

המוקד להגנת הפרט

HAMOKED Center for the Defense of the Individual

هموكيد - مكتب الشكاوي - مركز الدفاع عن الفرد



Residency of Palestinians in East Jerusalem

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HaMoked: Center for the Defence of the Individual

Residency in Jerusalem: Developments from Spring-Fall 1996

General: Residency in East Jerusalem*

In the conflict between Israel and the Palestinians, Jerusalem holds a unique position and role. The sensitivity of this point of discord in the negotiations is reflected in the daily lives of the residents. Since 1967, Israel has implemented drastic measures intended to influence the position of the city. One of the first measures of this type was the extension of Israeli law over large areas of East Jerusalem (although not over the entire urban area of Jerusalem and its Palestinian suburbs). With this measure the fate of Jerusalem residents was separated from that of residents of the occupied territories. One of the expressions of this separation is in the area of residency.

The Palestinians present and counted in Jerusalem during the census conducted after the 1967 war received blue identity cards of Israeli residents (this is to be distinguished from the orange identity cards distributed in the territories subjected to military rule). It must be stressed that these Palestinians did not receive the status of citizens but of residents. They receive services of the Ministry of the Interior from this body's office located in East Jerusalem, and not from the civilian authority located in the territories. Over time the legal meaning of holding a blue identity card became clear: According to a ruling by the Israeli High Court,** a blue identity card is similar to a permit to permanently reside in Israel, a permit awarded under the Entry into Israel Law. The fact that the Palestinians did not enter Israel but that Israel took over their birth place and areas of residence did not alter this ruling.

A permit for residency is not strict and permanent like the status of citizenship. The minister of the interior is able to revoke it under certain circumstances, but more importantly: In the absence of actual residency, it was ruled, the permit automatically expires. When one moves his or her center of life from Israel to another area, the permit automatically expires with no need for any additional action by the Ministry of the Interior. The Ministry of the Interior is thus eligible to revoke the identity card, which no longer reflects a valid residency permit. According to the interpretation of the Ministry of the Interior, the revocation of an identity card does not even represent the cancellation of residency, which requires a hearing and substantiations, as "the residency permit" expires on its own in the absence of actual residency.

*For additional information, please refer to the booklet of HaMoked: Center for the Defence of the Individual: "Palestinian Residency and East Jerusalem-Proceedings of a Seminar Held in Jerusalem on 28 July 1994."

**High Court petition 282/88, Mubarak Awad v Prime Minister and Minister of the Interior P.D. 42 p. 424.

The treatment of the children of Palestinian residents of Jerusalem is also in accordance with the Entry into Israel Law and the regulations which were promulgated within its framework. According to these regulations, a child born in Israel is awarded the status of his father or legal guardian. If the other parent disagrees, the status of the child is left to the consideration of the minister of the interior. The regulations do not refer to the child of a resident who was born abroad, and in these cases the ministry of the interior deals with them as requests for FARE (family reunification).

A Jerusalem resident who marries a non-resident of Israel (this could be a Palestinian living in the West Bank, Gaza Strip, Jordan or a foreign resident) does not automatically receive a permanent residency permit for the spouse. He or she must submit a request for family reunification with the Ministry of the Interior, and this is decided upon according to the judgement of the minister of this office. The length of this "judgement" is not limited by law, and there is no legal obligation for the minister to explain the decision. The treatment of the couple is like that of migrants. There have been developments in the policies of the Ministry of the Interior concerning family reunification in the past two years, and these will be discussed below.

The legal arrangement of residency in Jerusalem, as described, creates a situation in which the movement of population from East Jerusalem will always be one-sided; apart from children of two parents who reside in East Jerusalem, and who hold identity cards, the Ministry of the Interior does not issue new residency permits for Palestinians. Identity cards are awarded to collaborators with the Israeli authorities, obtained through bribes and connections and awarded in the framework of family reunification, whose numbers are controlled by the "judgement" of the minister of the interior. In contrast, one who leaves to study abroad and does not return during a given period; one who settles in Jordan or the Gaza Strip and even one who moves to live in the metropolitan areas of Jerusalem over which Israeli law was not extended- all of these persons permanently lose their right to live in Jerusalem.

