

Breach of Allegiance

Revoking the citizenship or residency of terrorists who receive a salary from the Palestinian Authority and their deportation to PA territories can increase deterrence and serve as an effective punitive measure against those who perpetrate terrorism

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הביטחוניסטים IDSF

Israel's Defense & Security Forum

Research Department

About IDSF-Habithonistim


IDSF-Habithonistim is a movement with over 17,000 members - commanders, officers, and former members of the Israeli defense and security forces. It was founded for the purpose of defending Israel's defense needs in a manner that ensures its existence and prosperity for generations to come.

We follow a clear line: We uphold Israel's right to exist, within its safe borders – the borders of the Land of Israel. We believe that Israel's defense needs are at the top of the national agenda, and believe that the State of Israel cannot afford to lose any war. The IDF must operate freely throughout the territory to fulfill its responsibility and defend the State of Israel.

We would like to make it clear that we are not a political movement, but one that is guided by the values and vision that define it.

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The above photo: IDF spokesperson

■ Our Research Department

IDSF-Habithonistim's research department has made its mission to serve as a resounding, forthright and relevant voice in the public debate in Israel, which through actionable research provides the public and the decision-makers with the necessary tools to tackle an evolving political-security reality, while instilling the State of Israel's principles and values of national security to ensure prospers for generations to come as the nation state of the Jewish people.

We promote a substantive, professional and inviting dialogue that views the principles and values of Zionism and Israel's national security as an unquestionable point of departure. These include Israel's identity as a Jewish and democratic state; its basis in the Zionist vision; national security that is built inside-out and from which the principles of governance and sovereignty are derived; full Israeli security command of the entire territory; peace through strength; the cultivation of human capital, and a people's army model.

The department operates on two complementary planes: research and its communication. We provide reports, research and position papers concerning our core issues, combined with professional recommendations. This research is made accessible to the public and to decision makers alike, on various platforms – from meetings with decision-makers through media appearances to open lectures and social media posts.

We see the illumination and training of the public – and the young generation in particular – as our guiding light.

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■ Introduction: The Rationale Behind the Paper

This position paper presents the IDSF movement's clear professional and moral position on the bill regarding the **revocation of citizenship for terrorists who are citizens of Israel, and the revocation of residency of those with residency status in Israel, who receive salaries from the Palestinian Authority** for acts of terrorism they committed. **This kind of step reflects a change in perception toward the Palestinian armed struggle against the State of Israel and the perpetrators of terrorism, conveying a clear statement: those who abuse their citizenship or residency in Israel with the aim of harming Israelis as part of their commitment to the Palestinian struggle, can no longer be part of Israel's society.**

This is an **unavoidable step, which is part of an overall counterterrorism policy**, and conveys a clear moral stance towards terrorists and their exclusion from Israeli society, restoring deterrence, combating the PA's policy of salaries for terrorists, and no less importantly – justice for the victims and their families in their public struggle for their loved ones. **The full package of measures to deter and punish terrorism and terrorism policies** must include full enforcement of the Offsetting Law against the Palestinian Authority; the redirecting of terrorist funds to the victims' families; the deportation or banishment of terrorist to the PA territories; a reexamination of conditions of incarceration in Israel, and the legislation of minimum sentences for terrorist offenses.

This step comes against the backdrop of **a broad and rare consensus in the Knesset, across factions and shared by both the coalition and opposition**, which reflects a **deep public consensus** regarding the moral clarity and security and values significance behind this imperative move. At the same time, it comes up for discussion against the background of the recent release of a number of terrorists with blood on their hands, such as Karim and Maher Younis – Arab citizens of Israel who murdered the soldier Avraham Bromberg -as well as the expected release of Munir Rajbi, a Palestinian resident of Israel who assisted in the attack on bus No. 37 in Haifa in March 2003, in which 17 Israelis were murdered.

This paper explains the main points of the bill in its broader context and the security advantages it offers, and briefly reviews of the existing legislation in this matter and the loopholes therein. Additionally, the paper presents a general overview of the Palestinian law regarding salaries for terrorists, reviews precedents from the Western world and Israel for the revocation of citizenship from terrorists as a means of counterterrorism policy, and affirms the **clear national and moral statement: The rules of the national game demand the removal from the playing field of terrorists** motivated by hostile ideology, who consider themselves soldiers of an enemy army, and thus join the cause and as such, harmed innocent Israelis. By doing so, Israel in no uncertain terms expresses its refusal to see as part of its society terrorists who undermine that same society and are associated, nationally and ideologically, to Israel's enemies. They cannot have it both ways: attempting to undermine the State on one hand, and being part of that state while accepting the benefits it provides.

It is a national tool for contending with a national threat, as opposed to criminal tools for dealing with criminal behavior. It reflects a **nationalist perception according to which subversion motivated by Islamist ideology, affiliation with the Palestinian Authority, and the adoption of the Palestinian narrative as a motive for action are outside the rules of the game of Israeli society.**

Executive Summary

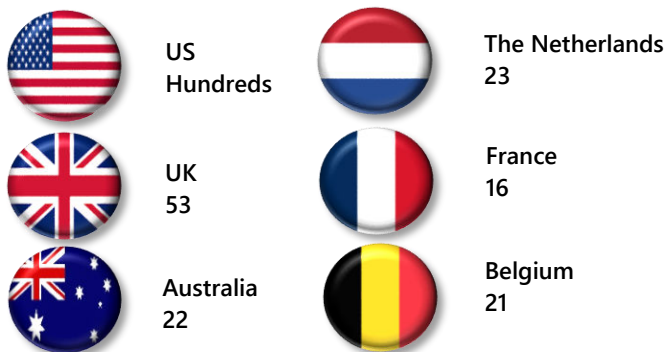
- **A bill proposing the revocation of citizenship and residency of terrorists**, which includes a clause stipulating the expulsion to the Palestinian Authority territories, is currently being debated in the 25th Knesset and has garnered much support and broad consensus from the house factions, coalition and opposition. The proposal expands the existing law by stating that a **person who behaves in a certain manner and is found to have met the following three conditions stated by the law** – committing an act of terrorism, serving a prison sentence, and receiving a salary from the Palestinian Authority – will lose his or her Israeli citizenship and be **deported to the PA territories**.
- The proposal **expedites** the long administrative process and **allocates a timeframe for appeals**. It also **restricts the discretion** exercised by the Minister of the Interior and the courts. Sentences reviewed in the paper, such as the **Mafarja and Abu Arefa rulings by Israel's High-Court of Justice**, demonstrate the **necessary legislative clarity** for the courts alongside **the need to move away from the vague wording toward a clear letter of the law**.
- The proposal addresses the shortcoming of the current law, which allowed **1,000 Israeli Arabs and Palestinian residents of Israel to apply to the Palestinian Authority and receive a fixed salary from the Authority in exchange for the acts of terrorism they committed** – these constitute 20% of the security prisoners currently incarcerated in Israel.
- In order to receive a salary from the Authority, **applicants are required to fill out a special form and attach documents**. In our view, signing such a form **is tantamount to a waiver of the right to belong to Israeli society and a commitment to belong to the Palestinian society**.
- Palestinian law views Israeli Arabs as part of the **Palestinian people**, which entitles deported terrorists to eligibility for **residency with the Palestinian Authority without Israel having to offer them alternative status**.
- By granting salaries to terrorists, the Palestinian Authority establishes by law that the terrorist belongs to the PA **combat arm**, which constitutes conscription into a **foreign army** and presents sufficient grounds for revocation of citizenship in a number of countries around the world, including 12 European countries.
- **The PA allocates an annual budget of some \$300 million USD for terrorists' salaries**, under which terrorists such as Munir Rajbi – an accomplice in the attack on bus No. 37 in Haifa – will receive about \$300 thousand USD from the PA until his release, in addition to tens of thousands of dollars annually for the rest of his life; And the terrorists Karim and Maher Yunis – who murdered the soldier Avraham Bromberg – received about \$1.1 million USD each by the time they were released from prison, and can expect to receive an annual stipend of hundreds of thousands of dollars for the rest of their lives.
- **Already in the Abu Arefa case, High Court Justices have ruled that the status of terrorists must be assumed to be that of residents of the Palestinian Authority, and have recognized the security necessity for the revocation of citizenship, such that is customary in Western countries throughout the world.**

