asher Grunis, now President of the Supreme Court, stated that "human rights are not a prescription for national suicide." The other Justices in the majority reflected this view that national security concerns outweigh the right to family life. However, the law makes no effort to discern security threats on a case-by-case basis, but creates a sweeping generalized ban.

Opposing Viewpoint

Despite the government stance that the *Citizenship Law* is a national security measure, there exists little grounding for this claim. Historically, a very small percentage of the many thousands of Palestinians who became Israeli citizens posed any threat to the State of Israel. Between 1994 and 2008, only seven of the more than 130,000 Palestinians entering Israel for family reunification were convicted due to involvement in acts against the State. Moreover, in many cases the law does not prevent Palestinians from entering Israel. Rather, it serves to prevent them from gaining citizenship,



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or permanent residency, and the rights entailed therein, preventing them from working or driving, while being required to continually renew temporary residency permits.

This is not the first time that “emergency” measures have been used to justify discriminatory legislation in Israel. The State of Israel has been in a continual “state of emergency” since its founding in 1948, disproportionately utilizing this declaration against the Arab population within Israel and the occupied Palestinian territories. The emergency regulations, then, have become the status quo in Israel and institutionalizing discrimination against the Arab minority in Israel. The “temporary” *Citizenship Law*, now in effect for nine years, represents just one of many laws justifying xenophobic measures.

All of this is indicative of the fact that the Arab citizens of Israel are unfairly viewed as outsiders of the State, or a subversive fifth column. Rather than view Arabs as equal citizens and members of the Israeli community, they and their families are still seen as a threat to the State. The condescension inherent in discriminatory legislation such as the *Citizenship Law* fosters mistrust between the Arab citizens of Israel and the State. Furthermore, it creates divisions between the Arab community in Israel and their relatives in neighboring Arab countries. The presence of family ties across borders presents the potential to reduce hostilities between countries and improve ties. However, the inhibition of family ties maintains barriers between Israel and its neighbors, rather than being allowed to serve as a connector between them.

International Criticism

The *Nationality and Entry into Israel Law* has come under scrutiny from a number of international bodies and organizations, including the United Nations, Amnesty International, and a myriad of human rights groups in Israel. These groups have argued that the *Citizenship Law* is racist and discriminatory, as it overwhelmingly affects Arab citizens’ right to family life. The UN Committee on the Elimination of Racial Discrimination (CERD) concluded that the law violated an international human rights treaty against racism, and other groups have attacked the law as a violation of the freedom and equality set forth in Israeli *Basic Law*. Despite opposition from prominent international organizations, however, the *Citizenship and Entry into Israel Law* has remained in force.

For more information about the *Citizenship Law*, please follow the links below:

- [Personal Story](#) of Taiseer Khatib’s family, one of many affected by the Citizenship Law
- Detailed legal analysis of the Citizenship Law appearing in [Adalah's January 2012 Newsletter](#)
- [Concluding Observations](#) of the February 2012 UN CERD session (C.18 on p. 4)