

**PROPOSED AMENDMENT  
TO THE CITIZENSHIP LAW  
("FAMILY REUNIFICATION LAW")**

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# SUMMARY

The Citizenship Law (popularly known as the "Family Reunification Law") was enacted during the Second Intifada as a temporary provision. In response to the terror and chaos that prevailed at that time, legislators sought to stop granting citizenship and residence visas to Palestinians from the occupied territories married to Palestinian citizens of Israel or with first-degree relatives in Israel. Under this provision, permanent prohibitions were set that have since continued to apply to Palestinians from the occupied territories and to citizens of such countries as Iran, Lebanon, Syria, and Iraq.

Despite the fact that these prohibitions were part of a temporary provision, they in effect became common practice ratified by the Knesset every year since 2003. What was initially justified as a security need, subsequently became a norm designed to ensure a Jewish majority in Israel and closely monitor the "demographic balance" on its soil.

This Temporary Provision disproportionately violates the basic right to family life and equality of the Palestinian citizens of Israel by means of a sweeping ban on granting citizenship or residence in Israel, with no exceptions or discretionary consideration whatsoever. In fact, the legislature chose to prevent all family reunifications of Palestinian citizens of Israel with Palestinian residents of the territories, and to deny citizenship and residence permits to all Palestinians without any review of unique circumstances or individual security checks.

The purpose of this policy paper is to underscore the distinct problematic nature of the Citizenship Law. It is based on the request we addressed to heads of parties and coalition factions to amend the Temporary Provision, and to adopt our proposed amendment to the law in a manner that conforms to human and civil rights.

# BACKGROUND

The Second Intifada exacted numerous casualties, both Jews and Palestinians. According to B'tselem, 238 Israeli civilians were killed in the Occupied Territories and 490 in Israeli territory; 245 troops were killed in the Occupied Territories and 90 in Israeli territory; Israeli security forces killed 4,790 Palestinians in the Occupied Territories and 71 in Israel.<sup>1</sup> In 2002, at the height of the Intifada, Sharon's first government decided to freeze all naturalization processes of foreign spouses of Palestinian origin.<sup>2</sup>

A year later, the coalition passed an amendment to the Citizenship Law in the controversial form of a temporary provision,<sup>3</sup> which turned the government's decision into law. Subsequently, a series of petitions were submitted to the Supreme Court: the first, in 2003, by the Association for Civil Rights in Israel (ACRI) et al (HCJ 8099/03),<sup>4</sup> and the second, in 2007, by MK Zehava Galon et al. These petitions were once again rejected by the court in 2012.<sup>5</sup>

From then until 2021, the Knesset approved the Temporary Provision extending the Citizenship Law every year. In 2021, due to the unique political situation created by the formation of the Bennett government, the Right (which for the first time in many years found itself largely in the opposition) voted against its extension, and as a result the Temporary Provision was abolished.<sup>6</sup>

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<sup>1</sup> B'tselem, [Fatalities Before Operation Cast Lead 29 September 2000-26 December 2008](#).

<sup>2</sup> ACRI, [The High Court Failed to Uphold Basic Human Rights](#), 12 January 2012.

<sup>3</sup> Ibid.

<sup>4</sup> ACRI, [Citizenship and Entry Into Israel Law: Enacted With No Factual Basis](#), 28 December 2005.

<sup>5</sup> Adalah's Newsletter, [Summary of Supreme Court Judgment in the Citizenship Law Case: HCJ 466/07 MK Zehava Galon v. Attorney General](#), Volume 89, January 2012.

<sup>6</sup> Michael Hauser Tov, [In Blow to Bennett, Knesset Votes Down Extending Citizenship Law](#), Haaretz, 5 July 2021.