- **There are many precedents in the Western world for revocation of citizenship due to acts of terrorism.**
 - Some countries make a distinction between the denationalization of naturalized citizens and the denaturalization for native citizens. In other countries, such as in the Netherlands and Australia, the procedure is the same for both categories.
 - **In the United States**, the law allows the revocation of citizenship from individuals involved in terrorist activity, and this law was even exercised against Palestinian terrorists who failed to disclose their involvement in such activity at the time of their naturalization, which ultimately led to their deportation to Jordan.
 - **In recent years**, the laws in **France, Belgium, and the Netherlands have been significantly tightened** allowing the revocation of citizenship of terrorist operatives, providing they have dual citizenship – **sometimes at the discretion of the minister without a court sentence**. To date, Belgium had already revoked 21 citizenships, France 16 and the Netherlands 23.
 - **Australia allows the revocation of citizenship for certain behaviors and for certain convictions**, including actions that violate the values of the state, actions that are against the public interest, and involvement in terrorism. To date, 22 citizenships have been revoked in the country.
 - **Britain** allows the revocation of citizenship regardless of a legal conviction but at the discretion of the Secretary of State.
- **There are also many precedents in the Western world for the revocation of citizenship for other reasons.**
 - **In 10 EU countries, prolonged residence abroad** constitutes grounds for the revocation of citizenship.
 - **15 EU countries** revoke citizenships in the event of **treason or breach of allegiance**. **The United States and Australia** do the same.
 - **All EU countries** except Croatia, Poland and Sweden allow the revocation of citizenship in case of **fraudulent acquisition of citizenship**.
 - **Other Countries, like the United States, Australia and a host of European countries, condition obtaining citizenship on an oath of allegiance to the state, proof of good moral character and identification with the values of the state.**
- **The debate regarding rendering a person stateless:**
 - **The British law is unique in that it allows the revocation of citizenship even when it renders a terrorist stateless** (the 2014 amendment to the British Citizenship Law), **on grounds of conduct that is seriously prejudicial to the vital interests of the State**, and **there are reasonable grounds to assume that the person is entitled to citizenship in another country or territory**. Thus, for example, the British courts revoked the citizenship of Shamima Begum (who was 19 years old at the time, living in Syria and entitled to a Bangladeshi passport and remained stateless following the ruling of the British Minister and the ratification thereof by the Supreme Court). Another case involves a person of Sudanese origin suspected of acts of terrorism in Somalia, for which his citizenship was revoked and he was forbidden to return to

the country – without the right to appeal the ruling. He was entitled to Sudanese citizenship and remained stateless, but has since obtained Sudanese citizenship

- **Contrary to common belief, international law allows, under certain circumstances, to revoke a person's citizenship or residency at the discretion of the sovereign, even if it renders that person stateless.** The UN's 1961 Convention on the Reduction of Statelessness unequivocally states that this kind of action is possible in certain cases of prolonged residence abroad; the nationality has been obtained by misrepresentation or fraud; **breach of allegiance; receiving payments from another country in violation of the state's law** (a case that corresponds with the policy of the Palestinian Authority); **pledge of allegiance to another country** (which corresponds with the signing of the application form for salaries from the PA and enlistment in its combatant sector); a person who **repudiates his allegiance to the state**, or one who **endangers the state's national interests**.
- **Ultimately, the Israeli case is unique and the state is not committed to precedents from around the world. Nevertheless, a comparative study shows that these cases present a possible course of action and are acceptable in extreme cases of defensive democracy.**
- **IDSF-Habithonistim lends its full support to the lawmakers in this regard and calls for the accomplishment of such legislation for the sake of Israel's security, as part of the deterrence measures against terrorism.** This kind of law is also essential in that it serves to sever the payment system to terrorists or at the very least – removing those receiving such salaries from Israeli society. This step will reinforce the security of the citizens of Israel, bring justice to the bereaved families, strengthen national resilience and above all, reflect a policy that is anchored in ethics and serve as a clear national statement in the face of terrorism and its perpetrators.

Global comparative overview



Number of revoked citizenships to date



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■ The Law: Bill for the Revocation of the Citizenship or Residency of a Terrorist Operative Who Receives Remuneration for the Commission of an Act of Terrorism (Legislative Amendments) 5723-2022

- **A bill to revoke the citizenship and residency of terrorists** was submitted in the 25th Knesset by a large number of MKs across parties, both from the coalition and opposition:
 1. Coalition
 - 1) Likud - Three MKs: Ofir Katz, Moshe Saada, Boaz Bismuth
 - 2) Otzma Yehudit – Two MKs: Limor Son Har Melech, Almog Cohen
 - 3) Religious Zionism – Three MKs: Moshe Solomon, Ohad Tal, Simcha Rotman
 - 4) Shas: One MK - Yinon Azoulay
 2. Opposition:
 - 1) Yesh Atid – Fourteen MKs: Merav Ben Ari, Meir Cohen, Ron Katz, Simon Davidson, Merav Cohen, Yoel Razvozov, Elazar Stern, Idan Roll, Yoav Segalovitz, Ram Ben Barak, Yasmin Friedman, Tatiana Mazarsky, Mickey Levy, Michal Shir Segman
 - 2) Yisrael Beiteinu – Six MKs: Avigdor Lieberman, Yevgeny Sova, Sharon Nir, Yulia Malinovsky, Amed Ammar, Oded Forer
 - 3) National Unity Party – Two MKs: Sharan Hashakal and Ze'ev Elkin
- The bill proposed in this paper incorporates the seven bills submitted on the issue by MK Simcha Rotman (Religious Zionism), Sharan Hashkal (National Unity Party), Ofir Katz (Likud), Zeev Elkin (National Unity Party), Oded Forer (Yisrael Beiteinu), Yinon Azoulay (Shas) and Meir Cohen (Yesh Atid).
- **This proposed bill seeks to establish that the Minister of Interior will have the authority to revoke the citizenship or residency status or to deport terrorists, who had received salaries or payment from the PA for their terrorist activity**, whether directly or through a foreign body, regardless of the existence of an alternative citizenship.
- The various bills on the matter have been gaining momentum in recent months, on the backdrop of the celebrations for the release of terrorist Karim Yunis, who was released after 40 years in prison after murdering a soldier. These celebrations, which illustrate the injustice happening in the Israeli reality against the backdrop of legislation in its current form, have brought the issue to the surface and accelerated legislation.
- The bill was raised in the Knesset plenum for preliminary discussion on January 16, 2023 and was approved with the broad agreement of the coalition and the opposition – a majority of 71 MKs against 9 opposing MKs from the Arab factions. The original bill was signed by 106 Knesset members – a respectable majority reflecting **broad agreement among the coalition parties and the opposition, and a joint willingness to promote the law** and include it in the State of Israel's code of law.
- The bill passed on first reading on January 30, 2023 by a majority of 89 MKs, reflecting the agreement between the coalition and opposition factions.¹

