

## Citizenship and Entry into Israel Law: Ban on Discrimination in Family Reunification Law

### Background: Security Pretext for Democratic Injustice

The Citizenship Law was born during the second intifada as a result of the Ariel Sharon government's decision to freeze all naturalization processes of spouses of Palestinian descent.<sup>1</sup> A year later, in 2003, this decision became an amendment to the Citizenship Law that altogether banned their naturalization. As this constitutes a gross violation of the rights of Israel's Palestinian citizens, the Knesset approved the amendment as a temporary provision, which it renewed every year until it was voted down in July 2021.

The Supreme Court approved the constitutionality of the amendment twice, but only because it was a temporary provision. With the Knesset renewing it every year, the temporary provision actually became a procedure that evaded legal review by the Supreme Court. Vehemently voicing his objections, Justice Edmond Levy declared during the second court hearing of the appeals that "the provisions of the Citizenship Law are in breach of everything. They give crucial weight to the security component and deal a lethal blow to topmost fundamental rights. They create a reality that clearly results in narrowing the rights of Israelis just because they are Arabs. They accord legitimacy to an idea that is alien to our basic tenets: discrimination against members of a minority just because that's what they are."<sup>2</sup> Nevertheless, the constitutionality of the Citizenship Law was approved by a majority based on the security arguments contained in it, with Justice Asher Grunis going as far as writing that "human rights are not a prescription for national suicide."<sup>3</sup>

Even now, as it seeks to present the same Citizenship Law to the Knesset, the government resorts to groundless security arguments. Shin Bet chief Ronen Bar claimed that 40% of the detainees in recent riots in the Negev were descendants of reunified families - in other words, unprosecuted and unconvicted Israeli citizens.<sup>4</sup> Needless to say, Bar provided no documentation to substantiate his claim. Prime Minister Naftali Bennett went on to repeat Bar's argument,<sup>5</sup> while former National Security Adviser Meir Ben-Shabbat argued that family reunifications were a danger and cited the case of three descendants who had allegedly been involved in terrorism over a period of three years.<sup>6</sup>

Nevertheless, Bennett's remarks are worth considering: "The Citizenship Law will pass. In my opinion, it is a national interest. Every reasonable Zionist has to be in favor of it. It was the opposition that behaved irresponsibly last time around, as Netanyahu couldn't have cared less if all hell broke loose. We, on the other hand, want to preserve a Jewish and democratic State of

<sup>1</sup> For more on the subject, see our policy paper [The Citizenship Law: Annulling the Temporary Provision Preventing Family Reunifications](#), 29 June 2021.

<sup>2</sup> [Supreme Court Appeal 5030/07](#), Article 7 of Justice Levy's ruling (Hebrew). The emphasis is ours.

<sup>3</sup> Ibid, Article 1 of Justice Grunis's ruling.

<sup>4</sup> Ariel Kahana, [The Family Reunion Entangles; Shaked: A Solution Was Found Within a Week](#), *Israel Hayom*, 31 January 2022.

<sup>5</sup> Yossi Verter, [Settler Violence, Netanyahu's Trial and COVID: Haaretz Interview With Prime Minister Bennett](#), *Haaretz*, 28 January 2022.

<sup>6</sup> Meir Ben-Shabbat, [Israel Must Fight Extremism In The Arab Sector](#), *Israel Hayom*, 17 January 2022.