The unique geopolitical situation of Jerusalem and the Palestinians broaden the breadth of this problem. As noted, the borders of the areas over which Israeli law was extended do not correspond with the borders of the metropolis. In addition, family relations among the Palestinians of Jerusalem together with traditional marriage patterns among the extended family, increase the incidents of marriage between residents of Jerusalem and the territories. From a social point of view, the residents of Jerusalem under Israeli law do not comprise a separate unit from the Palestinian people, and marriages between them and those living outside of Israeli jurisdiction are natural and frequent.

*Today it appears that requests for children born outside of Israel will be treated through the same procedure as requests for children born in Israel.

The migration of Jerusalem residents to the suburbs (surrounding Jerusalem) and to other cities and countries was speeded up by a series of Israeli policies. In the areas of East Jerusalem under Israeli jurisdiction, there exists a severe shortage of residential areas (for years Jerusalem has suffered from an almost stated policy of extreme difficulties in obtaining building permits) and classrooms, for example. The residency policy of the Ministry of the Interior has also made a contribution of its own: Until 1994, the Ministry of the Interior had a policy of only approving FARE requests submitted by male residents of Jerusalem who married non-resident women. Requests by resident women on behalf of their non-resident husbands were automatically rejected with the stated argument that an Arab woman follows her husband. This policy forced women who married non-Jerusalem residents to actually follow their husbands, desert the city and move their center of life outside of Jerusalem.

These women did not know then that with this step they were jeopardizing their future as residents of Jerusalem, and the Ministry of the Interior did not warn them of this possibility. On the contrary: They were permitted to leave and enter through the bridges, their identification cards were renewed when needed and they continued to receive full services from the Ministry of the Interior. Today, many of these women are surprised when they arrive at the Ministry of the Interior and their blue identification cards are revoked and they are required to obtain an orange identity card of the territories or leave the country for Jordan.

The matter of residency in East Jerusalem has become critical since Israel implemented a policy of closing the territories. Since 1967 the territories have been declared a "closed military zone" which may be exited only with military permission. At the same time, the exit to Israel was made possible for residents of the territories with a general permit covering everyone. Only the exit of certain individuals was forbidden due to security considerations.

As of 1991, this trend was altered and the entrance to Israel was forbidden to the entire population. Entrance was permitted only with individual permits and sometimes to groups of people, such as women. Occasionally, especially following attacks, the closure was extended and only at times was it eased up. In general, the trend during the 1990's was of a continuously tighter and tighter closure. With the worsening of the closure, a solution was given to the families in which one of the spouses was a resident of Israel (including East Jerusalem) and the other a resident of the territories. The solution was the awarding of periodic permits, which included the right for overnight stays, to the non-resident spouses within the framework of the "Divided Family Directive".

The criteria of this directive changed over time, but were always subordinated to prohibitions of entrance of a security or criminal nature. Each time the closure was tightened, the permits given under this directive were suspended. When the implementation of the directive was renewed, the non-Jerusalemite spouses had to rush around to the Civil Administration offices to obtain new permits.

On this background the importance of a blue identification card increased as it permitted uninterrupted, legal and safe residency in Jerusalem, in addition to the right to work without the need for an additional permit.

Development of the Ministry of the Interior's Policy 1994-1996: Change of Policies in 1994

During the first half of 1994, the Ministry of the Interior altered its policy concerning family reunification. If before, as previously noted, requests by female residents of East Jerusalem for family reunification with their non-resident husbands were automatically rejected, it was now decided to examine these requests. It was noted that the requests would be approved, unless the woman ceased to be a resident and as long as no security or criminal charges applied to the husband (so wrote Tova Alinson, Speaker of the Ministry of the Interior, to Michel Warschawsky of the Alternative Information Center on 16.6.94). The criteria, as noted to advocate Eliahu Abram of the Association for Civil Rights in Israel (ACRI), were: lack of a security or criminal background, the couple is married, they live in Israel and their registered place of residence is Israel (letter from advocate Yochi Gansin, Deputy to the State Attorney, from 23.6.94 as a result of High Court petition 2797/93 Balinda Garbit v Minister of the Interior). It is known to HaMoked from informal conversations that there was also a decision to reexamine requests submitted since 1.1.92 (from the transcript of a phone conversations between HaMoked and the director of the Ministry of the Interior in East Jerusalem in 1994).

Implementation of the New Policy up to the end of 1995:

In the wake of the announcement of this new policy, thousands of requests for family reunification were submitted to the Ministry of the Interior. In the beginning of 1996, the Ministry of the Interior reported 5,000 requests which were submitted in the previous two years. The file numbers of the requests also testify to their quantity: the numbers are consecutive, according to the date of application, and the numbers to the end of 1994 exceed 3,000.

