

ISRAEL/OCCUPIED PALESTINIAN TERRITORIES

Right to family life denied

Foreign spouses of Palestinians barred

Enaya Samara is a 56-year-old US national of Palestinian origin. For 31 years she lived in Ramallah with her husband, Adel Samara, who is a resident of the OPT, and their two children. For three decades she had to travel abroad every three months to renew her tourist visa. The family's repeated attempts to obtain family unification and establish Enaya Samara's right to reside in the OPT were unsuccessful. On 26 May 2006, after more than 120 trips, she was denied entry when she tried to return home to the OPT. She did not see her family until 23 February 2007 when the Israeli Interior Ministry allowed her a three-month visa. She does not know if it will be renewed.

Tens of thousands of foreign nationals who are married to residents of the Palestinian territories occupied by Israel since 1967 are not allowed to live with their husband or wife by the Israeli authorities. In virtually every other country in the world, there are procedures to allow such couples – where one spouse is a foreign national – to live together.

Israel controls the borders of the Occupied Palestinian Territories (OPT) and forbids foreign spouses from entering. The husbands and wives who are denied entry are not seeking admittance to Israel. They simply want to enter the OPT to live with their spouse in the West Bank or Gaza Strip.

As an occupying power, Israel is obliged to respect the family rights of Palestinians¹. Yet violations by Israel of the right to family life have persisted for decades and have worsened over the past six years. By 2006 at least 120,000 families were affected. Moreover, since 2006 the restrictions on family life, and the number of families affected by such restrictions, have increased – the right to enter the OPT is now also denied to spouses from countries for whom advance visas are not required to enter Israel.

Israeli restrictions on foreign spouses are profoundly discriminatory. Jewish settlers in the OPT (whose presence there, unlike that of the Palestinian inhabitants, is actually illegal under international law) face no restrictions in obtaining authorization from the Israeli authorities for their spouses to enter the OPT and reside with them there.

¹ Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, 12 August 1949.

Restrictions on foreign spouses

The restrictions on what is called “family unification” in the OPT are not based on any law. Formerly, spouses from outside the OPT seeking family unification applied to the Israeli authorities for a residence permit under which they would be allowed to reside in the OPT. It would often take many years for the Israeli authorities to issue such a permit. In the meantime, however, foreign spouses were able to enter and reside in the OPT by obtaining a temporary visitor's visa and regularly renewing; this was done mostly by travelling to Jordan or another foreign country every three months and obtaining a new visitor's visa on re-entering Israel. It caused inconvenience but at least foreign spouses were able to remain with their families in the OPT.

This process was ended after the second intifada began in September 2000. The Israeli authorities suspended all family unification procedures for OPT residents who had married spouses from other countries, and no residence permits were given to spouses. At the same time, visitors' visas were not renewed.

As a result, foreign nationals who did not want to be separated from their Palestinian spouses and children, but who had not yet been granted family unification, were left with two options: remain in the OPT illegally after the expiry of their visitor's visa, or leave and be separated from their husband or wife and, possibly, their children.

Those who remain illegally are cut off from any family, friends and business they may have outside the country.

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They live in constant fear of being apprehended and deported, and cannot move freely within the OPT because of the many Israeli army checkpoints between towns and villages. They are essentially confined by their uncertain status to their homes and immediate surroundings.

Those who have left the OPT – for instance, to see a sick parent – have not been allowed back, and remain separated from their spouse and sometimes their children. The Israeli authorities sometimes allow a Palestinian spouse to leave the OPT, but may take away his or her right to reside in the OPT if they stay away too long.

The restrictions have had a devastating impact as they have made it impossible for many of those affected to enjoy a normal family life. Families are forcibly broken up. Children are separated for long periods from one parent and often from their wider family of parents, grandparents, uncles, aunts and cousins.

The great majority of those barred from entry to the OPT are Jordanian women of Palestinian origin who are married to Palestinian men. Although the Israeli authorities tend to justify such restrictions on security grounds, Amnesty International knows of no case in which a woman within this category has been responsible for or involved in any important security incident.

Yahya Bassa, a 40-year-old date merchant and OPT resident, has been married to Nibin, a Jordanian citizen of Palestinian origin, for six years. They have two daughters, four-year-old Nur and 18-month-old Talin, who live with their mother in Jordan.

Yahya Bassa used to travel between Aizariyah near Jerusalem, where his business is, and the Jordanian capital, Amman, to see his wife and family and to conduct business. His troubles began, he says, four years ago when he refused a request by Shin Bet, the Israel Security Service, to become an informer. For the next two years he was not allowed to leave the OPT to visit Jordan. He appealed to the Israeli High Court and was then allowed two visits. Then Israeli security personnel offered to allow him to leave the OPT if he would stay away for four years. He refused.

Yahya Bassa was then harassed by Israeli security officials. In 2005 he was accused of murdering a “collaborator” – the file against him has since been erased. In 2006 he was arrested and placed in administrative detention without charge or trial for six months. When he was

released, he sought to visit his wife in Jordan but the Israeli authorities again refused him permission to leave and return unless he stayed away for four years. Meanwhile, his wife is not permitted by the Israeli authorities to enter the OPT, and they have been denied the opportunity to enjoy a normal family life.

Yahya Bassa brought an action before the Israeli High Court of Justice seeking to obtain authorization for his wife to enter the OPT or for him to visit her in Jordan. This has not yet been heard. However, in response to the action, Israel's State Prosecutor allowed him to meet his wife and daughters on the Allenby Bridge that spans the Jordan river which forms the border between Israel and Jordan, but for just three hours. His elder daughter, Nur, who is a Palestinian ID-holder, was later allowed to join him temporarily inside the West Bank, but his younger daughter, Talin, who has no ID, and her mother are still refused entry to the OPT.