# THE CITIZENSHIP LAW: DEMOGRAPHIC MOTIVES GUISED AS SECURITY

As stated, the Citizenship Law was passed during the Second Intifada, which saw an unprecedented number of terrorist attacks on Israeli civilians that resulted in the highest fatality toll since the 1948 War. These attacks, which were often staged in crowded places such as buses and restaurants, were defined as crimes against humanity even by occupation opponents and pro-Palestinian activists<sup>7</sup> and considerably undermined the sense of security of Israelis.<sup>8</sup> It was in this climate that the amendment to the Citizenship Law depriving Palestinians of the recourse to naturalization was born.

However, despite its best efforts to portray the law as motivated by security reasons, the government failed time and again to present evidence to that effect. According to the government's own data, some 130,000 Palestinians entered Israel between 1993 and 2008, of which only 54 were suspected of terrorism and indictments were filed against only 7 of them.<sup>9</sup> Thousands of Palestinians enter Israel on a daily basis to work, some legally and many illegally.

The clear purpose of the law was to reduce the number of Palestinian citizens of Israel. Then-Attorney General Menachem Mazuz told the Knesset Interior Committee that "this Temporary Provision was adopted by the government for security reasons and due to the growing number of Palestinians, tens of thousands of them, settling in the State of Israel through this process. A year ago, on the eve of the government's decision, our data showed 130,000-140,000 Palestinians who settled in Israel from 1994 until early 2002. Therefore, we are not talking about random decisions here. The number of couples where a spouse hails from Sweden, Romania, or Canada totals a few dozen per year. In contrast, until

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<sup>7</sup> Shai Glick, [You Won't Guess Who Lectures to the IDF's Future Officers](#), Ynet, 19 May 2015 (Hebrew).

<sup>8</sup> Shai Feldman, [The Second Intifada: A 'Net Assessment'](#), Institute for National Security Studies (INSS), November 2001.

<sup>9</sup> See Footnote 5.

1993 we were dealing with a few dozens or hundreds of couples with a Palestinian spouse per year, but the numbers jumped considerably since 1994."<sup>10</sup>

This perception was not limited to the professional echelon, and was clearly voiced by the political leadership as well. In 2005, at a cabinet debate on the petitions filed against the law, Prime Minister Ariel Sharon said that "we need not hide behind security arguments, we need a Jewish state to exist." For her part, then-Justice Minister Tzipi Livni said: "The consideration of Israel's existence as a Jewish state is relevant and not racist. [...] It definitely justifies imposing limitations on the naturalization of spouses of Israelis."<sup>11</sup>

In a ruling in 2012, Supreme Court Justice Edmond Levy caustically derided the security argument supposedly underlying the law:

"I fear there is no avoiding the conclusion that when it is in the state's interest to have laborers on its soil who, as is well known, meet employment needs that its own economy cannot meet, security considerations are shortly put aside or at least lose their status as a major consideration. This may not only make security considerations suspicious in the eyes of some, but in my opinion, calls into question the seriousness with which the state treats the protected rights of its Arab citizens."<sup>12</sup>

Similar views were voiced by senior government officials even on the week that the Knesset voted down the Citizenship Law in July 2021. "We shouldn't hide the essence of the Citizenship Law; it's one of the tools aimed at ensuring Israel's Jewish majority," Alternate Prime Minister and Foreign Minister Yair Lapid was quoted as saying.<sup>13</sup>

In this context, it is also important to emphasize the Shin Bet's announcement that since 2018 there has been no involvement in terrorism on the part of any individuals eligible for family reunification.

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<sup>10</sup> Knesset website, [Minutes of the Knesset Interior Committee's Session](#), 14 July 2003 (Hebrew, emphasis added by Zulat).

<sup>11</sup> Shahr Ilan, [Open and Shut Cases](#), Haaretz, 11 May 2005.

<sup>12</sup> See Footnote 5.

