



# Right to Family

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## SUMMARY

Thousands of Palestinian families are unable to be with one another as a result of obstacles placed upon them by the Israeli state. This deliberate fragmentation of the Palestinian population is supported by a set of Israeli laws that discriminate against the non-Jewish populations of Israel and the occupied Palestinian territories.

This document looks at the ways in which Palestinian families are separated from one another depending on where they live, focusing particularly on the impact of Israel's 2003 Citizenship and Entry law that has affected hundreds of thousands of Palestinians.

## CONTEXT AND INTERNATIONAL LAW

Inherent in the enforced fragmentation of the Palestinian people are serious obstacles placed upon families and loved ones that prevent them from being together. The often impossible task of Palestinians being able to live their lives and spend their time with friends and family is a direct consequence of Israeli policies, current and historic. The long history of Palestinian dispossession and division has inevitably led to personal difficulties and fracturing of family units. This outcome should be viewed not as an inconvenience incidental to the workings of Israel's legal and political apparatus, but as an intentional aspect of an occupation that is meant to subjugate and isolate Palestinians from each other and prevent them enjoying a life in dignity.

One of the most basic human rights recognised in the Universal Declaration of Human Rights is the right to enjoy a private family

life (see Article 16).<sup>1</sup> Further, in the UN Convention on the Rights of the Child, the right of children to grow up in a family environment and to know and be cared for by their parents is specifically recognised.<sup>2</sup> The UN Family Rights Caucus states that "to protect the ability of the institution of the family to exist and to flourish is to protect one of the most basic human rights known to mankind."<sup>3</sup> More broadly, the right to engage in meaningful romantic relationships is an integral part of the right to a private life. This is important to bear in mind when reviewing the manner in which the Israeli state apparatus violates the family unit and prevents its functioning as a protective environment for children.

## PALESTINIAN FAMILIES UNDER ISRAELI RULE TODAY

The Citizenship and Entry into Israel Law of 2003 has been described as analogous to an "anti-immigration measure that threatens to break up thousands of Israeli Arab families."<sup>4</sup> This law is a stark illustration of Israel's systematic violation of the right to love and live in a family unit. If a Palestinian citizen of Israel or resident of East Jerusalem decides to get married to a Palestinian from Gaza or the West Bank (or even Syria, Lebanon, Iran, or Iraq), the couple has to apply for "family unification" at Israel's Ministry of Interior in order to allow them to live together. Until 2002, in many cases – albeit following a protracted process known as the "Gradual Process" – the Ministry granted the status. But the 2003

1. <http://www.un.org/en/universal-declaration-human-rights/>

2. <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

3. <http://www.unfamilyrightscaucus.org/>

4. <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1016&context=njihr>



**A 2003 law prohibits Palestinian spouses from the occupied territories from obtaining residency or citizenship status in East Jerusalem or Israel by marriage to an Israeli citizen. This, in effect, entirely blocks their prospects for “family unification” by preventing the spouse from living in Israel with their partner. The provision also applies to children from the West Bank and Gaza who wish to live with a parent who is a Palestinian citizen of Israel or resident of East Jerusalem.**

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The provision also applies to children from the West Bank and Gaza who wish to live with a parent who is a Palestinian citizen of Israel or resident of East Jerusalem.<sup>6</sup> This law was initially supposed to be a temporary order for one year. However, it has

been continuously extended, most recently for one more year as of June 2016.<sup>7</sup> The law undermines the rights and dignity of both Palestinians inside Israel and those in the occupied territories. Also crucial is the fact that this law places East Jerusalem alongside Israel in its legal scope, as opposed to recognising East Jerusalem as occupied Palestinian territory

similar to the Gaza Strip and the West Bank. This is in violation of international law, which views Israel’s seizure of East Jerusalem as illegal.