The response to the requests comes at an uneven and slow pace, although many requests have received a positive reply. As to the requests which were not answered, HaMoked was notified through a form letter that the subject is being dealt with and the source of the delay is the great backlog at the Ministry of the Interior. During this same period, HaMoked was also notified in writing that requests submitted up to June 1994 were now being examined.

Winter 1995-1996: Prior to a New Policy

A number of events mark the end of 1995 and it is possible to assume that most, if not all of them, had an influence on the additional change in the policy of the Ministry of the Interior. At the end of September the Interim Agreement was signed between Israel and the Palestinians, and in it were several references to the residents of East Jerusalem and their participation in the elections of the Palestinian Authority. The subject of Jerusalem itself was one of the subjects left for the discussions on a final agreement.

After a lengthy period of turnovers, a minister-Haim Ramon, who was to serve until the establishment of a new government in the summer of 1996-entered the Ministry of the Interior. In November 1995, in a series of investigative reports in the newspaper "Yidiot Ahronot," corruption was disclosed in the office of the Ministry of the Interior in East Jerusalem. These articles reported that Jerusalem identity cards were given on the basis of connections and through middle men, who charged a fee from the residents and gave kickbacks to the workers of the office. In light of this revelation a police investigation was begun, the office was closed for a time and its high level officials were suspended. Many of them were later returned to their positions with the exception of the director of the office, Mr. Haim Ben Atar. The pressure exerted by human rights organizations to end the improper practices of the office must also be noted.

As of December 1995, when the office of the Ministry of the Interior was reopened, clerks of the office began replying to inquiries of HaMoked and others concerning FARE requests that the handling of these cases has been frozen pending a reevaluation at higher levels.

January 1996: New Rules

In the beginning of 1996, in the wake of a group petition to the High Court (Petition 7930/95 Nariman Machfuz and 39 others v Minister of the Interior), which was submitted by Advocate Dakvar in the matter of his clients waiting for responses to their submitted FARE petitions, the Ministry of the Interior announced its new policy. The policy was detailed in a letter from Advocate Malcha San of the Legal Department of the Ministry of the Interior to Advocate Yochi Hansin of the High Court Petition Department of the State Attorney's Office, dated 17.1.96.

The primary sections of the letter are:

In the wake of a long list of High Court and pre-High Court petitions, the subject of FARE in East Jerusalem was placed on the minister's desk. An examination revealed that approximately 5,000 requests of this type were submitted in 1994-95. The requests require, in the opinion of the minister, "an in-depth factual examination" concerning the center of life of the applicant, the center of life of his/her children and the question of whether this is a marriage for its own sake and not solely to obtain favors. Apart from this, the handling of these requests requires consultations with security and Israeli police forces and the use of common sense. The length of time for these examinations will be, therefore, extended.

In light of the this, a number of regulations have been decided upon:

From now on, an application will not be registered "if it is not supported by proper documentation from which it is possible to deduct that the center of life of the applicant is in Israel (a list of the required documents will appear on the application form)."

"When an application has been submitted, its handling will be as follows:

1. When the applicant proves that the center of his life was in Israel for a period of one to three years prior to the submission of the request, the spouse will be given the opportunity to reside and work in Israel. If 6 months pass and no final decision on the application has been reached, the spouse will be given at this time a residency permit of the 5/A type until a final decision on the request has been taken.
2. When the applicant proves that the center of his life was in Israel for only the year previous to the submission of the request, the spouse will be given the opportunity to reside and work in Israel until the time at which the applicant will have his center of life in Israel for three years, and at this time the request to award the spouse permanent residency will be examined.

In examining the question of the center of life of the applicant, and in addition to it, recently married couples will be requested to come to the office of the Ministry of the Interior in order to have their marital connections examined." (?!)

The document also concludes that personnel will be permanently allocated to handle the requests.

Implementation of the New Regulations: Freezing and Reexamination of the Request

The implementation of the new regulations was felt at the grassroots level only gradually, and even today it is only partial. In essence, the sections causing difficulties for the Palestinians have been implemented, while the arrangements intended to solve their problems in the interim period until a decision has been taken in their applications have not. The slow implementation possibly stems from, among other things, a lack of clarity concerning the management of the Ministry of the Interior. For several months the office did not have a permanent director.