<sup>13</sup> Caroline Landsmann, [In a Moment of Honesty, Lapid Revealed Israel's Antidemocratic Essence](#), Haaretz.com, 10 July 2021

# **VIOLATION OF THE RIGHT TO FAMILY LIFE AND THE RIGHT TO EQUAL TREATMENT**

## **THE STATUS OF PALESTINIAN CITIZENS OF ISRAEL**

As of the end of 2020, according to the Central Bureau of Statistics, Israel's Palestinian citizens totaled 1.956 million, constituting 21.1% of the total number.<sup>14</sup> The status of Palestinian citizens was never stable: they were held under military rule until December 1966 and were slaughtered by Israeli troops on a number of occasions (the Kafr Qassem massacre, Earth Day in 1976, the events of October 2000) where the perpetrators either were never punished or received light sentences that were commuted before long.

To this day, doubts are cast on the very fact that Israeli Palestinians enjoy citizenship, and right-wing MKs often lash out against it. For example, following the incidents of May 2021, MK Miki Zohar (Likud) proposed a bill aimed at revoking the citizenship of "rioters," whose identity is clear to all.<sup>15</sup> For his part, MK Bezael Smotrich (Religious Zionism) said in April 2021 that "the Arabs are citizens of Israel, at least for now; they have MKs, at least for now."<sup>16</sup> These pronouncements did not stop Likud leader Binyamin Netanyahu from trying to form a government with Smotrich.

## **VIOLATION OF RIGHT TO FAMILY LIFE AND RIGHT TO EQUAL TREATMENT**

The Citizenship Law constitutes a direct and blatant violation of the basic right of Palestinian citizens of Israel to seek happiness. In the Supreme Court's first ruling on the subject in 2005, Justice Levy described the violation as follows:

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<sup>14</sup> Central Bureau of Statistics, [Population of Israel on the Eve of 2021](#), 31 December 2020.

<sup>15</sup> Srugim website, [Miki Zohar's Proposed Bill: Revoke Citizenship of Rioters](#), 13 May 2021 (Hebrew).

<sup>16</sup> Kipa website, [MK Smotrich: 'The Arabs Are Citizens of Israel, At Least for Now'](#), 26 April 2021 (Hebrew).

"Two constitutional rights of the Israeli who wishes to be reunited with their Palestinian spouse are violated by the legislative arrangement that is the subject of these petitions, and both derive from the right to human dignity contained in *Basic Law: Human Dignity and Liberty*. The first is a person's right to family life, which embodies two subordinate rights without which it cannot really exist: a person's fundamental right to marry the spouse of their choice according to their wishes and views, and their right to be allowed to live together as a family in the geographical location of their choice.

"The second right that is considerably impacted by the Citizenship Law (Temporary Provision), is a person's right to equal treatment. On the face of it, the prohibition contained in the law does not distinguish between Arab residents of Israel and Jewish ones. However, it is clear to all that for the Arab citizens of Israel, ethnically and culturally, Palestinian residents of the territories are a natural reference group in their quest for marriage partners. This is a relevant difference ignored by and absent from the legislation."<sup>17</sup>

It should be emphasized that in practice, the law in its current form does not prevent spouses from the West Bank (over a certain age) from entering Israel. All that the law actually prevents is the possibility for such spouses to acquire status in Israel, and thus gain access to social rights, among other things. Without status, couples are forced to continue living in Israel by virtue of temporary permits, in constant fear of the Interior Ministry refusing to renew their permits and forcing them to leave their homes.

Today, about 9,200 such families live in Israel and East Jerusalem, forced to tread their way time and again within the bureaucratic maze of the system in conditions that are humiliating and confusing and with no hope of their suffering coming to an end. And if that were not enough, the law seriously hurts the children of these families, and often forces parents to turn to Hamoked Center for the Defense of the Individual when they fail in their efforts to register these status-less children with the Interior Ministry.<sup>18</sup>

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<sup>17</sup> Hamoked website, [HCJ 7052/03 MK Zehava Galon v. Attorney General](#), Clause 7 of Justice Levy's statement, 14 May 2006 (Hebrew, emphasis added by Zulat).