Israel. Having said that, this is a security-based law. In the latest round of violence in the Negev, 40% of the incidents involved people who came here as a result of family reunifications."<sup>7</sup>

Although over the years the government and the Knesset treated the temporary provision as a security-based law, in practice it was a demographic tool aimed at preserving a Jewish majority in the State of Israel. Furthermore, the crossing into Israel of tens of thousands of Palestinian day laborers, including thousands from the Gaza Strip,<sup>8</sup> remains an issue that the government is careful to sidestep. Sharon, whose government enacted the temporary provision, said as much explicitly: "There is no need to hide behind security arguments, but there is need for a Jewish state."<sup>9</sup> Then Justice Minister Tzipi Livni made similar remarks at the time.<sup>10</sup> On the eve of the vote on the law in July 2021, Foreign Minister Lapid stated that "one needn't hide from the essence of the Citizenship Law, which is one of the tools designed to ensure a Jewish majority in the State of Israel."<sup>11</sup>

### Violated Rights

The status of Israel's Palestinian citizens has never been stable. They were held under military rule until December 1966, massacred by Israeli security troops on a number of occasions (Kafr Qassem and Land Day), and were victims of trigger-happy conduct in the events of October 2000. Even today, right-wing MKs question their very citizenship: The leader of the Religious Zionism faction said in April 2021 that "the Arabs are citizens of Israel, at least for now. They have MKs, at least for now."<sup>12</sup> Opposition leader Netanyahu has described the Bennett government, which includes the Ra'am faction, as "a government dependent on the Islamic Movement."<sup>13</sup>

The Citizenship Law violates the right of Palestinian citizens to family life and equal treatment. Prime Minister Bennett and Foreign Minister Lapid have said it loud and clear: The basic rights of Palestinian citizens are violated simply because they are not Jews, and the purpose of denying them rights is to preserve a demographic Jewish majority.

The law prevents these families from acquiring status in Israel and the corresponding social rights, a situation that leads to uncertainty in their lives. There are currently some 9,200 families in Israel and East Jerusalem whose rights depend on the Interior Minister's goodwill and who may be deported at any moment. In practice, the law turns Palestinian citizens of Israel into second-class citizens.

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<sup>7</sup> Yossi Verter, [Settler Violence, Netanyahu's Trial and COVID: Haaretz Interview With Prime Minister Bennett](#), *Haaretz*, 28 January 2022. The emphasis is ours.

<sup>8</sup> Jack Khoury, [Thousands of Gazans Working in Israel Lack Social Benefits](#), *Haaretz*, 30 January 2022.

<sup>9</sup> Shahar Ilan, [Closing the Gates](#), *Haaretz*, 10 May 2005 (Hebrew).

<sup>10</sup> *Ibid.*

<sup>11</sup> Michael Hauser Tov, [Lapid: 'One Needn't Hide From Essence of Citizenship Law, Designed To Ensure Jewish Majority in Israel'](#), *Haaretz*, 5 July 2021 (Hebrew).

<sup>12</sup> [MK Smotrich: 'The Arabs Are Citizens of Israel, At Least for Now'](#), Kipa website, 26 April 2021 (Hebrew).

<sup>13</sup> Anna Barsky, [Netanyahu: 'Government Raises Taxes To Finance 50 Billion for Mansur - Abbas Tax'](#), *Ma'ariv*, 2 August 2021 (Hebrew).

### Operational Proposal

Although the government is about to submit a bill whose wording is similar to the one that was voted down, at the Knesset's disposal lies another choice: Zulat's proposed Bill on Banning Discrimination in Family Reunifications, 2022.<sup>14</sup>

The bill is intended to prevent discrimination on the grounds of race, religion, nationality, gender, disability, sexual orientation, country of origin, worldview, or party-political affiliation. It states that "the right to conduct family life is a fundamental right whose denial harms human dignity and deals a lethal blow to the core of a person's ability to build a life. Therefore, even though the state has yet to formulate and regulate an immigration policy, there already exists a relatively formal path for immigration to Israel for foreigners married to Israeli citizens" which is based on procedures established by interior ministers prior to the enactment of the Citizenship Law.

We believe that in order to avoid the de facto conclusion that Palestinian Israelis are second-class citizens whose basic right to happiness and forming a family is fatally damaged, the Knesset must reject Minister Shaked's bill and adopt the Bill on Banning Discrimination in Family Reunifications.

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<sup>14</sup> Zulat, [Bill on Banning Discrimination in Family Reunifications-2022](#) (Hebrew).