¹ <https://main.knesset.gov.il/Activity/Legislation/Laws/Pages/LawBill.aspx?t=lawsuggestionssearch&lawitemid=2196942>

■ Current Legislation in Israel and Past Attempts to Propose Bills

- In Israel's current legislative environment, there are three channels through which to affect revocation of Israeli citizenship:
 1. **A court request on part of the Minister of the Interior** in the event of reasonable grounds for assuming that the person obtained citizenship on the basis of misrepresentation (section 11a of the Citizenship Law) – up to 3 years from the moment of receiving the status and on the basis of the recommendation of an advisory committee.
 2. **An application by the Minister of the Interior to the Administrative Court** (section 11b of the Citizenship Law) for one of the following reasons:
 - **Citizenship granted on the basis of misrepresentation** – more than 3 years from the date the citizenship was received.
 - **Breach of allegiance** – in one of the following cases pertaining to the current paper:
 - a. **Involvement in an act of terrorism** as defined in the Counter-Terrorism Law, 5776-2016 (in this paper – the Counter-Terrorism Law), assisting or soliciting an act of terrorism, or taking an active part in a terrorist organization;
 - b. **An act that constitutes treason** under sections 97 to 99 of the Penal Code, 5737-1977, or severe espionage under section 113(b) of that same law;
 3. **Petition for revocation of citizenship during a criminal proceeding relating to a terrorist offense** – a contingency that was clarified in the amendment to the Citizenship Law of 2017.
- **The conditions for the revocation of residency are seemingly simpler**, as this is a decision left to the discretion of the Minister of the Interior (section 11a of the Entry into Israel Law) that can be validated in the Court for Administrative Affairs.²

Legislative History

- With regards to past legislation, a number of bills have been submitted in recent years, mainly dealing in the revocation of citizenship. The first law on the matter is from 2008 and was submitted by MK Avraham Michaeli. The proposed bill included the revocation of citizenship for terrorists and revocation of permanent residency for terrorists and their families. However, the bill did not go far in the legislative channels.
- **The Citizenship Law (Amendment No. 9), 5768-2008**: up to the amendment of the Citizenship Law in 2008, the authority to revoke citizenship laid in the hands of the Minister of the Interior. As of August 2008, an amendment to the law was enacted, setting a timeframe within which the Minister of the Interior may revoke citizenship due to the provision of misrepresentation to a three-year period. A request for revocation submitted after that timeframe is under the jurisdiction of the Administrative Affairs Court, at the request of the Minister of the Interior and with the approval of the Attorney General. This procedure also applies to any application for revocation of citizenship due to a breach of allegiance to the state.

² Position paper by Palestinian Media Watch (PMW): Proposed Law to Revoke the Citizenship or Residency of a Terrorist Operative who Receives Remuneration for Committing the Act of Terrorism (Legislative Amendments), 2022

- **In practice, the amendment turned the succinct provision of the Citizenship Law into a detailed procedure**, which allows the minister to apply the authority vested in him by law. The amendment stipulates two conditions for a citizenship revocation as initiated by the state:

1. **Citizenship was granted on the basis of misrepresentation**, i.e., on the basis of fraudulent documents claiming eligibility for Israeli citizenship under the Law of Return or on the basis of a fictitious marriage to an Israeli citizen or a person entitled to repatriate under that law.
2. **The citizen had committed an act that constitutes a breach of allegiance to the state**, with the amendment specifying two clauses for a "breach of allegiance to the State of Israel":
 - (1) An act of terrorism as defined in the Counter-Terrorism Law, assisting or soliciting such an act, or taking an active part in a terrorist organization or a recognized terrorist organization as defined in the said law.
 - (2) An act that constitutes treason or serious espionage (concurring by the Attorney General) as an act of terrorism under the Prohibition of Terrorist Financing Law, or an act of high treason or espionage under certain clauses of the Penal Code, or the acquisition of citizenship or the right to permanent residence in an enemy state.

There is a second section addendum regarding cases in which entry into Israel may be denied to a person with permanent residence outside of Israel, until the revocation of such citizenship (pertinent to the heads of terrorist organizations leading their organization from Europe), if the court is convinced that his or her entry into Israel poses a clear threat to national security or public safety.

- **According to the amendment, a citizenship cannot be revoked in this case if as a result, it renders the citizen stateless, and if stateless, the person will be given a permit to reside in Israel.** However, a presumption was established according to which those who permanently reside outside of Israel will not remain stateless.
- In 2018, the **Entry into Israel Law (Amendment No. 30), 5778-2018**³, was approved on second and third readings. This bill began with the proposed Entry into Israel Law (Amendment – Applicability to Residents of East Jerusalem and at the Discretion of the Minister of the Interior) ⁴, 5778-2017, formulated and submitted by MK Amir Ohana.
The law grants the Interior Minister the authority to revoke the permanent residency of those convicted of security offenses. The proposed law was motivated by a 2017 ruling by the Abu Arefa High Court of Justice, which invalidated a decision by the then-interior minister to revoke the citizenship of a number of Hamas activists living in East Jerusalem, including Palestinian MP Muhammad Abu Tir.
- **In 2017, the Proposed Citizenship Law (Amendment No. 13), 5777-2017**⁵, which allows the revocation of citizenship by the court *in absentia* – even while the person who is subject is abroad -

³ https://fs.knesset.gov.il/20/law/20_lsr_491468.pdf

⁴ https://fs.knesset.gov.il/20/law/20_lst_393182.docx

⁵ https://fs.knesset.gov.il/20/law/20_lsr_381759.pdf

was passed in the Knesset. The backdrop to this bill was the espionage scandal involving former MK Azmi Bishara for the Hezbollah terror group, following which Bishara escaped to another country.

- **The Azmi Bishara Law:** Following the espionage affair involving former MK Azmi Bishara, who worked for Hezbollah, the Citizenship Law was amended to allow the revocation of citizenship *in absentia* in court – even while the person who is subject is abroad.

■ What Does the New Bill Add to the Existing Law?

- **Under the proposed bill, the following three conditions must be met in order for a person to be seen as having renounced his or her citizenship or residency in Israel and be deported to the PA territories:**
 1. A person who has committed an act of terrorism.
 2. A person who had served a prison sentence behind bars.
 3. A person who had applied for payment from the PA for acts of terrorism.
- The implication of the proposed legislation herein, according to the version authored by the legal counsel of the Committee, **lays in that it offers an additional means – beyond the existing measures – with which to strip an individual from his or her citizenship: the Interior Minister is obligated to appeal to the court, demanding the revocation of citizenship for an individual who falls under the three criteria for revocation, and the courts must approve the request.**
- Furthermore, this proposed bill takes into account the element of **received payment** for acts of terrorism and **positions the act of signing a salary request form at the Palestinian Authority as a central consideration in a person's status as regards to the State.**
- The current procedure is a **drawn-out administrative route** that conditions the revocation of citizenship on the Interior Minister's application to the court and on the court's approval, whereas the proposed amendment is a **short administrative procedure** that specifies 3 conditions for revocation of an individual's citizenship. It limits the discretion of the Minister of the Interior and the court, and the right to appeal the decision has a restricted timeframe that cuts through the red tape that held up past revocations (the High Court of Justice Mafarja, the High Court of Justice of Abu Arefa, and others, which have sometimes taken up to 11 years).