<sup>18</sup> Hamoked website, [Some 12,700 Palestinians Live in East Jerusalem and Israel by Virtue of Family Unification Processes; Of Them, 70% Are Without Social Security Rights or Status In Israel](#), 23 November 2020.

## **CITIZENSHIP LAW AS KEY FACTOR PERPETUATING STATUS OF PALESTINIAN CITIZENS AS SECOND-CLASS**

In practice, the Citizenship Law defines Palestinian citizens of Israel as enjoying a flawed and second-class citizenship compared to that of Israeli Jews.

When the Temporary Provision reached a second hearing by the Supreme Court, Justice Levy, who in his ruling of 2005 had approved it for a period of nine months, vehemently opposed it:

"The articles of the Citizenship and Entry Into Israel Law [...] accord crucial weight to the security factor and gravely infringe on first-rate fundamental rights. They create a situation that clearly constricts the rights of Israelis only because they are Arabs. They give legitimacy to a concept that is alien to our basic concepts: discrimination of members of a minority only because they are a minority."<sup>19</sup>

In this respect, the Citizenship Law was a kind of prelude to the Nationality Law, in stipulating that Israel's Palestinian citizens are second-class. Justice Levy highlighted the danger inherent in the law: "In its current form, the law raises difficulties. I fear that it harms not only couples wishing to get married, but also the democratic character of the State of Israel and the delicate fabric of relations with a major segment of the population living within it."<sup>20</sup>

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<sup>19</sup> Nevo website, [HCJ 5030/07 MK Zehava Galon v. Attorney General](#), Clause 29 of Justice Levy's statement, 11 January 2012 (Hebrew, emphasis added by Zulat).

<sup>20</sup> Ibid, Clause 9 (emphasis added by Zulat).



# LEGISLATIVE BYPASS ROUTE: INDEFINITE EXTENSION OF TEMPORARY PROVISION

As mentioned, the initial decision to freeze all naturalization processes of foreign spouses of Palestinian origin was made in 2002, and a year later the coalition passed the amendment to the Citizenship Law that enacted this decision into law. Petitions against it in 2003 were rejected, as most judges accepted the state's argument that it met a security need.

However, due to the serious violation of the rights of Palestinian citizens of Israel contained in the law, the state was forced to define it as a Temporary Provision (legislation whose duration is set in advance, as opposed to regular laws that remain in effect as long as they are not canceled or amended). Justice Levy was of the opinion that the violation of the rights was so severe that the government must be allowed to enact a temporary provision that would be in effect for only nine months.<sup>21</sup>

The Second Intifada ended in 2005, and the security pretext at the core of the law started to fade away. Nevertheless, the Knesset extended the Temporary Provision year after year, and in 2007 MK Zehava Gal-On submitted a second round of petitions against it. The hearing of these petitions lasted five years, and in 2012 the Supreme Court rejected them again.<sup>22</sup>

This time, Justice Levy voiced his objection to the law, saying it stemmed, among other things, from the great weight given to the security argument, which violated the rights of the Arab minority in Israel and the democratic values of the state.

However, the opinion that was accepted was not Levy's but that of Judge Asher Grunis, who opened his remarks with a statement (derided by Levy)<sup>23</sup> to the effect that "human rights are not a prescription for national suicide."<sup>24</sup> Grunis contemptuously denied the violation of the family rights of Israeli Palestinians, claiming that "what has definitely been violated is the lives and bodies of Israeli

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<sup>21</sup> Ibid.

<sup>22</sup> Nevo website, [HCJ 466/07 MK Zehava Galon v. Attorney General](#), (Hebrew).

<sup>23</sup> Ibid, clause 47B.

<sup>24</sup> Ibid, Clause 1 of Justice Grunis's statement.

citizens."<sup>25</sup> Grunis's terse ruling (one and a half pages) made no mention of the deception embodied in a law that was ostensibly motivated by security but inspired by demographics in practice, or to the very illegitimate use of a temporary provision, thus endorsing the continuous discrimination contained in the Citizenship Law, until its repeal due to party politics in July 2021.