In April 1996, a clerk who deals with FARE requests from the office of the Ministry of the Interior in East Jerusalem notified HaMoked that the new regulations were not actually new, apart from a more thorough examination of the center of life. It was also noted that the clerks of the office were once again going over all of the FARE requests. According to her, no additional personnel was added.

Similar answers were received by HaMoked during conversations with other clerks of the Ministry of the Interior, and these were also received by others: No specific answers are given to the applications, and the clerks are busy reexamining the requests according to the order of their submission and examining whether they require additional documents. In June the same clerk added that here is still no final answer as to the deciding factor in the requests and in what way.

In a conversation on 1.7.96 between a staff member of HaMoked and Mr. Ahron Lozon, Director of the Office of the Ministry of the Interior, Mr. Lozon noted that he hopes that within two months they will begin "loosening the cork" existing today on the subject of requests for family reunification. He mentioned that the clerks of the office are beginning with requests from 1993 and advancing according to the date of their submission.

Demand to Add Documents

The need for a meticulous examination of the center of life, and the intention to condition the submission of FARE requests on the submission of various documents, are mentioned in the letter of Advocate Malcha San from 17.1.96.

During the spring, HaMoked became aware of the implications of these expressions.

In the middle of April, two requests from the Ministry of the Interior arrived at HaMoked's office, both of them signed by a clerk named Orly Albaldas, and both of the **concerning FARE requests already approved.** In these requests, HaMoked was asked to direct the families to submit new FARE requests in accordance with the new regulations, with no need to repay the processing fee. The request needs to be submitted with the documents outlined on a separate page:

Marriage certificate

Household bills in the name of the applicant from the day of marriage (municipal taxes, electricity, telephone etc.)

Birth announcements/certificates of the children

Certification of studies of the children in various educational frameworks from at least the age of 6, including yearly report cards

Certificates as to the receipt of medical services by the applicant and his/her children (mother and child center, vaccination certificates, etc.)

Certificates as to the receipt of national insurance payments

Certificates as to the place of employment of the applicant and the non-resident spouse

Other documents demonstrating that the applicant's center of life is Israel

Letters such as this, for requests already approved, were never again received by HaMoked. However, for applications still being weighed, HaMoked is receiving more and more standard letters demanding additional documents. This standard letter repeats the above list (occasionally with a slightly different wording) and also adds "details of the residency of the applicant and the non-resident spouse in Israel and outside of Israel." Before every item there is a box and if the document is required, the clerk marks it with an X. Therefore, HaMoked has dubbed this document the "X-document."

The X-document opens with an announcement that "Your request for family reunification has been examined, and it was found that your center of life has not been proven to be in Israel." In closing it adds that "until the submission of all the required documents and details, we can not continue to treat your request. If the documents are not produced within a period of three months, we will view your request as cancelled."

The demands of the X-document are most extraordinary, and there is almost no family that will be able to meet these high requirements. Couples married since the 1970's or 1980's will generally not be able to supply electricity bills from their entire years of marriage. It is doubtful whether newlyweds will be able to supply certificates from National Insurance as the receipt of stipends for children involves processes almost as difficult as those of the Ministry of the Interior, and are only given if the Institute for National Insurance is convinced that the woman has lived in Jerusalem for more than two years. The requirement that the bills be in the name of the applicant is also unrealistic: in the majority of cases, the bills are in the name of the landlord or extended family members with which the couple lives. Families who moved between the West Bank and Jerusalem will not be able, of course, to supply documents attesting that their center of life was Jerusalem for the entire period. There is also a fear that the exaggerated demands for documents and certificates will create a new industry of forged documents in East Jerusalem, and numerous families will be victims of extortion by the makers of various documents and by those from whom they rented houses (in the past or present) and from whom they must now collect old bills or copies of rental contracts or sign written documents when up until now the contract was oral. There are landlords who are not willing to sign a written contract, and most certainly not one that will be submitted to the authorities, if they fear the tax authorities or if they receive national security payments on the basis of the lack of any additional income).

It should be noted that over time, possibly due to HaMoked's protests of repeated requests for documents already submitted to the office of the Ministry of the Interior, the clerks became more selective in their notation of what documents are required. HaMoked submits, of course, bills not in the name of the applicant (HaMoked notes the connection between the applicant and the person whose name appears on the bills), and as policy HaMoked does not submit bills and rental contracts from prior to 1990, as the organization does not believe it is reasonable to expect that these documents be kept, especially as they have no relevance to the present center of life.