■ Background for the Legislation – a Response to an Existing Lacuna

The “PA’s soldiers”: 1,000 terrorist security prisoners with citizenship or residency who applied for salaries from the PA

- According to Palestinian law established by the Palestinian Authority, every terrorist is entitled to a **monthly salary in return for terrorist activities** – whether a member of Fatah, Hamas, the Popular Front for the Liberation of Palestine or any other faction; be it a Palestinian resident of Judea, Samaria or Gaza or an Arab citizen of Israel; whether the act was affiliated with an organizational or an done by independent initiative (“lone wolf”) – **the PA does not distinguish between residents of the PA, the Palestinian residents of Israel and the Arab citizens of Israel when using the term “Palestinians”.**
- This bill aims to address the existing lacuna, which allowed many Israeli Arabs to apply to the Palestinian Authority and today receive a fixed income from the PA in exchange for the acts of terrorism committed.

According to the data, out of 5,000 security prisoners, there are 1,000 salary recipients from the Palestinian Authority who are either Israeli Arabs or Palestinians with Israeli residency. In other words, **out of the 20% population of security prisoners currently in prison, 300 of are Arabs with Israeli citizenship and 700 are Palestinians with Israeli residency.**

Signing A Waiver of Membership in Israeli Society and A Signature of Affiliation to Palestinian Society: The Application Form that Justifies Revocation of Status and Deportation

- Unlike Palestinian terrorists from the PA territories in Judea and Samaria, who are present in the Palestinian government’s records, **a particular effort was required from an Israeli Arab terrorist seeking PA terrorist salaries.** This involves **submitting a special application form** with attached documents attesting that that applicant committed the terrorist act.
- To that end, the terrorist or his or her family must contact the relevant authorities in the PA and name a representative with power of attorney in the application form.
- The bureaucratic requirements which entitle an applicant to receive payments are detailed in PA Government Decision No. 23, 2010 regarding “Regulation 6 for the Payment of a Prisoner’s Monthly Salary.”
 - **Clause 3 of the ruling determines:**

“For the payment of a prisoner’s monthly income, his relatives are required to submit to the authorized administration the following documents:

 1. An original document from the Red Cross attesting to the person’s arrest, and an official proof of incarceration document for every three months behind bars.
 2. An indictment of the Israeli military prosecution or a notarized photocopy thereof.
 3. A photocopy of the prisoner’s ID, if such exists.
 4. A photocopy of the ID of the representative with power of attorney.
 5. A photocopy of the marriage license.
 6. A photocopy of children’s birth certificate.

7. A bank account number in the name of the representative in one of the banks within the territory of the PA
 8. The Israeli court sentence, of a notarized photocopy thereof..."
- **Article 5 of the ruling** establishes the procedure by which the prisoner determines who he authorizes to act as his representative for the purpose of receiving the funds:
 1. Power of attorney – if the prisoner is married, his wife automatically receives power of attorney, so long as he has not authorized another person to act on his behalf.
 2. In the event that the prisoner is not married, one of his parents will be considered representative. If a dispute regarding the power of attorney arises, the prisoner himself will authorize one parent or both to act on his behalf.
 3. Power of attorney shall be granted with a [form] issued by the Red Cross and signed by the prisoner, or by a handwritten power of attorney authorization, signed by the prisoner and approved by a lawyer on behalf of the Ministry [of Prisoners' Affairs] and by the General Administration for Legal Affairs in the Ministry. The document will be valid only in the Ministry [of Prisoners' Affairs] for the purpose of paying the salaries."
 - **Article 1 of the ruling** defines the "representative" as "a person authorized to receive the salary on behalf of the prisoner."

Thus, **only as per the declaration of the terrorist himself**, via a designated document that he himself is required to sign, the identity of the party who will receive the PA's payments is determined.⁶

- Aside the formal requirements, the signature of an Arab-Israeli terrorist on the said document has far-reaching implications:

It signifies the terrorists' waiver of membership in Israeli society and his allegiance to the Palestinian society, and moreover – it is a declaration of membership in the "**combat sector**" of the Palestinian people, as specified by the PA's payment program.

- **First and foremost**, a terrorist's signature on said application form states that he views himself as a Palestinian person "who is incarcerated in the occupation's prison due to his participation in the fight against the occupation" (as stated in the description of the term "prisoner" international the "Prisoners Law" as well as in resolution 23), and as such, in effect, **constitutes the enlistment thereof as a soldier of the Palestinian Authority**.
- **Secondly**, the signature signifies that the **terrorist is requesting the Palestinian Authority to recognize him as a Palestinian**, and as such, compensate him for partaking in the "fights against the occupation" – i.e. the committing of a terrorist act.
- **Thirdly**, when the Palestinian Authority grants the request of an Arab-Israeli terrorist, and approves the payment of a "salary" to him/her - **it not only grants pay, but also national status**: financial remuneration in addition to the recognition thereof as a soldier of the Palestinian Authority, who executed acts of terrorism on behalf of the PA and the Palestinian people.

⁶ Position paper by Palestinian Media Watch (PMW): Proposed Law to Revoke the Citizenship or Residency of a Terrorist Operative who Receives Remuneration for Committing the Act of Terrorism (Legislative Amendments), (5783) 2022

- **Fourthly**, the authority added a **special pay component for residents of East Jerusalem** (an additional ILS300 – about \$80 USD a month), and **for Arab citizens of Israel** an additional ILS400 – about \$108 USD a month)
- **This follows the PA's view according to which all the Arabs between the Mediterranean Sea and the Jordan River, both in Israel and in Judea, Samaria and Gaza, are members of the Palestinian nation.** Israeli Arabs are referred to by Palestinian law as "**interior Arabs**":
 - For example, article 8(2) of the same PA government resolution no. 23 for 2010 states: "A special supplement shall be paid to **prisoners from [East Jerusalem] and from the interior**; If a prisoner is married to more than one woman, each of his wives is entitled to an addition equal to that given to the prisoners of [East] Jerusalem and the Interior".⁷

A Solution to The Legal Difficulties in The Official Status of a Terrorist Who is a Palestinian: The Letter of the Palestinian Law

- As detailed above, **once an individual signs an application for a PA salary, that person has in effect has joined the armed forces of the PA** – a foreign and hostile entity, which regards that individual – by virtue of accepting said salary – a Palestinian belonging to its "combat sector" and as such, entitled to payments like any other Palestinian.
- **The Palestinian status of the Arabs within Israel and Judea and Samaria, is defined by Palestinian law**, which states that every Arab (not Jews) born in the "territories of the British mandate on Palestine" – i.e., the entirety of the Land of Israel – or otherwise, those entitled to the Palestinian nationality under the British laws of that period. The Palestinian law also stipulates that every Arab born in Gaza, Judea and Samaria and Jerusalem – is considered a Palestinian.⁸
 - The determination of who is a Palestinian and who is entitled by virtue of their Palestinian nationality to vote for PA institution, is defined in Article 27 of the Election's Law:⁹
 1. A person who meets the following requirements shall be eligible to vote:
 - a. Is a Palestinian.
 - b. Is at least 18 years of age on polling day.
 - c. Is registered in the final voters' registry.
 - d. Not to be deprived of the right to vote in accordance with Article (29) of this law.
 2. For the purposes of this law, a person shall be considered Palestinian:
 - a. If he/she was born within the borders of Palestine – as defined in the British Mandate – or was entitled to acquire the Palestinian nationality under the applicable laws during that era.
 - b. If he/she was born in the Gaza Strip or the West Bank, including "Holy Jerusalem" (Alquds Alshareef).
 - c. If one of his/her ancestors falls under the application of paragraph (1) above irrespective of where he/she was born.

⁷ Ibid

⁸ Ibid

⁹ For this purpose, see the PA's Elections Law, referred to on the website of the PA's Central Elections Committee - https://www.elections.ps/Portals/0/pdf/Election_Law_%282007-Sept_02%29-EN.pdf

d. If he/she is a spouse of a Palestinian as defined above.

