



רופאים לזכויות אדם - ישראל (ע"ר)
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Physicians For Human Rights - Israel



No civil status, no hope: A close look at the "Humanitarian" Committee of the Citizenship Law

The Law of Citizenship and Entry to Israel (Temporary Provision) 5763-2003¹ (hereafter, the Citizenship Law) prevents couples, in which one member is an Israeli citizen and the other a resident of the Palestinian Authority (or of Syria, Lebanon, Iran, or Iraq) from pursuing a process of family reunification which would ultimately accord their partner legal status in Israel.

Since 2003, the Citizenship Law has led to the creation of a significant group of men and women who live permanently in Israel with their nuclear families, but are denied civil status and social rights. PHR-Israel estimates that as of 2010, some twenty thousand families have been made victims by this law. In these "mixed families," one spouse and the children are Israeli citizens, while the other spouse lacks legal status. A few thousand such people have been permitted to reside legally in Israel, after the security services decided that they pose no threat to the State of Israel. Their staying permits however, do not grant them social rights like health insurance, work permits, access to social welfare services, etc.

The Citizenship Law has prompted tremendous criticism² due to the severe violations of human rights which have occurred as a result of it's passage. In an attempt to quell public criticism of law, a "humanitarian committee" was established, charged with examining individual requests for family reunification in Israel, based on specific humanitarian grounds. This document seeks to assess the role of the Humanitarian Committee and its modes of operation based on seven individual cases that were submitted to the committee by Physicians for Human Rights-Israel between 2007-2010

¹ http://www.nevo.co.il/Law_word/law01/999_180.doc [Hebrew]

² See for example: High Court, Adallah et al. vs. Minister of the Interior et al., http://www.nevo.co.il/Psika_word/elyon/03070520-a47.doc [Hebrew]

What is the Humanitarian Committee?

On March 21, 2007, during an annual Knesset debate discussing the extension of the 'Temporary Citizenship Law,' the Knesset motioned to approve an additional section³ authorizing the Interior Minister to award legal status to the non-resident spouse in a case by case basis, assuming special humanitarian grounds for such a decision exist. According to the new section, the Minister would base his decision on the recommendation of a professional committee appointed expressly for this purpose. This committee came to be known as the Humanitarian Committee.

While this change would in theory seem favorable, the language of the provision does not specify what constitutes a "special humanitarian reason", yet mentions specifically what is not deemed eligible. For example, **the fact that a person has an Israeli spouse or Israeli children is not sufficient grounds to submit a request to the committee.** The new amendment also holds that the Interior Minister must rule on a case six months after all required documents have been presented to the committee.

In December 2007, about nine months after the Knesset decision announcing the establishment of the Humanitarian Committee, its members had still not yet named. On July 6, 2007, PHR-Israel submitted an urgent petition to the Supreme Court in the case of M., a woman affected by the Citizenship Law suffering a deteriorating medical condition. At the end of its deliberations, the court was critical of the fact that a committee had not yet been named⁴ and noted in their decision, "this glaring violation of the law obstructs the route to receiving aid for people in need who lack any alternative means of resolving their painful situation." The Supreme Court justices gave the State ten days to set up the Humanitarian Committee. Thanks to the court's strong stance, a notice was published on December 17, 2007 announcing the formal establishment of the committee and the list of committee representatives with some details about them: Miriam Rosenthal was Chair of the Committee; Avi K. - representing the Director of the Shin Bet (Security Services); Amos Arbel - representing the Minister of the Interior; Rafael Miara - representing the public; and a representative of the Defense Ministry whose name was not published, although his job was noted as "head of the Operations Branch in the Office for Coordination of Government Activities in the occupied territories."

³ See Section 3A1 of the law.

⁴ <http://www.phr.org/il/default.asp?PageID=54&ItemID=267> [Hebrew]

As of March 2009, according to the Attorney General, 396 applications had been submitted to the Committee. Only 100 had been addressed⁵.

The functioning of the Humanitarian Committee—individual cases:

Physicians for Human Rights— Israel's Migrants and Undocumented Persons Department initially refrained from submitting new applications to the Humanitarian Committee, on the grounds that doing so would grant legitimacy to serious and ongoing violations of human rights and would amount to collaborating with a system that serves to whitewash the injustices of the Occupation. However, as people affected by the law turned to PHR-Israel for help, concern for their health and wellbeing prompted the organization to submit several applications to the Committee and in doing so, look closely at how they were being handled. Our impressions of the committee are detailed in the case studies summarized below:

Halima

On November 21, 2007, PHR-Israel submitted a request to the Humanitarian Committee on behalf of Halima, an individual living in Israel without legal status. Born in 1959, Halima married in 1986 and became the second wife of an Israeli citizen. The couple had 3 daughters, all deemed Israeli citizens. Due to the polygamous marriage, Halima's civil status was never recognized. In 1998 Halima's husband died and she was left as the sole custodian of her daughters. Halima suffers from a blood disease that kills her red blood cells and which is liable to cause cardiac arrest. Treatment of this disease requires Halima, among other things, to have her spleen removed.