The X-documents demonstrate that there is a certain rise in the staff of the Ministry of the Interior. It is possible to find on them the signatures of the clerks Shmuel Oren, Ora Cohen and another illegible signature with no notation of the name of the clerk.

An examination of the X-documents gives rise to two fears:

1. It appears that the examination of center of life is done not on the basis of regular testimonial rules but on the basis of a strict technocratic system which sets a certain level of documents that is impossible to achieve. Every person who does not meet this level, even if he or she submitted enough documents to prove without a reasonable doubt that the center of life is in Jerusalem, will be rejected.
2. The fear, which was grounded in a conversation between Advocate Lakar and one of the clerks of the office, is that the requirement for documents, especially that of documents from the day of marriage, is intended to allow the Ministry of the Interior to check whether during one period or another the resident moved his or her center of life from Jerusalem. In this instance, the Ministry of the Interior is liable to revoke the residency of this resident.

Interim Arrangements until the Decision on the FARE Request

When the spouse is a foreign subject (usually a Jordanian), who is located in Israel on the basis of a visitor's permit, the interim arrangements noted in the letter of Advocate Malcha San from 17.1.96 are honored. As of the spring of 1996, these visitors began receiving B/1 type residency permits which are renewed every six months and include the right to work in Israel.

However, these interim arrangements are not implemented when the spouse is a resident of the territories. Concerning the stay of residents of the territories in Israel are both the Entry into Israel Law, which is the responsibility of the Ministry of the Interior, and the regulation in the territories concerning exit from the territories, which is the responsibility of the Israeli army. Directives were established in the Entry into Israel Law whose goal was to coordinate between these two laws*, but even after this coordination the legal situation is not clear. In reality, in any event, the Ministry of the Interior does not give temporary residency permits to residents of the territories, who are directed to the Civil Administration to receive entry permits into Israel. In the past these permits did not include the right to work in Israel, and since February 1996 no entry permits into Israel are awarded on the basis of divided families.

*Article 13A of the Law and Command for Entry into Israel (exemption to residents of Judea, Samaria, the Gaza Strip and North Sinai, Central Sinai, Shlomo region and the Golan Heights) 1968.

An additional difficulty concerns Jordanian nationals who are located in Israel on visitors permits and are currently completing the maximum amount of time through extensions that the Ministry of the Interior is allowed to grant to their permits (B/2) according to the law. These people include those who entered Israel at the end of 1993 and the beginning of 1994 (just prior to the policy change) and did not leave since. In one case, instead of exchanging the visitor's permit with a permit for temporary residency (which can be extended indefinitely), the spouse was required to leave for Jordan and he succeeded in returning with a new permit (that does not include the right to work) only after the intervention of a lawyer.

The Registration of Children

As noted, the regulations concerning entry into Israel award the children born in Israel the status of their father. In cases where the mother is a resident of East Jerusalem and the father is not, regulation 12 of the regulations goes into effect, such that if the second parent objects to the giving of the father's status to the child, the subject is left to the judgement of the Ministry of the Interior. The Ministry of the Interior has a special form for requesting the registration of children in this situation. The decisions concerning the registration of children are made according to the center of life. When the family's center of life is in Jerusalem, the children will be registered in Jerusalem; they will be registered (with an identification number) in the population registry, on the identification card of the mother and will receive Israeli birth certificates. When they grow up they will be eligible for blue identity cards.

In 1994, with the beginning of the new policy, the position of the Ministry of the Interior (which was accepted without objection by HaMoked) was that the process for registering the children should be an integral part of the FARE process for the father and if a FARE request has been submitted on behalf of the father, there is no point in continuing the process of registering the children. This position appears at first to be reasonable as both processes require proof that the center of life is in Jerusalem. However, this first appearance is deceiving. First of all, in the request for a permanent permit for the husband/father, security considerations are taken into account which are relevant to him but not to the children. The consideration of FARE requests also take much longer than the requests to register children. While small children who do not hold their own identity cards are able to live in Jerusalem even during a time of closure, an identification number and birth certificate are required of them to receive numerous services. From a qualitative point of view, the State must award preferential treatment to the arrangement of the affairs of children. However, it must be emphasized that the positive response to the family reunification request of the father is connected to the rights of the children-to their right to live with the father and to a family life not interrupted by forced separation or migration to another country.