- Article 1 of the amended Basic Law makes it clear in a way that leaves no doubt that a "Palestinian" is only a person of Arab origin, leaving no room for a broad interpretation that these may include Jews born within the British Mandate.

"Palestine is part of the larger Arab world, and the Palestinian people are part of the Arab nation. Arab unity is an objective that the Palestinian people shall work to achieve."

- Article 26 of the PA's amended Basic Law establishes the various political rights of the Palestinians¹⁰, including the right to vote in elections to the Palestinian parliament, to run in parliamentary elections (as did the three Hamas activists from the Abu Arefa High Court of Justice case), and to serve in government positions.
- **Concerns regarding a "stateless" status cannot be applicable to cases of revocation of residency from a person who applied for and received residency status**, since it is assumed that his/her **previous status is sufficient**, even though he/she was previously stateless. As a Palestinian, he is eligible for Palestinian residency.

Releasing terrorists with blood on their hands to Israeli cities: contemporary examples

- **The proposed bill also comes against the backdrop of the current release of a group of convicted terrorists from prison and their return to Israeli cities, Arab citizens of Israel or Palestinian residents of Israel, who have returned or will return to the area of residence of their victims.**

- **Resident of Israel: Terrorist Munir Rajbi**, a resident of Haifa, was part of the Hamas squad that carried out the suicide bombing attack on the number 37 bus in Haifa on March 5, 2003, (1 Adar 2, 5763). 17 men, women, and children were murdered in this attack, 9 of whom were students on their way back from school. Rajbi was tried and sentenced to only 20 years in prison, following a plea bargain. This deal was signed without the consent of the bereaved families and even without their knowledge, despite the fact that he was a full partner in planning the attack and was even informed in real time of the progression of its execution.

Status in Israel: Munir Rajbi at that time had a permanent resident status – a blue identity card of East Jerusalem by virtue of family unification due to his parents' marriage.

In early March 2023, Munir Rajbi is scheduled to be released from prison. After his release, Munir Rajbi will be entitled to return to his place of residence in Haifa without any interference or restriction

Rajbi's case relates to the **Abu-Arefa High Court of Justice** case (see "Precedents in Israel for Revocation of Citizenship and Residency"). Following that incident, the Knesset led the Entry into Israel Law (Amendment 30), 5778-2018, following which Deputy Attorney General Dina Zilber and Attorney General Avichai Mandelblit approved Interior Minister Deri's request to revoke the residency of terrorist Rajbi, following which Minister Deri announced that he would begin proceedings to install the revocation of residency.

¹⁰ For this purpose, see the Basic Law referred to on the website of the PA's Central Elections Committee https://www.elections.ps/Portals/0/pdf/The_Amended_Basic_Law_2003_EN.pdf

As of now, Rajbi still holds Israeli residency and could return to Haifa upon his release in March 2023.

Deportation: The families of the victims indicated that upon Rajbi's release, an unreasonable situation would arise in which the families of the 17 victims, who will never again see their loved ones, will be in a position in which they **might possibly encounter, on a daily basis, the terrorist who murdered their loved ones**. In this spirit, the bereaved families, led by the Choosing Life Forum, are promoting a public struggle on this issue.

Salary from the PA: Rajbi will receive pay to the tune of about \$300 million USD up to his release date, after which he will receive a release grant of \$10,000 USD and another \$22,800 USD a year for the rest of his life.

- **Israeli citizen: The terrorists Karim and Maher Younis**, Arab citizens of Israel, residents of the Ara village, murdered the soldier Avi Bromberg, from Zichron Ya'akov in 1980. Then President, Shimon Peres reduced Karim's sentence to 40 years and he was released on January 5, 2023. His cousin Maher Yunes was released two weeks later, on January 18, 2023, and they returned to their homes in Ara, about 20 kilometers from the where the family of the soldier they murdered lives.

Salary from the PA: Each of the brothers received about \$1.1 million USD until their release, another \$25,000 USD release grant and are provided with an annuity of \$39,000 USD for the rest of their lives.

- **Israeli citizen: Terrorist Walid Daqa** kidnapped and murdered the soldier Moshe Tamam in 1984. President Peres reduced his sentence to 35-37 years and he is expected to be released in 2023. Before his imprisonment, Daqa lived in Baqa al-Gharbiyeh, while Moshe Tamam's family lived in Havatzelet Hasharon and Netanya. One of the squad members who participated in the abduction and murder, Rushdi Abu Moch, was released in April 2021 and returned to his home in Baqa al-Garbiyeh, not far from the victim's family's residence.

Salary from the PA: Daqa received about \$950,000 USD until his release; a \$25,000 USD release grant and will receive an annuity of \$39,000 USD for the rest of his life.

Legal Obstacles for revocation: The Ziwad and Mafarja High Court Case and the Abu-Arefa High Court Case

The need for legislative amendment stemmed from a series of cases in which the **High Court of Justice prevented the revocation of the status in Israel of terrorists who committed a terrorist offense, in a way that reinterprets the dry legal text and summons additional legislation.**

HCJ case Ziwad and Mafarja: refusal to revoke citizenship of terrorists without other permanent status

Mohammed Mafarja was convicted of committing the 2012 Tel Aviv bus bombing in which 24 people were injured, during Operation Pillar of Defense.

General background and preparations for the attack¹¹

- Muhammad Mafarja was born in Israel in 1994, to a mother with a permanent residence permit in Israel and a Palestinian father who received a permit under the Family Unification Law.
- Mafarja received his Israeli citizenship on 12 February 2008, **after two previous applications submitted by the family were rejected.**
- According to the indictment, in the two months before the attack, the accused resided at his uncle's house in Beit Liqya for the purpose of attending Birzeit University near Ramallah. On the sixth day of Operation Pillar of Defense, Mafarja expressed his desire to fight alongside Hamas activists in Gaza, while shopping at the grocery store.¹²
- **Muhammad Mafarja took advantage of his Israeli ID card**, and every morning, for three months, left the Palestinian village of Beit Liqya for work at the McDonald's branch in Modi'in.¹³
- On November 21, Mafarja receives the bag with the bomb. His operator makes it clear that before getting off the bus, Mafarja must turn on the switch and then phone him. He believes that the Israeli ID card he and his friend are carrying would help him easily cross the checkpoint with the explosive device in his hands, which is what in fact happened.¹⁴
- On 21 November 2012, **during Operation Pillar of Defense in the Gaza Strip**, being at the age of 18 and one day, **Mafarja committed an attack by placing an explosive device on a bus loaded with passengers in the heart of Tel Aviv.** As a result, 24 people were injured, two of them – a female soldier and a 14-year-old – critically.

The Verdict¹⁵

- **For this act, Mafarja was convicted by the Tel Aviv-Yafo District Court of offenses relating to the commission of an act that revealed an intention to assist the enemy, attempted murder, the detonation of explosives and inflicting serious injury.** On March 10, 2014, Mafarja was sentenced to 25 years in prison and his appeal against the severity of the sentence was denied.
- On October 18, 2015, several days before the verdict was given on the appeal on the severity of Mafarja's sentence, he was notified of the Interior Minister's intention to act in accordance with section 11(b)(2) of the Law and to **submit a request to revoke his citizenship.**
- **On November 24, 2015, the Advisory Committee to the Minister of the Interior recommended submitting a request to revoke Mafarja's citizenship, and on December 7, 2015, the Attorney General approved the Interior Minister's request.** During the last hearing on the application, which took place on July 16, 2017, the court was presented with a **Shin Bet opinion.** It was argued that it raised **the need to deter the group to which Faraja belongs – the second generation of Israeli citizens under the family unification right – and that the revocation of his citizenship serves as an effective deterrent.** In addition, an updated announcement was submitted by the Minister of the Interior clarifying that he intended to grant Mafarja an A/5 license if his citizenship is revoked

¹¹ Verdict) 8277/17 court.gov.il)

¹² <https://www.ynet.co.il/articles/0,7340,L-4321896,00.html>

¹³ <https://www.ynet.co.il/articles/0,7340,L-4322071,00.html>

¹⁴ <https://www.ynet.co.il/articles/0,7340,L-4322071,00.html>

¹⁵ [8277/17 court.gov.il](https://www.ynet.co.il/articles/0,7340,L-4322071,00.html)

(in accordance with the ruling on the revocation of citizenship for individuals without dual citizenship).