By October of 2007, a PHR-Israel volunteer physician had already determined that Halima would need to have her spleen removed if she was to live. In an expert opinion, the doctor wrote, "In this situation, the solution is the removal of the patient's spleen immediately if not sooner!" The cost of the operation required was estimated to cost approximately 21,000 NIS.

The Committee demanded that Halima provide up to date official medical documentation from a recognized medical institution. The Committee also requested that the documents be submitted in both Hebrew and English.

⁵ Stated in Supreme Court 2649/09, Association for Civil Rights in Israel et al. vs. Ministry of Health et al., on June 24, 2009. From the wording of the statement by the Attorney General, it was not possible to tell whether an "application addressed" meant that a decision had been taken or whether the case was still being dealt with in the Committee.

The Committee's request for medical documents from an official institution might appear trivial, but for an undocumented woman without medical insurance, no access to public medical facilities and insufficient funds to utilize a private medical clinic, the burden is enormous. The only option for non residents in Israel to seek free or subsidized health care is through PHR-Israel's volunteer staffed Open Clinic. The Open Clinic however is not regarded by the committee as an official medical institution, hence the documents from the clinic signed by authorized physicians were deemed unacceptable by the Committee. In an attempt to accommodate the demand, a volunteer physician issued an expert opinion on the stationery of a private clinic, yet this document, was also rejected by the Committee, which held that the document must be submitted on the letterhead of a recognized hospital or Kupat Holim (Health Fund, Health Maintenance Organization, or HMO). Efforts to explain to the Committee that Halima, like many other applicants to the Committee, has no Kupat Holim health coverage and therefore cannot present an official Kupat Holim document, nor pay a health fund for an official medical document, failed to sway the committee. Ultimately, a volunteer physician agreed to see Halima at his Kupat Holim and to write the required medical opinion on the institution's official stationery.

In August 2008, the Humanitarian Committee ruled that the Palestinian Authority is responsible for subsidizing the operation Halima so desperately needed and required Halima obtain a financial undertaking for her period of hospitalization. Halima managed to obtain the necessary authorization, yet when she contacted the hospital, she later learned that she would have to undergo additional tests before having the operation. Each test would require Halima to have an additional authorization. The Committee members were in no hurry to provide the required authorizations and Halima's medical treatment was further delayed. **Since the Committee's commitment, in August 2008, that the operation would be covered financially, Halima has not been treated.** Additionally, during the long wait, it turned out that Halima needed another operation. Additional official medical documents were submitted to the Committee, but the Committee did not review them, thereby withholding Halima from accessing medical treatment.

On June 10, 2009, more than a year and a half after Halima's application to the Committee was submitted, the committee ruled that Halima would receive only staying permits enabling her to reside in Israel legally. These staying permits would have to be renewed once a year. The staying visa does not permit Halima to obtain medical coverage via the public system, nor does it entitle her to social welfare services or the ability to benefit from other social rights. In addition, the letter from the committee stated, "as conveyed to the

Committee, [Halima's- PHR-IL] medical treatments will be funded by the Palestinian Authority."

The questions raised from this case are as follows: Who "conveyed" this to the Committee? Who is expected to liaise between the Palestinian Authority and Halima? How will she take care of her daughter in the absence of social rights, or even the right to work and earn a living? These questions are all left unanswered. After waiting a year and a half, and with her health deteriorating, Halima was merely granted temporary permission to stay with her Israeli daughters. Members of the Committee never met with Halima. She was never called for a hearing, nor were PHR-Israel staff or Halima ever presented a copy of the minutes of the committee's discussions that relegated her to a future without rights.

Sabreen

Sabreen's request for citizenship was submitted to the Humanitarian Committee on November 18, 2008. Sabreen, 25 years old, was married in November 2007 to an Israeli citizen. Since her wedding, she has lived in Israel with her husband and his family. Sabreen's husband suffers from mild developmental disabilities and from epilepsy, and needs constant supervision. Since their marriage, Sabreen has cared for her husband, taken care of his various needs, helped him carrying out daily tasks and has made sure he functions safely in his surroundings. In September 2008, the couple's daughter was born. At "Yoseftal" Hospital, the "illegal" Palestinian new mother was reported to the Israeli police. In the weeks following the birth, Sabreen received several phone calls from the police, demanding she leave Israel. With the help of PHR-Israel, Sabreen submitted a request to the Humanitarian Committee to enable her to stay and care for her husband and daughter, both citizens of Israel. **Despite the Committee's obligation to provide a response within 6 months, as of today, more than a year and a half after Sabreen's application was submitted, no response has been received.** After giving birth once more, Sabreen is still afraid of being deported and separated from her husband and young children.