In January 1996, in the wake of pressure from HaMoked and several lawyers, a change was made in policy and the Ministry of the Interior began treating the requests for family reunification and the registration of children in a separate and independent manner. This policy was declared, among other places, in letters from Chiat Natsra to HaMoked on 28.1.96 and from Advocate Moria Bakshi of the Legal Department of the Ministry of the Interior to Advocate Rosenthal on 28.1.96. Since then, HaMoked has submitted requests for the registration of children for numerous families with pending family reunification requests on behalf of the husbands. One request was granted in May 1996 while the remaining requests were held until October 1996. HaMoked knows from people who turn to it for assistance that the possibility of submitting a separate request for the registration of children while a FARE request is pending is not open to persons with no outside representation such as HaMoked. Female residents who requested to register their children were asked if they had submitted a FARE request for their husbands. When they responded positively, the Ministry of the Interior refused to accept their requests.

In the meantime, the Ministry of the Interior has recommenced the examination of requests from 1993 that were submitted by HaMoked and never dealt with. Correspondence by HaMoked received no response from the Ministry of the Interior during three years, and HaMoked had refrained from pressing on this issue given the submission of FARE requests and the policy of joining the request to register children with the FARE request for the father.

HaMoked was requested to submit additional documents and to complete forms so the requests would be considered. The request to submit additional forms is done on the X-document of FARE (after the words "family reunification" are crossed out by hand and replaced with "registration of children"). The clerk who deals with the registration of children generally marks all of the boxes on the form.

The fear is that the "revival" of the requests from the past is intended to coordinate information about families in which one of the spouse is not a resident, generally in order to revoke the residency of the woman and of the children already registered.

At the end of October, HaMoked began receiving positive replies to a number of requests to register children.

The form of the permits is misleading:

"In response to your letter from the day of - , I announce to you that we have decided to permit the registration of the children as residents of Israel and according to the enclosed list.

Our aforementioned decision is based on the argument and supposed evidence according to which from June 1967 and up until today, she or her parents had and presently have their permanent residency in a neighborhood or region under the jurisdiction of Israel.

It is superfluous to note that if in the future we receive information which contradicts the abovementioned argument and the evidence presented to us, the minister of the interior will be able to use his authority according to Article 11 of the Entry into Israel Law and negate the recognition that they are permanent residents under the jurisdiction of Israel-with all the ramifications associated with this."

The aforementioned article 11 permits the minister of the interior to cancel permits for permanent residency "according to his judgement" and he is eligible to cancel the permit given on the basis of intentional misleading evidence submitted on the part of the recipient of the permit.

In these letters there is an attempt to put claims in the mouths of the applicants and HaMoked that were never made (and facts never verified by HaMoked) which go almost 30 years into the past.

The Ministry of the Interior even requires from those receiving a permit to provide, at the time of registration, a written statement according to which since the marriage he/she has lived in Jerusalem. HaMoked received this request both by telephone and when a staff member of HaMoked escorted two women to the registration. The Ministry of the Interior made due, however, with a statement that all of the facts submitted through HaMoked to the Ministry of the Interior concerning the center of life and that of her children are true. In addition, HaMoked has written to the Ministry of the Interior that according to its understanding, the determinant criteria is the present center of life, and to this it directed its factual arguments.

Receipt of the First Identity Card

(At the age of 16, according to the law, one must beginning carrying an identity card, including one who has received the status of a resident).

In a number of cases (for example, 4632), children who belong to divided families and were registered with the population registry, are required to submit documentation proving that the center of their lives is in Jerusalem when they go to receive an identity card at the age of 16. During a telephone conversation with the responsible clerk at the Ministry of the Interior, it was noted that this is a permanent procedure. In HaMoked's opinion, this is part of the attempt to negate residency, similar to the negation of the identity cards from the mothers of these children.

National Security and Health Insurance

A number of rights, especially that to an allowance for children from National Insurance and to health insurance are awarded solely to residents of the State. In this matter, the definition of a resident is different than that determined in the Entry into Israel Law; the factual situation in the present is the determinate, with no connection to the status of the person according to the laws under the responsibility of the Ministry of the Interior. Exit from Israel (including to the territories) results in the loss of the rights awarded to a resident.

However, it is possible to obtain these rights again when the person returns and settles into the jurisdiction of Israel. A legal ruling has determined that one who lives in the boundaries of Israel for two straight years is a resident. According to the Law of National Insurance, the migration to Jerusalem is two-directional, while the Ministry of the Interior recognizes the exit from Jerusalem as negating residency and does not recognize extended residency in the city as awarding any rights.