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<sup>25</sup> Ibid, Clause 3.

# OPERATIVE RECOMMENDATION

All the above clearly suggests that the Temporary Provision does not prevent security risks, and has therefore ceased serving its original purpose. Consequently, we entreated party and coalition faction leaders to amend the Temporary Provision violating the basic rights of the Palestinian citizens of Israel (the right to equality, the right to marry, and the natural right to family life), and to adopt the bill proposed by the Zulat institute.<sup>26</sup>

The proposed amendment is intended to rectify the long-lasting injustice inflicted by the Citizenship Law, and to enable the Palestinian citizens of Israel who wed Palestinians from the territories to exercise their right to marry and live in the place where they were born, by right and not as a favor.

## Our bill emphasizes three main components:

### 1. Case-by-Case Review of Applications

Underlying our proposed bill is the point noted by Justice Levy: the absence of a case-by-case review of applications for naturalization filed by residents of the West Bank and the Gaza Strip and their rejection en masse. In a 2012 Supreme Court ruling, Justice Levy attacked the government's refusal to conduct individual checks of Palestinians spouses seeking citizenship,<sup>27</sup> writing:

"[...] Based on a categorized classification, which in no way examines the risk posed by a specific person, the provisions of the Citizenship Law obscure the concept that human beings, any single human being, contain the whole universe within them and bear responsibility for their own actions."<sup>28</sup>

Our bill requires a review of applications case by case, which is the only way to prevent the continuous and disproportionate violation of the natural right of Israeli spouses to family life.

### 2. Recognition of Humanitarian Reasons such as Marriage and Common Children

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<sup>26</sup> Zulat for Equality and Human Rights, [Proposed Amendment to Citizenship and Entry Into Israel Law](#), 2021 (Hebrew).

<sup>27</sup> H CJ 5030/07, Clause 32.

<sup>28</sup> Ibid, Clause 29 of Justice Levy's statement (emphasis added by Zulat).

Another key point is repealing the section of the law that does not recognize that a spouse is a family member of the applicant and that the couple have children in common as a humanitarian reason that must be recognized by the Interior Ministry's Humanitarian Committee.

### 3. Elimination of the Temporary Provision

Our bill seeks to abolish the Temporary Provision, and demands that henceforth, when the Knesset wants to change the Citizenship Law, it will not do so in a snap vote but through a full legislative process, with all the public debates and struggles that this entails.

The advantage of our bill is that it ensures protection of the lives and well-being of Israel's citizens and residents from the dangers stemming from the sensitive security situation, without severely and disproportionately violating the human rights of spouses who are Israeli citizens.

This way, the bill optimally implements the recommendations of the Supreme Court justices as expressed in relevant rulings (HCJ 7052/03 Adalah v. Minister of the Interior; HCJ 466/07 Galon v. Minister of the Interior).

We in Zulat believe that the "Nationality Law" is a blot on Israel's law books, which under the guise of a security need created an ethnic separation between the rights of Israelis of Jewish origin and Israelis of Palestinian origin. It has caused more than enough suffering and must be erased from the books.

The time has come to rectify the long-standing injustice against the Palestinian citizens of Israel. Continuing the practice of extending the sweeping Temporary Provision, which clearly does not meet security criteria, violates the right of Palestinian citizens of Israel to equality before the law and has no place in a democratic and enlightened country.



In May 2020, we launched Zulat for Equality and Human Rights, a unique institute that combines research and analysis via social media networks and conventional media, and acts as a bridge between the political arena and civil society. Zulat's studies portray the political and public reality, but our work only begins there. As an activist think tank, we fight back by working to set an alternative agenda, change the public discourse, and advance policy and legislation to uphold democracy and human rights. We represent a broad perspective on human rights, that looks at universal rights, civil rights - private as well as collective, and social rights – as a whole. We believe all different types of rights depend and relay on one another.

[Read more about our mission on Zulat website](#)

**Zulat for Equality and Human Rights**

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