- The court ruled that the **data presented in the Shin Bet opinion is vague**, does not present a full picture, and in any case **does not support the conclusion set forth** that there is an increased danger on the part of the second generation of family unification families, or the ability to deter the second generation by revoking citizenship. Therefore, the court ruled that in regards to Mafarja, **there are deterrent measures that are less harmful than revocation of citizenship**, chiefly, the criminal proceedings and the heavy punishment imposed on him.
- **On June 7, 2018, the Central Lod Administrative Court rejected the Interior Minister's request to revoke Mafarja's citizenship**
- The court noted that for many years, interior ministers have refrained from exercising the authority set forth in section 11(b)(2) of the law "acknowledging the harsh and cruel decree inherent in it" (paragraph 61 of the ruling). Under these circumstances, the court ruled that **the exercise of this authority now requires a justification by the Minister of the Interior regarding the change in policy, taking into account the supreme status of the entitlement to citizenship and its importance in international and comparative law**, which implies, as per the court's approach, **the caution that must be exercised** when revoking citizenship due to a breach of allegiance.
- The court ruled that **in lieu of a legislative arrangement that determines when breach of allegiance constitutes a justification for the revocation of citizenship, this measure must be restricted solely to extraordinary and extreme cases**, furthermore stating that **despite the gravity of Mafarja's action, they lack an extremist element such that** set him apart from other acts of terrorism for which no revocation of citizenship was demanded.
- The court further noted that Mafarja's case presented **extenuating circumstances**, including his young age at the time of the attack; the probation service assessment indicating an immature and impressionable individual; that fact that he got off another bus that was full of passengers with the aim of reducing the expected damage (a claim that later on was proven false and contrary to his statement during the Shin Bet interrogation); and the fact that his actions had not resulted in casualties.
- During the course of the Mafarja case, the Minister of the Interior informed the court that, upon revocation of Mafarja's citizenship, **the respondent would be granted temporary resident status, which would continue to grant him all the social rights that every citizen is entitled to, including allowances from the National Insurance Institute to his family due to his inability to earn a living in prison.**¹⁶
- Finally, the court maintained that **the Interior Minister's statement that he would grant Mafarja an A/5 license in the event that his citizenship is revoked "is unsatisfactory and cannot safeguard the respondent's future"**. This is due to the fact that granting a temporary license, wherein the decision to renew it is at the discretion of the Interior Minister alone, cannot sufficiently assuage concerns that Mafarja might remain stateless – a status the legislature wishes to prevent.

¹⁶ <https://www.israelhayom.co.il/article/773459>

- With regard to proportionality, it was argued that **the arrangement may render a person stateless**, since the alternative status granted to him is only a temporary residence permit, in a manner that contradicts the principles of international law, and in particular the provision of Article 8 of the Convention on the Reduction of Statelessness from 1961, which states that a person may not be deprived of citizenship where he/she will be left without another citizenship. In this context, it was noted that the **Interior Minister and the Knesset failed to point to any other Western country that allows a person to be left without citizenship under similar circumstances.**
- **Granting a residence permit in Israel as an alternative to citizenship:** The court referred to section 11(b) of the Citizenship Law – which states that citizenship should be revoked only in cases where "due to the revocation of Israeli citizenship, that person will not remain stateless, and if he remains stateless as aforesaid – he will be granted a permit to reside in Israel, as directed by the Minister of the Interior; For the purposes of this article, a presumption was made that a person permanently residing outside of Israel is not to remain stateless."
- **The court also rejected the claims regarding the role of the Palestinian Authority in the civil status of the terrorists and the component of the wages they receive from the PA as remuneration for their actions.** Thus, against the claim that "the Palestinian Authority grants Mafarja and other terrorists in Israeli prisons a special status as well as monetary remuneration, and therefore there is no need to grant them any alternative status in Israel even if their citizenship is revoked," the justices responded, "I did not see any point in accepting the claim of the applicants that Mafarja is not entitled to an alternative status at all due to the status granted to him by the Palestinian Authority and the financial assistance provided to him by it."

We maintain that the court's three core arguments are unjustified in this case for the following reasons:

1. **First argument: the court mentioned "extenuating circumstances", including his age and personality, the fact that he got off an overcrowded bus to ostensibly lessen the damage, and the fact that his actions did not result in casualties.**

Our response: In fact, there is significant evidence indicating that **the accused committed his actions with full awareness and full intention of harming human life, motivated by nationalistic considerations.**

The fact that no people were killed by the attack does not mitigate the severity of his actions.

- The investigation shows that, contrary to the judges' claims, Mafarja boarded a crowded bus on line 111 from Modi'in to Tel Aviv and could have detonated the explosive device in his possession at the time. He explained the fact that he refrained from detonating the charge by saying that "the bus was full of children and I didn't want them to get hurt," but the investigation revealed that **the real reason for the delay was that the bus was mostly full of Arab laborers.** He then boarded an empty Egged bus, eventually deciding to board the Dan bus on line 142.¹⁷
- The indictment states that on the eve of the attack, the owner of the above-mentioned grocery store, Ahmed Musa, discussed with Mafarja the need to stand with Gaza, alongside "the people who are dying there," and to avenge the death of Hamas chief of staff Ahmed Jaabari and try to

¹⁷ <https://www.ynet.co.il/articles/0,7340,L-4322071,00.html>

stop the attack on Gaza. Musa also asked the terrorist if he knew senior Israeli officials and promised to give him a gun and an Uzi so he could kill Israelis.¹⁸ Mafarja even explained during interrogation, "I did it because of Operation Pillar of Defense," and denied that he had committed the act because of greed.¹⁹

- In the two days preceding the attack, Mafarja underwent "training" and twice took the route to Tel Aviv with an empty bag. And only upon becoming confident in his ability to carry out his intended plan, he proceeded to committing the act.

2. Second argument: The court ruled that in the lieu of a legislative arrangement for breach of allegiance cases to serve as grounds for revocation of citizenship, this measure should be applied only to exceptional and extreme cases, and the case of Mafarja does not constitute an exceptional and extreme case that distinguishes it from other acts of terrorism, for which the revocation of citizenship was not requested.

Our response: This is in fact a **cyclical argument** in which a solution was prevented due to the fact that it has not been tested thus far. It begs the question: **what kind of precedent is required, the interpretation of which would be severe to the extent that it may serve as acceptable grounds to apply the penal instrument of citizenship revocation**, and whether we are convinced that it is necessary to wait for the feasibility of that precedent. Moreover, the problematic question remains whether **a terrorist who subverts the state on a nationalistic background has a basic right to continue belonging to that state.**

3. Third argument: The court determined that the Shin Bet interrogation findings that were presented are vague and cannot prove that the second generation of the family reunification families poses an increased risk.