Tukhfa

Tukhfa's application to be 'reunited' with her Israeli children was submitted to the Humanitarian Committee in November 2007. Tukhfa, 44 years old, was the second wife of an Israeli citizen. Before they were married, her husband hid from her the fact that he already had a wife. During her first week of marriage, Tukhfa was violently abused by her husband. The couple stayed together for 13 years and had 6 children, who today range in age from 9 to 16. Over the years, Tukhfa tried several times to separate from her husband, yet

he refused. She was unable to leave the house since she had no civil status in Israel and knew that she could be deported. She feared being separated from her children, all of whom hold Israeli citizenship. In 2000, while she was pregnant, Tukhfa was violently attacked. At that time, she submitted a complaint to the police and entered a battered women's shelter. While at the shelter, Tukhfa divorced her husband. She submitted an application for custody of her children and succeeded in receiving custody of four of them, but in the absence of legal status, a work permit and the opportunity to receive basic social benefits, she was obliged to raise her children in severe poverty. Tukhfa currently needs an eye operation which, in without medical insurance, she cannot pay for.

The Committee's first response was received in June 2009, after more than a year and a half of waiting (and by which time the reply was already more than a year late), The Committee requested an updated medical opinion and social welfare report. Since the Committee is supposed to produce a response within 6 months of receiving the last documents, this request for updated documents enabled the Committee in essence to delay six additional months before providing any reply. **Today, about two years after submitting her application, Tukhfa has still not received an answer and has no solution for her situation.**

Attiya

Attiya's application to the Humanitarian Committee was submitted in April 2009. Originally from the Gaza Strip, he married an Israeli in 1998. Attiya has had a "stay permit" which allows him to live in Israel for several years, ever since he came under suspicion of alleged collaboration with the Israeli security services. If he returned to Gaza, his life may be in danger. Attiya's wife suffers from epilepsy, headaches and convulsions. She has not been stabilized on medications and has a hard time functioning as a mother. Her health situation prevents her from working to support her family. The couple has five children. Their oldest daughter also suffers from epilepsy and has attention deficit problems. Their youngest son was born with a birth defect, stenosis of the esophagus, and since birth has been connected to a tube that provides nourishment directly to his stomach. Due to his wife's condition, caring for their five children, supporting the family, and running the household have become Attiya's responsibilities. In this situation, as Attiya lacks civil status that would provide him access to basic social rights, he has a very hard time caring for his family adequately. In February 2010 the children were removed from their parents' custody for a limited time due to the great burden shouldered by their parents in meeting all the children's needs. The family court judge and the social worker who are following the family's situation both testified that Attiya provides supportive and loving care to his children, but his lack of permanent status impedes his ability to

function as a parent. Both of them recommended that he be awarded permanent status, so as to better care for his children. **In March 2010, after a wait of nearly a year, the committee announced that his request had been rejected.**

Samir

In light of a real danger to his life in the Palestinian Authority, Samir has lived legally in Israel with a staying permit for several years. In the past, Samir he was suspected of being a collaborator with the Israeli security services. He underwent severe torture, was imprisoned and even sentenced to death by the Palestinian Authority. Samir managed to escape to Israel, where his circumstances were acknowledged and he was given a residency permit renewable every few months. His permit does not allow him to work in Israel, nor does it afford him any social rights such as National Insurance or health insurance. Since Samir did not in fact collaborate with the Shin Bet (Israel Security Apparatus, ISA), he is not entitled to anything more.

Samir cannot leave Israel without these rights, and meanwhile, in Israel, he cannot support himself dignifiedly. He suffers from terminal kidney failure and requires dialysis twice a week plus various medications. Samir also suffers from PTSD due to the torture he underwent, and he needs psychiatric follow-up and ongoing treatment. Samir was once married to an Israeli, and together they had a daughter, yet they broke up and today Samir has no connection to his wife or his daughter. When an appeal was made on his behalf to the High Court, demanding to _grant him civil status and social rights in Israel, the court preferred to evade any discussion of the matter in principle, and referred Samir instead to the Humanitarian Committee. Although it was made clear that for all intents and purposes Samir does not have family in Israel, and hence is not supposed to be evaluated by a Committee that was created to prevent the dissolution of families, the State of Israel decided to categorize Samir together with other Palestinians on the basis of nationality and not on the basis of his actual problem. At the direction of the Court, Samir's case was forwarded to the Committee, and he is currently awaiting a response.