5. Ibid

6. <http://www.saintyves.org/?MenuId=21&Lang=1&TemplateId=projects&catId=8&full=1&id=45>

7. <https://www.adalah.org/en/content/view/8831>

The Citizenship and Entry law does not revoke citizenship that has already been granted, but it does impact couples that have been living together in Israel while trying to get unification approval. Under the new law, thousands of Palestinians living in Israel or East Jerusalem who were waiting to be granted approval must go back to the occupied territories of the West Bank or Gaza and thus become separated from their families. They are also denied identity cards. Effectively, this law safeguards a clear Jewish majority over Arabs within Israel, not only by preventing migration across the territory borders, but also by burdening marriage. Fundamentally, the law bans marriage between Palestinians of East Jerusalem and Palestinian citizens of Israel, and those in the occupied territories. A year before the law was passed in 2003, the Israeli Government released an order which froze the “Gradual Process” for family unifications. It is from that point on that family unifications have almost always been denied. Rather than view this law as discriminatory, supporters of the law justify it as a necessary security measure, claiming that some Palestinians have misused their citizenship to launch terrorist attacks in Israel.

The law specifies an age restriction whereby a family unification application can be made to the Palestinian male spouse only upon him reaching the age of 35 years or more, and to the Palestinian female spouse upon her reaching the age of 25 years or more. The couple must also satisfy the residency requirements, and must not have any criminal or security records. Further, members of their respective families must not have such record either, with the law defining family as “a spouse, a parent, a child, a brother or sister and their spouses.” Should any of the applicants have been



indicted through a due process of law, or have security records (even without their knowledge, i.e. in cases of secret information), then the couple's family unification application will be rejected – even if the couple themselves do not have any record. Considering the incredibly high number of Palestinians who are arrested and detained arbitrarily and without due process, this is an issue that affects most families and thus has been described as a form of “collective punishment”.<sup>8</sup>

The law also prevents the Palestinian spouse from ever progressing through the “Gradual Process” to gain permanent residency in, or citizenship of, Israel.<sup>9</sup> The Palestinian spouse can at the most only get temporary permits, normally for one year, meaning they have no access to rights or basic social services like health insurance. Women are affected by this particularly severely, as they need medical care during their pregnancies and after giving birth. In order to apply for renewal

of permits, each year the spouse has to present proof of domicile in Israel and go through extended security checks, which in turn delays the reinstatement of an entrance permit. During

renewal periods, entitlements are frozen for children and families, which can leave them without education, healthcare, and other social benefits during that time. Further, in the case of parents with residency rights in Jerusalem and a Jerusalem

identification card, they cannot automatically transfer their status to their children, leaving many in vulnerable situations.<sup>10</sup>

As a result of the law, many Palestinians live illegally in Jerusalem, without social benefits and with the constant fear of being discovered and deported to the West Bank. The alternatives would be for the couples to live separately on different sides of the Separation Wall, or renounce their residency rights in Jerusalem by moving to the West Bank or abroad. If the couple decides to live in the West Bank and one spouse is an Israeli citizen, he or she is liable to prosecution since Israelis are forbidden from entering Area A in the West Bank or the Gaza Strip. Thousands of Palestinian families and tens of thousands of individuals have been affected by the law.<sup>11</sup>

But the separation of Palestinians from loved ones far predates the 2003 law. It has, effectively, been a component of Israeli policy that has often been carried out in arbitrary and unpredictable ways for decades. A fundamental aspect of the occupation starting from 1967 has been fragmentation and division of Palestinian communities and families, due to the enforcement of a security and military regime over the territories that is unequal, unpredictable, and geographically uneven.<sup>12</sup> Israel retains complete control over the population registry, and is thus the sole authority to issue identity cards and residency permits. All too often, as B'Tselem describes, Israel uses this as an instrument for the “forced break-up of the family unit.”<sup>13</sup>

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8. <http://www.saintyves.org/?MenuId=21&Lang=1&TemplateId=projects&catId=8&full=1&id=47>

9. <https://www.adalah.org/uploads/oldfiles/newsletter/eng/jun06/ar1.pdf>

10. <http://www.aljazeera.com/indepth/features/2013/07/20137813932642619.html>

11. <http://www.adalah.org/en/content/view/7556>

12. Saree Makdasi, *Palestine Inside Out: An Everyday Occupation* (New York; London: W. W. Norton, 2010)

13. [http://www.btselem.org/download/200607\\_perpetual\\_limbo\\_eng.doc](http://www.btselem.org/download/200607_perpetual_limbo_eng.doc)