Our response: **This assessment of the court in fact failed in the face of reality.** In the wake of Operation Guardian of the Walls, a consensus emerged among the ranks of the security forces that one of the catalysts for the uprising of young Arabs against Jewish citizens in Israeli society came as a result of the ongoing failure to deal with the family unification law, which enabled a process of Palestinianization in the public sphere of the State of Israel.

- According to Shin Bet data, between 2001 and 2021, **165 Palestinian residents of Judea and Samaria and Gaza - members of the family-unification families – were involved in terrorist attacks. The vast majority of them - 71%- were second generation of this family reunification families.**²⁰
- According to Shin Bet data, **as of 2018, 15% of all terrorist attacks were committed by individuals from this demographic – three times their relative share of the population.**
- Between 2001 and 2006, during the second intifada, 26 Israeli family reunification status holders were involved in providing hands-on assistance to terrorist activities against Israelis – **attacks which claimed the lives of 50 Israelis and injuring more than 100.**²¹

¹⁸ <https://www.ynet.co.il/articles/0,7340,L-4321896,00.html>

¹⁹ <https://www.ynet.co.il/articles/0,7340,L-4322071,00.html>

²⁰ <https://main.knesset.gov.il/Activity/committees/ForeignAffairs/LegislationDocs24/CitizenshipMMM.docx>

²¹

<https://supremedecisions.court.gov.il/Home/Download?path=HebrewVerdicts%5C03/520/070/A47&fileName=03070520.A47&type=4>
pp.14

- A Shin Bet representative told the Knesset Foreign Affairs and Defense Committee in July 2021 that, "The population of family unification applicants from among the residents of Judea, Samaria and Gaza poses an increased and proven security risk compared to those seeking family unification from other locations. This population is more prone to lone wolf attacks".²²
- An examination of the approximately 120 indictments filed against Arab rioters in Lod and Ramleh during the "**Guardian of the Walls**" riots in May 2021 shows that **about 60% of them were second generation of the reunited families**, including three individuals accused of in the murder of Yigal Yehoshua in Lod, shooting at and injuring a volunteer paramedic, setting fire to a playground with a Molotov cocktail and more – all of whom are residents of Lod and Ramleh and descendants of Palestinian women who are married to an Israeli Arab citizen or sons of Palestinian parents as part of the family unification.²³
- It was recently reported that the head of the Shin Bet warned the Minister of the Interior that about **40% of those involved in the violent activity in the Bedouin sector following the planting of the KKL-JNF in the Negev are second generation of the family reunification**.²⁴
- Among the terrorists with status by virtue of family reunification, are also murderous terrorists such as the murderers of the soldier Sgt. Ron Kukia – the brothers Khaled and Zahi Abu-Judah from the Bedouin city of Kseife in the Negev –second generation of a reunification family.
- An internal Shin Bet document presented to the government, revealed that Hamas deliberately recruits Arab citizens from the second generation of the family unification, to carry out terrorist and intelligence activities. This is due of their potential to feel stronger solidarity with the armed struggle. The study also found an increased willingness among second generation members to give up the benefits of living in Israel in favor of subversion against it.²⁵

The Abu Arafah HCJ case: Refusal to Revoke the Residency of Hamas Activists and a Former Palestinian Authority Minister

- As part of the PA parliamentary elections in January 2006, Muhammad Abu Tir, Ahmed Atwan, and Mohammed Totah were elected to the Palestinian parliament on behalf of the Hamas-affiliated "Change and Reform" party, and Khaled Abu Arafah was appointed PA Minister of Jerusalem Affairs. The three are residents of East Jerusalem with permanent residency status.
- As a result, on 30 June 2006 the then-Interior Minister Roni Bar-On decided to revoke their permanent status in Israel on the grounds of "**breach of allegiance**." Five different interior ministers have since ruled that their residency must be revoked.

Following the move, **the four petitioned the High Court of Justice** along with the "Adalah" organization and the Association for Civil Rights in Israel. They argued that the order to revoke their residency was made "without authority," since the Entry into Israel Law, 5712-1952, has no authority to revoke status in Israel on the basis of this claim. In response, the Minister of the Interior quoted

²² <https://www.ynet.co.il/news/article/HyadYlxT00>

²³ <https://www.maariv.co.il/journalists/Article-898861>

²⁴ <https://www.makorrishon.co.il/news/451871/>

²⁵ <https://www.israelhayom.co.il/news/defense/article/7850648>

section 11(a)(2) of the law - "The Minister of the Interior may, at his discretion, revoke a residence permit issued under this Law".

- **The High Court of Justice struck down the revocation of permanent status on the grounds that it is a "serious violation of fundamental rights", and therefore the minister's "discretion" should be interpreted narrowly and not in an "overly broad" letter, so as not to infringe on the rights of the "native" citizens and their connection to their place of residence – an act that requires an explicit provision in primary legislation rather than a broad interpretation of existing laws. It also pointed to the difference between residents who are granted permanent status and those who are entitled to it by virtue of being born in the country – despite their affiliation with the Hamas terrorist organization.**
 - Justice Fogelman noted that "the possibility of revoking a permanent residence permit entails a serious violation of fundamental rights," and cited the difference between those born in Israel and those who request to enter the country as a reason not to harm "the strength of their connection to Israel and their place of residence": "The affinity of East Jerusalem residents to their area of residence is not equivalent to the affinity of a permanent resident who has acquired his status through immigration proceedings. Many of them were born, raised and grew up in East Jerusalem and have lived there for decades, as have their parents and sometimes their grandparents."
 - Justice Fogelman argued that, **"Nothing in the legislation should be construed as authorizing the infringement of fundamental rights unless the authorization to do so is clear, unambiguous and explicit;** And that the more the right is fundamental and the more serious the violation is, the more resolutely will the court refer to the requirement of delegation and will accordingly interpret it narrowly." He added, **"the magnitude of the violation of fundamental rights following the revocation of the permanent residence permit in the case before us is vast and severe.** There is nearly no fundamental right that remains unviolated when it comes to the expulsion of a native-born individual from his/her home having lived in the country for a considerable period of time, due to the revocation of the permanent residence permit: **the right to dignity, the right to liberty and the right to family life.**"
 - The justices addressed "the problematic nature of delineating the scope of fiduciary duty and its legal consequences" and the "trickle-down effect " or blurring of the boundaries between citizenship and residency laws. They also addressed the manner in which citizens or residents choose to realize their connection to a place: "In today's world, with its constant global movement, situations are increasing wherein people who are formally citizens, but whose lives are detached from the state and their connection to it is insignificant; On the other hand – people who are 'only' permanent residents of the country, but whose lives are rooted in it in every sense". This blurring of boundaries, it was noted, is also evident in the case of East Jerusalem residents: "Although they do not fulfill obligations related to the State of Israel and are not formally citizens, they were born and raised in the same place."
 - Justice Fogelman took into account that "the petitioners were elected to office on behalf of the Hamas terrorist organization, which denies the existence of the State of Israel and seeks its destruction through armed struggle", adding that "needless to say that the State of Israel should not treat elements of such a terrorist organization favorably," however chose to

address in his ruling not necessarily the petitioners claim, but a general question regarding the status of residents of East Jerusalem.