Many others who have been barred from living in the OPT are spouses from regions such as eastern Europe, from where advance visas are required by the Israeli authorities to enter the OPT.

S, a Palestinian from Ramallah in the West Bank, met his Bulgarian wife M when he was a university student in Bulgaria. The couple were married in Bulgaria in 1992 and their first child was born there. In 1998 they moved to Ramallah, where their second child was born.

M entered Israel and the OPT on a visitor's visa and the family immediately applied for family unification. M's visa expired after six months and the couple waited for the result of their family unification application. In September 2000, they were informed that the application had been approved in principle and that M would receive her papers by the end of the year.

Later that month the intifada broke out and application procedures for family unification were suspended. M told Amnesty International:

“I am constantly afraid of being arrested and deported and separated from my husband and children and so I am totally unable to move. In 2002, in one of the incursions by the Israeli army, the soldiers came into our home and when they saw that I have no valid permit they took me

outside and told me that I would be deported; they kept me outside for two hours; it was the worst experience of my life; the idea that I would be separated from my husband and children and not be allowed to return to live with them terrified me.

“Every year my husband takes our children to visit my mother and my family in Bulgaria but I cannot go because I would not be allowed back to Ramallah. I have not seen my mother since I left Bulgaria...What can we do? The only option would be for me, my husband and the children to leave and go to Bulgaria. But we have worked hard here to make our life, my husband is working and we want to live here. We should not be forced to leave and for my husband and our children to lose the right of coming back to live in their home country.”

Additional restrictions

Until 2006, foreign spouses from countries such as the USA and most European states were usually able to be with their spouses in the OPT by leaving and re-entering the country on a visitor's visa. People from these countries, unlike those from eastern Europe, did not require advance visas to enter Israel and the OPT.

However, after Hamas won a majority of seats in the Palestinian elections in 2006, the Israeli authorities extended the restrictions on entry to the OPT to these foreign spouses. Relatives of OPT residents were also denied entry.

It is not only families who are affected by this policy. The extended restrictions often prevent re-entry of foreign nationals who are working in education or economic development. Such people are helping to improve conditions in the OPT, where poverty is widespread and the Palestinian inhabitants have been exposed to a growing humanitarian crisis.

Since January 2007, as a result of protests against the policy, the Israeli Civil Administration has allowed around 200 short extensions of visas to those who were previously refused. However, most of those who have been denied entry continue to be denied entry.

Riad Sharma, a 50-year-old US national married to a Palestinian ID-holder living in Ramallah, has already suffered the pain of a long forced separation from his family and faces future

separation. He has acute diabetes and needs regular medical attention in the USA. He also manages a business there. Over the past year, he has twice been stopped on arrival at Ben Gurion airport in Israel and required to return to the USA. The first time, on 6 January 2006, he was told not to attempt to re-enter Israel and the OPT for at least a year. On 20 December 2006, after being separated from his wife and two daughters, also Palestinian ID-holders, for almost a year, he was again denied entry. On 3 January 2007, he tried to enter the OPT via Jordan across the Allenby Bridge and was told again that he would not be permitted to enter. However, on this occasion he engaged a lawyer (at a cost of some US\$9,400, including the lawyer's fee, court fees and a deposit) and was then able to secure an entry visa for two weeks. Just before this expired, he obtained a 10-week extension through another lawyer, which is due to expire on 4 April. The legal fees in this new case amounted to US\$6,000. Riad Sharma's ability to be reunited with his family came at a high financial cost, a cost beyond the reach of most of those who also aspire to live together with their spouses and other family members in the OPT.

CONCLUSION

The policy of not allowing family unification for foreign spouses has no discernible link to security. The Israeli authorities have not claimed that foreign spouses who are now prevented from returning to the OPT are a security risk to Israelis. The restrictions do not target individuals but apply to spouses of Palestinians in general and, therefore, are wholly discriminatory. As such, they may constitute a form of collective punishment against Palestinians in the OPT; the imposition of collective punishment is a violation of international humanitarian law.

There has been a long-standing Israeli demographic policy to refuse or limit residency rights for Palestinians, whether in Israel, in occupied East Jerusalem, or in the Gaza Strip and West Bank. The 2003 Citizenship and Entry into Israel Law bars Palestinians from the OPT from living with Israeli spouses in Israel and occupied East Jerusalem. In the OPT, the policy is implemented without reference to any law. This has caused some Palestinians with foreign spouses to decide to leave the OPT in order to enjoy their right to a normal family life. Such people are then considered non-residents by the Israeli authorities and denied the right to re-enter the OPT.

RECOMMENDATIONS

Amnesty International calls on the Israeli authorities to:

- ▶ Resume the processing of family unification applications for foreign spouses and families of Palestinian residents of the OPT, and do so in an expeditious and non-discriminatory manner.
- ▶ Establish a mechanism to promptly process the backlog of thousands of applications and to re-examine, according to the principle of non-discrimination, applications that were refused prior to the suspension of the processing of applications.
- ▶ Provide details in writing to any applicant whose family unification application is rejected of the specific grounds, on an individual basis, for the rejection of their application, and establish a fair and non-discriminatory mechanism before which applicants can challenge such refusals and have them independently reviewed.
- ▶ Ensure that foreign nationals who seek to enter the OPT are not refused a visa without a clearly stated reason, so that they may challenge the grounds for rejection.

TAKE ACTION

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