

'We need citizenship law because of Palestinian terror'

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At High Court, state defends current law; Gal-On's attorney: It's not about security, it's about demographics – Purim is over, it's time to give up the charade.

Palestinian terrorist organizations have not let up on their intentions to perpetrate mass attacks in Israel and therefore the temporary legislation forbidding Palestinian men under 35 and women under 25 from living here should not be rejected by the High Court of Justice, the state argued Tuesday.

An expanded panel of 11 justices presided over the hearing on petitions filed by three human rights organizations and former MK Zehava Gal-On against the Citizenship and Entry into Israel Law (Temporary Provision.) The petitioners charged that the law, which they called discriminatory and racist, violated the right of Israeli Arabs to raise their families with their Palestinian spouses.

The law has been extended nine times since it was first passed by the Knesset in 2002. It is due to expire again on July 31, 2010. During these eight years, it has never been discussed in a Knesset committee or gone through three plenary votes, as regular laws do. Each time the law is about to expire, the Knesset votes once to extend it.

Non-Israelis who marry Israelis must go through a five-year probationary period. They receive a temporary visa for one year at a time and must apply to renew it 60 days before the expiration date. Israeli authorities conduct a security check to see whether the applicant has committed security violations during the past year and whether the union is genuine and intact.

According to the temporary law, Palestinian men between the ages of 18 and 35 and women between the ages of 18-25 are not eligible for this procedure. In justifying the law, the state explained that statistics proved that men and women in this age bracket were the most likely to be terrorists. If they were granted visas, they would be able to move around the country freely and also go back and forth between Israel and the West Bank. The ability of terrorists or their supporters to move around Israel freely was crucial to the success of past Palestinian attacks.

The petitioners are demanding that each and every Palestinian who wishes to marry an Israeli and settle in Israel have the right to undergo an individual check by the security services to determine whether they personally pose a security threat. The ban cannot be applied indiscriminately against all Palestinians in the relevant age bracket, they argue.

The state's representative, Yochi Gnessin, told the court on Tuesday that the threat from terrorism has not abated, even if the number of successful attacks has declined markedly over the past few years.

According to Gnessin, in 2009, Israeli security forces foiled at the last second 40 mass terrorist attacks which had already been planned and were about to be executed. In 2008, the figure was 63; in 2007, 42. In two months of 2010, the Shin Bet (Israel Security Agency) has foiled seven such attacks.

Gnessin added that 54 Palestinians who received residential status in Israel have so far been involved in terrorist attacks. Of these, 27 were directly involved in such attacks in 2008 or 2009.

She also said that after the temporary law was changed in 2005, allowing for the possibility of exceptions to the sweeping ban on residential status for Palestinian men up to the age of 35, and women up to the age of 25, the authorities granted status to 632 Palestinians. However, when these Palestinian spouses applied to extend their status, 273 were found to have become involved in security violations. This, she said, proved that Palestinians living in Israel only became attractive to the terrorist organizations after they received Israeli documents allowing them to move about freely. It also proved that the Shin Bet could not know in advance which Palestinians might cooperate with terrorists in the future and which would not.

On the other hand, statistical analysis showed that there was a 96 percent correlation between terrorist activity and males between the ages of 18 and 35.

Attorney Daphna Holtz-Lechner, who represented Gal-On, demanded that the state stop the charade with regard to the law. "Purim is over," she said, charging that the bill was not temporary even though it said it was, that there was nothing behind the humanitarian committee established in accordance with the 2007 revision of the law and that the state's claim that the law was necessary on security grounds was not genuine.

Regarding the security argument, Holtz-Lechner made it clear she believed the real reason behind the law was demographic and that the state wanted to prevent more non-Jews from living in Israel. But she quickly backed away from this position when Supreme Court President Dorit Beinisch made it clear the court took the state's security arguments seriously.

However, four right-wing organizations, Fence for Life, Shurat Hadin – Israel Law Center, Im Tirtzu and Zionist Renewal, which were allowed to join the petition as respondents alongside the state, stressed precisely the demographic argument.

Attorney Ilan Tzion, representing Fence for Life, charged that by opposing the temporary law and claiming it was racist, the petitioners were accusing Israel of

being a racist state.

“Our argument is not demographic but Zionist,” he argued. “The petitioners are claiming that Israel must not give preference to Jewish immigration over Arab. That means the Law of Return is also racist. They are making the same accusation that the United Nations did when it resolved that Israel was a racist state.”

In his brief to the court, Tzion included the results of a study by Haifa University geographer Arnon Sofer, who forecast that within two generations, Israeli Arabs would constitute a majority in Israel.

“Sofer’s figures speak for themselves,” he said. “We are not living in an ideal world. Israel was established in a unique way, as a matter of affirmative action. Israel’s survival depends on the Israel Defense Forces. The IDF depends of a Jewish majority.”

After a three-hour hearing, the court gave the state 30 days to submit its statistical update in writing and 15 days for the petitioners and other respondents to reply. After that, the court will hand down its decision.

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