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Human rights situations that require the Council's attention

Written statement* submitted by the BADIL Resource center for Palestinian Residency and Refugee rights, a non- governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[6 August 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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End Israel's policy of discriminatory child registration in Jerusalem

Mr. President, Distinguished Members of the Council,

On 31 July 2003, the Knesset enacted the Nationality and Entry into Israel (Temporary Order) Law, 5763-2003. The law is applicable for Palestinian residents of Jerusalem and forms the legal framework for child registration of children born to non-Jewish nationals. Section 12 provides:

“A child who was born in Israel, but to whom section 4 of the Law of Return 5710-1950 does not apply, his Israeli status shall be the same as the status of his parents...”

Therefore, a child's registration with the Israeli Population Registry is dependent upon the nationality, citizenship, and residency of both parents. In addition, the Ministry of the Interior is entitled to unlimited discretion and can refuse to grant residency for any reason or no reason at all. There are three possible permutations under the Citizenship and Entry into Israel Law:

1. A child born in Israel to an Israeli citizen or two permanent residents of Jerusalem will receive an identity number at the hospital and is registered with the Israeli Population Registry. The parents must then go to the Israeli Ministry of the Interior to record the child's name, date of birth, and identity number on the parent's identity card.

2. A child born to parents only one of whom is a permanent resident of Jerusalem does not receive an identity number at the hospital. Instead, the parents receive a form titled “notification of live birth.” In order to receive an identity number, the parents apply for a “request to register a birth” with the Ministry of the Interior. Included in this application must be proof that the parents' “center of life” is in Jerusalem. The “Center of Life” policy was introduced in 1995 by Israel's Ministry of the Interior, whereby Palestinian residency in Jerusalem depends upon being able to supply evidence of daily activity in Jerusalem. Evidence that one's “center of life” remains in Jerusalem include, but are not limited to, home ownership papers, leasing contracts, bills for utility services, payment of taxes, pay slips, school registration of children, etc. Any Palestinian Jerusalemite that cannot satisfy the high bar of evidence will have their residency revoked, will no longer be allowed to remain in Jerusalem, and will be forced to leave immediately so as to not reside in the city illegally.¹

3. Children born abroad, including in the occupied Palestinian territory (oPt) (excluding East Jerusalem), to either one or two parents who are permanent residents of Jerusalem, are no longer registered through child registration procedures. There is currently no relevant law governing the registration of children born abroad, but the internal procedure of the Ministry of the Interior is as follows:

- If the child is under the age of 14, the parents must apply for the child's registration through a family unification request. If the request for family unification is granted, the child will be registered and receive an identification number.
- If the child is 14 or older, the Ministry of the Interior may only grant the child a temporary permit allowing them to remain in Israel or Jerusalem, more analogous to a tourist visa than any form of permanent residency. This temporary permit is not equivalent to registration and thus the child remains unable to access services only available to those registered with the Israeli Population Registry.

There are two exceptions to the Citizenship and Entry into Israel Law, which effectively nullified the ability to register under-14 children through the family unification process. The relevant exception gives the Ministry of the Interior discretion to issue children under 12 a temporary stay permit or a temporary or permanent resident status.² This possibility, however, is arbitrarily set to apply to children under the age of 12 and does not conform to the earlier internal policy of the Ministry of the Interior that set the age for child registration for children born abroad at 14. If the child does not obtain registration as a favorable exercise of the Ministry of the Interior's discretion, they will be forced

to leave Jerusalem at the age of 12 unless they are once again granted a temporary stay permit. For these children, their future is entirely unclear and their legal status can change drastically on a day-to-day basis.

