

Update on *Free choice of spouse*, Part III, Section 5 D 4, 1967-Occupied Arab Territories, p. 79

The Impact of the Nationality and Entry Into Israel Law (Temporary Order) 2003 on Palestinian Family Unification in East Jerusalem

On 15 January 2007 the Israeli Knesset (Parliament) approved the fifth successive extension of the Nationality and Entry Into Israel Law (Temporary Order) - 2003. The "temporary" Order is now due to expire on 17 April 2007. However, in parallel, legislation is currently being proposed that would extend an amended version of the Order for two years.

Although wider in scope, the Order has an extremely grave impact on Palestinians living in East Jerusalem. The Order, amended in 2004 and 2005, freezes the granting of residency status in Israel to a "resident of the region." It must also be noted that Israel, contrary to international law and consensus, considers East Jerusalem to be part of the state of Israel, and not occupied territory. Further, a 'resident of the region,' under Section 1 of the law, is defined to include not only residents of the Occupied Palestinian Territory (OPT), but also residents who live there temporarily and are not registered in the Palestinian population registry. It excludes Jewish settlers who reside in the OPT, and does not apply in the case of Israelis with foreign spouses from outside the OPT.

The "Temporary Order" uniquely targets Palestinians, and prevents couples where one spouse is a West Bank resident from living as a family unit in East Jerusalem. It therefore effectively prevents Palestinians from freely choosing who they wish to marry. As such the Temporary Order constitutes clear discrimination on the grounds of national origin, and is therefore in clear violation of Article 5(d)(vi) of the International Convention on the Elimination of All Forms of Racial Discrimination.

It is also worth noting that the Order has been raised as a matter of concern by both the Human Rights Committee and the Committee on the Elimination of Discrimination Against Women, and was narrowly upheld by a ruling of 6-5 of the Israeli Supreme Court on 14 May 2006. In this ruling, one of the judges that voted to uphold the Temporary Order did so on the grounds that the government should have the opportunity to amend the law to correct its faults. This has clearly not been the case, and should be a point of significant concern to the present Committee.