The procedures of National Insurance are also long and difficult, and include a series of examinations carried out by inspectors at the family home in order to assure that the family actually lives there. The examinations are most meticulous and in numerous cases the requests are rejected and an appeal to the labour court is required so the family is able to exercise its eligibility to social rights.

An additional obstacle to the exercise of eligibility to social rights is the need for an identification number. One who does not have an identification number cannot exercise his or her eligibility to a stipend or health insurance, apparently due to the technical arrangements of the computer system of the National Insurance Institute. The policies of the Ministry of the Interior result in numerous residents (especially children) who are recognized as such by the National Security Institute, but who do not have identification numbers. The National Security Institute decided to solve this problem by issuing temporary, fictitious identification numbers, in order to exercise social eligibilities only. This procedure is labelled by National Insurance as the "Darconistim" procedure, and is also implemented for people recognized as residents, even though they have a foreign passport and no Israeli identification number. The "darconistim" procedure-which is intended to assist families and guarantee medical treatment to children-exists on paper but is almost not felt on the ground. As of today, HaMoked has only encountered one instance of its implementation in the case of a spouse of a female resident of Jerusalem, and his children, who are registered in the West Bank and received magnetic cards of National Insurance. However, in this case one of the children, who is not registered in either the West Bank population registry or in that of Israel, did not receive a card.

Persons who turned to the office of National Insurance in East Jerusalem, escorted by a lawyer from HaMoked, in the fall of 1995 and filled out "darconistim" forms have not received temporary identity numbers to this day. In a meeting held between staff members of HaMoked and Mr. Abraham Mana of the National Insurance institute, HaMoked was told by him that approximately 1,500 darconistim requests are gathering dust in the institute and that this problem must be solved.

Upon examining the length of time required to exercise social eligibilities resulting from residency, it must be remembered that we are dealing here with allowances for children, which are often the sole means to ensure a minimal standard of life for them, and of health insurance. Without

health insurance the children of residents are not able to receive medical treatment at national health clinics, and they therefore require private doctors and hospitals, an expense that numerous families, especially in East Jerusalem, are not able to afford. When the issue at stake is the quality of life and health of children, HaMoked expects that the treatment would be faster.

An additional subject area connected to National Insurance is the passage of information between it and the Ministry of the Interior. Due to the meticulous examinations of National Insurance, the receipt of children's allowances is an important indication for the Ministry of the Interior that the center of life for a family is Jerusalem. Often the Ministry of the Interior "advises" HaMoked to direct a family to the Institute of National Insurance to demand child allowances. However, the connection does not end here. In one instance a clerk from National Insurance requested that HaMoked direct a woman to the Ministry of the Interior to bring a certificate concerning her status in Israel. As previously noted, there is no direct connection between the status of a person according to the Ministry of the Interior and his or her eligibility for national insurance. After several weeks, HaMoked received notification from the Ministry of the Interior that the residency of the woman had expired and that she must return her identity card. It is clear in this instance that the clerk from National Insurance acted as a tool for the Ministry of the Interior in order to send the woman to the office so there they would confiscate her identity card.

The extent of work and information connections between the Ministry of the Interior and National Insurance is not known, and the legality of these connections is in doubt.

Closure

It has already been noted that the closure makes the issue of responding to requests for family reunification even more critical than in the past. In fact, the West Bank and Gaza Strip were declared closed military zones already on 2 July 1967, although until the 1990's the entrance of Palestinians to Jerusalem (and to Israel, apart from the city of Eilat) was permitted by a general exit permit (number 5, Judea and Samari, 1972). The prevention of entrance into Israel was done on an individual basis. As of the Gulf War the trend has changed, with various ups and downs. On 10 February 1991 the general exit permit was suspended. The closure became the rule and the exit to Israel was permitted on the basis of personal permits and occasionally on the basis of belonging to certain groups (such as males over the age of 50, for a short period and women, who in certain periods did not require individual permits to enter Israel.). An additional tightening of the closure occurred when, on 30.3.93, all of the exit permits issued since 1991 were cancelled. Since then there have been ups and downs in the severity of the closure. Occasionally, owing to an attack, all of the permits to exit into Israel were suspended (the expression "suspended" in this case means "cancelled until further notice").