Some parents, one or both of which are permanent residents of Jerusalem, may choose to give birth in a hospital in the oPt outside of Jerusalem for a variety of reasons: presence in West Bank at the time of delivery, fear of discrimination or feeling uncomfortable in Israeli hospitals, desire to give birth closer to family members, or to save money. The parents of children born abroad were previously required to submit a Child Registration Form but are now required to apply for the child's registration through a family unification request. However, on May 12, 2002, the Israeli government adopted Government Decision 1813, which puts a freeze on all family unification applications from residents of the oPt until a new policy could be implemented.³ The Citizenship and Entry into Israel Law, passed on July 31, 2003 cancelled family unification procedures all together. This "temporary" law remained in effect for one year and has been renewed each year since its initial implementation. Thus, the freeze continues to this day, and it also applied retroactively to withhold residency status from those applications already approved but not yet fully authorized. Thus, many children born abroad since 2002, to either one or two parents who are permanent residents of Jerusalem, will be unable to register with the Israeli Population Registry and will not have permanent legal status in Jerusalem. The Civic Coalition for Palestinian Rights in Jerusalem estimates that there are as many as 10,000 unregistered children in East Jerusalem.⁴

Without registration, children are unable to access available education, health, and social services. Thus, the rights of 23.6% of Palestinian children in East Jerusalem are being violated in contravention of the UN Convention on the Rights of the Child.⁵ The most relevant provision is Article 7 Section 1 of the UN Convention on the Rights of the Child, which provides:

The child shall be registered immediately after birth...⁶

Section 2 of Article 7 places obligations upon state parties to ensure the rights enumerated in Section 1:

States Parties shall ensure the implementation of these rights in accordance with their national law...
in particular where the child would otherwise be stateless.⁷

In addition, the Citizenship and Entry into Israel Law's provisions barring registration for certain children violate Article 24 (enjoyment of the highest attainable standard of health), Article 26 (benefit from social security), and Article 28 (education).

In light of these numerous violations, the Committee on the Rights of the Child expressed concern about the registration procedures for Palestinian children and urged Israel to revoke the provisions of the Citizenship and Entry into Israel Law that violate the Convention on the Rights of the Child in "Concluding observations on the second to fourth periodic reports of Israel, adopted by the Committee at its sixty-third session" in 2013.⁸

Refusal to register children born in the oPt severely disrupts the unity of families in Jerusalem and the families of unregistered children face an impossible dilemma. One option for the family is to remain together in Jerusalem despite the lack of services and opportunities available to the unregistered child. However, the unregistered child could not remain in Jerusalem permanently without their presence becoming illegal. A second option is for the family to move abroad which includes moving to the OPT, with the accompanying risk of losing their residency status in Jerusalem due to the "center of life" doctrine. These policies amount to a violation of the child's rights under the Convention for the Rights of the Child and the family's rights under Article 16 of the Universal Declaration of Human Rights.

BADIL Resource Center urges the Human Rights Council to:

- Investigate Israel's policy of discriminatory child registration;

- Ask the Committee on the Rights of the Child to remind Israel of its obligations as a party to the Convention on the Rights of the Child;
 - Call upon Israel to cancel the freeze on family unification and child registration, and revoke those provisions of the Citizenship and Entry into Israel Law that violate the UN Convention on the Rights of the Child;
 - Find that Israel's residency policy towards the Palestinian population of East Jerusalem aims at displacing them from the city;
 - Urge the Special Rapporteur on the Human Rights of Internally Displaced Persons to conduct an investigation within the oPt as well as in Israel proper.
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¹ Amjad Alqasis and Nidal Alazza, Denial of Residency- Forced Population Transfer: The Case of Palestine, BADIL Resource Center for Palestinian Residency and Refugee Rights, available at <http://www.badil.org/en/documents/category/35-publications?download=1097%3Awp-16>.

² Yael Stein, *Forbidden Families: Family Unification and Child Registration in East Jerusalem*, B'Tselem and HaMoked, Jan. 2004, available at <http://adalah.org/features/famuni/Btselem200401.pdf>.

³ Id. at 11.

⁴ *Jerusalem: General Facts and Statistics*, Civic Coalition for Palestinian Rights in Jerusalem, available at http://www.civiccoalition-jerusalem.org/system/files/jerusalem_-_general_facts_and_statistics_final.pdf.

⁵ Id.

⁶ United Nations Convention on the Rights of the Child, art. VII, Dec. 2, 1990,

⁷ Id.

⁸ Comm. on the Rights of the Child, Rep. on its 63rd Sess., May 27-June 14, 2013, U.N. Doc. CRC/C/ISR/CO 2-4 (July 4, 2013).