Physicians for Human Rights-Israel have submitted a total of seven applications to the Committee. Of these, one applicant received legal status after the Supreme Court was asked to intervene. Four other applicants are still awaiting response, while one was denied. The seventh case has received partial approval.

In light of the cases described, it is possible to conclude that the Humanitarian Committee is unable to provide fair and realistic solutions to the many who have been aversely affected by the 'Temporary Amendments to the

Citizenship Law. Moreover, the Committee places significant obstacles in the path of applicants who look to it for help.

- The Humanitarian Committee functions without any transparency: It does not reveal the dates of its meetings, nor does it make the minutes of its deliberations available for review by the public or by applicants themselves.
- The Humanitarian Committee does not grant applicants the right to a hearing.
- The Humanitarian Committee does not take into account the unique situation of people who lack civil status and it requires applicants to produce documentation that they cannot supply.
- Despite the fact that the mother tongue of the vast majority of applicants to the Committee is Arabic, the Committee demands documents in Hebrew and English only. Furthermore, translations must be notarized.
- The Committee does not respond to applicants within the allotted time frame as it is mandated to and its responses are delayed for more than a year.
- No representatives from the State's social ministries – the Ministry of Health, the Ministry of Social Welfare or the Ministry of Education, are members of the Humanitarian Committee. The Shin Bet and the Ministry of Defense are however represented.

What do we propose?

First, Physicians for Human Rights-Israel believe that the Citizenship Law is a racist law, and should be repealed. This would put an end to one of the most nefarious laws in Israeli history and resolve the limbo in which tens of thousands of divided families find themselves. PHR-Israel opposes the Citizenship Law not simply due to the unjust solutions presented in this report, but due to the fact that the law deals a terrible blow to human rights and destroys the lives of thousands of families. There is no justification for considering "humanitarian cases" separately from all the other victims of this law.

From our experience with the Humanitarian Committee, it serves as a fig leaf for the massive injustices generated by the Citizenship Law itself. It is nothing but an attempt to provide "humanitarian" camouflage for a dreadful violation of human rights. The functioning of the Humanitarian Committee demonstrates that it has become an inseparable part of some bureaucratic apparatus that preserves and oversees the ongoing Occupation and the oppression of Palestinian citizens of Israel and Palestinians of the occupied territories.

We are firmly opposed to this law in principle. Meanwhile, until it is abolished, realistic and effective solutions must be found for those it affects, a decision on the part of the ministries concerned with social welfare may provide the solution. Among other things, a comprehensive “social residency” status would help. To the extent and under the conditions determined by the Ministries of Health and Welfare, coverage under the Health Insurance Law and the National Insurance Law should be extended to victims of the Citizenship Law, who might have otherwise already gained social rights. **The main argument put forth annually by the parliament is that the Citizenship Law is necessary for security purposes, but, how does the declared security argument explain the more than 3,000 people who have received permission to reside in Israel?**⁶ This is nothing more than racism working in tandem with the demographic scare tactics promoted by the current political leadership in Israel.

Provision of State Health Insurance and National Insurance to various non-resident population groups in Israel already falls within the mandate of the Ministers of Health and Welfare, under various articles of a separate legal provision.⁷ Granting social residency status to victims of the Citizenship Law would lead to the unhinging of civil status from social rights and enable this broad population group to live in dignity, with access to basic social rights.

Additional information on social residency may be found in a PHR position paper published on this subject.⁸

⁶ As of August 2008. Cited in an affidavit of response to Supreme Court 466/07 Zahava Gal-On et al. vs. Minister of the Interior et al., Paragraph 45 <http://www.hamoked.org.il/items/8734.pdf> [Hebrew]

⁷ Paragraph 56(a)(1)(d) of the State Health Insurance Law and Paragraph 378(b)(1) of the National Insurance Law.

⁸ <http://www.phr.org.il/default.asp?PageID=55&ItemID=78> [Hebrew]

Physicians for Human Rights-Israel (PHR-Israel) believes that every person has the right to health in its widest possible sense, as defined by the principles of human rights, social justice and medical ethics. It is the responsibility of the State of Israel to ensure the fulfillment of this right in an egalitarian manner for all populations under its legal or effective control: residents of Israel who are eligible for National Health Insurance, Bedouin residents of unrecognized villages in the Negev desert, prisoners and detainees, migrant workers, refugees and asylum seekers, and Palestinian residents of the occupied Palestinian territory.

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