After the suspension ("imposition of a closure" in the words of the media, as if a closure had not previously existed), a gradual process of slowly easing up on the closure and awarding new permits began-until the next suspension. Despite the various ups and downs, the overall trend over time was to tighten the closure.

One of the criteria for receiving a permit to enter Israel was that of "divided families." In the divided families directive, periodic entrance permits to Israel, including overnight stays, were given to residents of the territories who were married to residents of Israel. The procedure occasionally changed- in the beginning, residents were required to submit documents attesting to the center of their life in Israel, similar to those required by the Ministry of the Interior. As of May 1995, this permit was given on the basis of a certificate from the Ministry of the Interior that the FARE request is in their care.

Since the "imposition of the closure," (in other words, making the closure total) at the end of February this year, the divided families procedure has yet to be renewed. Family members who are residents of the territories are prevented from entering Jerusalem and in other words, the families have been divided since February 1996.

Confiscation of Identification Cards

Parallel with the change of policy in the beginning of 1994 was a wave of confiscations of identification cards from residents of East Jerusalem whom the Ministry of the Interior decided had moved the center of their life from the municipal boundaries of Jerusalem. It must be noted that the Ministry of the Interior had implemented, since March 1994, a passive policy in this regard, a sort of spider waiting for its prey; one who arrives at the office of the Ministry of the Interior in East Jerusalem to receive various services is liable to find him or herself without an identification card, which means that the person is erased from the population registry of Israeli residents.

Among those who lost their residency are many of the same women whose family reunification requests submitted years ago on behalf of their husbands have yet to be answered. These women turned to the Ministry of the Interior to inquire as to the status of these pending requests and found themselves suddenly without identification cards or residency. The Ministry of the Interior refuses to publicize the number of persons whose identity cards were taken away or who were erased since 1994 from the population registry.

Many factors, whose source is the continued policy in East Jerusalem, indeed brought many women to (in the words of the Ministry of the Interior) "follow their husbands." These factors, already mentioned, include a refusal to permit new building or programs for neighborhoods in East Jerusalem, the policy which discriminated on the basis of gender in the matter of family reunification which was practiced until 1994 and more. It is unknown today what length of residing outside the municipal boundaries of Jerusalem results in a decision by the Ministry of the Interior to negate the residency. For those who return to live in Jerusalem, it is

unknown how many years they must live in the city, after leaving it for various periods of time, in order that their right to be considered as regular residents will be acknowledged with no threat of losing residency.

The form on which requests for the registration of children are approved suggests that according to the approach of the Ministry of the Interior, there is no period of limitation; the form suggests that if during any period from June 1967 to today the place of permanent residence of any resident was not under the jurisdiction of Israel, the residency would be cancelled, and with it the right of residency of his or her children and grandchildren. The situation is uncertain, but everyone who at any time leaves the city is under a constant threat of losing his or her residency.

Petitions to the High Court

Numerous cases of rejection of requests for family reunification have been brought before the Israeli High Court by HaMoked during the past year. All of the petitions are currently pending, and for the majority of them the State has not submitted a response. In this situation the High Court is not an effective means of pressuring the authorities, and there is no assurance as to what the High Court's position will be.

Conclusion

The interpretation of the Ministry of the Interior of the essence of blue identification cards held by residents of East Jerusalem wraps the city in an invisible cover. The passage through this cover is in one direction only: outside the city. In the other direction the cover is almost completely impenetrable.

The beginning of this one-directional cover was the High Court petition 282/88 Mubarak v Prime Minister and Minister of the Interior (P.D. 424), in which the High Court provided legitimacy to the legal interpretation on which the Ministry of the Interior based its policies. In the past year, HaMoked has witnessed how the Ministry of the Interior has thickened and improved this "cover," and how it uses it to significantly decrease the number of Palestinians in the city who hold blue identification cards.

Many residents are slowly discovering, one after the other, that the line demarking the jurisdiction of Jerusalem, which is not obvious on the ground, whose crossing never required a permit of any type and which did not change the behavior of the Ministry of the Interior toward them, has suddenly become an uncrossable wall when trying to pass it in the other direction. This wall often separates between spouses and between parents and their children. Also, one who has never left to live outside of Jerusalem discovers that his or her residence in the city is conditional and that he or she must once again present packets of documents to the clerks of the Ministry of the Interior-often for naught.

We are not discussing migrants or those who only recently arrived: we are discussing people who were born in Jerusalem, they and their forefathers, and for whom Jerusalem is their only city.