- Justice Barak-Erez added that **their affiliation with Hamas is rankling, but does not justify revocation of permanent status**: "The petitioners before us are not friends of the State of Israel, to say the least. **Their affiliation with Hamas is difficult and rankling** for anyone concerned about Israel's well-being. However, **they are also permanent residents of the country and have led their lives there**. The State of Israel does not lack legal tools to respond harshly to violations of the law that threaten its well-being and security, and in appropriate cases – to prosecute and punish those who fail to do so. The step taken by the respondents does not constitute one of them."
- **It is actually the latter part of the ruling, which asserted that "it is unacceptable to spit into the well from which you drink" – to undermine the state while enjoying the benefits it grants, and the language of the law should not be devoid of its meaning and turned into a dead letter. In their opinion, the case of Hamas members constitutes an extreme case that justifies revocation of residency:**
 - The Deputy Chief Justice, Justice A. Rubinstein, disagreed: "While they are not required to pledge allegiance to the Zionist movement, **they are not permitted to wage a struggle against the state** (as Hamas does), **and we should not act like fools when the world spits in our faces, and claim that it is 'showers that water the earth'".** He added that it is impossible for "a permanent resident to be able to undermine the state, by affiliating with its most bitter enemies – and enjoy the benefits of residency while bluntly delivering a kick to even the narrowest of its interpretation; **Adding to the injury of subverting the state the insult of enjoying the benefits therein.**"
 - Justice Hendel reinforced his position: "The power to revoke (and grant) permanent residence permits is a central component in the toolbox of the Interior Minister, whom the legislature sees as the "gatekeeper" of Israel's borders, **and therefore should be given an interpretation that will not devoid it of content** ... The case before us is an "**extreme case**" that reflects a **particularly severe and extreme breach of allegiance towards the State of Israel**. The petitioners chose to hold leadership positions in a terrorist organization whose goal is to wipe the State of Israel off the face of the earth; **they've positioned themselves as the organization's "showcase", as senior political leaders**; and have systematically enlisted the support of their neighbors, and other Palestinians, for Hamas and its goals – which include, as is well known, large-scale terrorist activity against Israeli citizens. **Such a blatant breach of allegiance cannot coexist with the residency status in the State of Israel**, and is tantamount to an ideological and voluntary repudiation of such residency by the petitioners." In his opinion, this is "an approach that denies the Interior Minister's authority to act in these circumstances, compromises the law and turns it into a dead letter."
- However, the court was of the opinion that under the unique circumstances of the case in question, it is best to **suspend for a period of 6 months the reversal of the Interior Minister's decision in order to allow the Knesset to regulate the matter through legislation.**²⁶

²⁶ [https://www.gov.il/BlobFolder/news/spokeman_messegas_1309_17/he/בג"ץ/7803-06.pdf](https://www.gov.il/BlobFolder/news/spokeman_messegas_1309_17/he/בג)

- As a result, MK Amir Ohana of the Likud led a bill, which was passed – the Entry into Israel Law (Amendment No. 30), 5778-2018²⁷, which according to the ruling of the High Court justices, regulates the very authority that the law does not grant: **it grants the Minister of the Interior the authority to revoke the permanent residency of those convicted of security offenses.**

■ ■ ■ Precedents for Revocation of Status and Deportation

Precedents in Israel for revocation of citizenship and residency and the Supreme Court's view on the feasibility thereof

- Since the ratification of the amendment to the Citizenship Law in 2008, the revocation of the citizenship of 33 Israelis has been discussed.²⁸
- **The Abu Arafah HCJ case:**
 - As part of the HCJ ruling, **Justice Rubinstein, the court's Deputy Chief Justice, recognized these terrorists as such that "presumably their status is that of residents of the Palestinian Authority."** Justice Rubinstein clarified the current legal status of these Hamas activists as residents of the PA: "Those who lose their permanent resident status do not remain stateless – a circumstance that has no justification under both humanitarian and international grounds – **their status, it may be presumed, is the same as that of residents of the Palestinian Authority.**"
 - **Justice Hendel acknowledged that many democracies across the world enable the revocation of citizenship or permanent residency on grounds of support for terrorist organizations and the subversion of the state:** "Many stable democracies, the United States, the United Kingdom, and Canada among them, allow the revocation of citizenship, or permanent residency, on grounds of support for terrorist organizations, subversion of the state, and in some cases - even involvement in egregious felonies. The State of Israel, whose enemies have been challenging its very existence for seven decades, certainly cannot be overly forgiving of those who rise against it."
- **Justice Hanan Meltzer** sided with the minority opinion that the petition should be rejected and the permanent status revoked, **but also cited international law, according to which the "demarcation of their residence" can be interpreted for imperative reasons of security**, and indicated also to the fact that **for years they have not been actually living in East Jerusalem, and therefore their residency is effectively invalid:** "the 'demarcation of their residence' is permitted for 'imperative reasons of security' under Article 60 of the Fourth Geneva Convention, and under the circumstances in the case before us, the 'demarcation of residence' is possibly valid to the area from which the institutions to which they got elected operate, especially in light of their extremely subversive activity against the security of Jerusalem." Furthermore, Justice Meltzer emphasized that "in practice, for many years, the petitioners have not resided in Jerusalem, and therefore it may be said that their residency in

²⁷ https://fs.knesset.gov.il/20/law/20_lsr_491468.pdf

²⁸ <https://www.haaretz.co.il/news/law/2022-07-25/ty-article/.premium/00000182-34a2-d161-afe2-f7b683420000>

Jerusalem has effectively expired, even without the Minister's decision on their case, by virtue of Regulation 11(c) and 11A of the Entry into Israel Regulations, 5734-2591 and the Awad case." ²⁹

Precedents from the Western World

In the Western democratic world, there is a list of countries that employ sanctions in the form of citizenship or residency revocation and deportation as punitive measures for offenses of terrorism or as a moral, national and deterrent stand towards perpetrators of terrorism. This policy is called citizenship revocation, that differentiates between **denationalization** of citizenship and **denaturalization** of citizenship from a native-born citizen. These sanctions are not limited to cases in which a terrorist has additional foreign citizenship or permanent status in another country. This measure is employed in both the United States and Europe. Despite the fact this measure was only introduced in recent years, today the tendency in Europe is actually the expansion of the state's powers to revoke citizenship on grounds of involvement in terrorist acts. For the most part, the decision is not in the hands of the entire government, but is at the sole discretion of the Minister of the Interior.

Thus, for example, the European Convention permits EU member states to revoke citizenship in cases where they view the behavior of a citizen as such that it severely jeopardizes the vital interests of the state, such as harming the security of the state; attempting to forcibly change the constitutional order of the state; demonstrating, by act or speech, disloyalty towards the state; committing an act that constitutes a breach of allegiance to the state; conviction for planning, organizing, financing, assisting or carrying out acts of terrorism in any way, or for sheltering organizers, perpetrators or participants in terrorist activities; or membership in an organization whose activities are directed against public order and national security.

These examples demonstrate the manner in which legal and political systems in Western countries have swiftly adapted to the challenges of terrorism that had emerged within their borders.

The United States

- U.S. law distinguishes between **loss of nationality** of native-born Americans with citizenship and the **revocation of naturalization up to five years from the date of obtaining citizenship**.
- As per the Immigration and Nationality Act (INA), **both native-born citizens and naturalized persons will be seen as having renounced their citizenship and will lose it** if they voluntarily committed an act that constitutes a "**breach of allegiance**" towards the state, an **act that indicates their desire to lose their citizenship**. These acts include:
 1. The acquisition of a foreign citizenship/nationality upon request on part of an adult;
 2. A declaration or pledge of allegiance to a foreign state, by an adult;
 3. Service in a foreign army that is engaged in hostilities against the USA;
 4. Military service as an officer or non-commissioned officer in a foreign country;

²⁹ https://www.gov.il/BlobFolder/news/spokeman_messegas_1309_17/he/בגץ/7803-06.pdf

5. Service in a government position of a foreign country or local government, if that person has citizenship in that country or such that requires a declaration of loyalty or a pledge of allegiance in order to accept the position.
6. Conviction by a military or civil court of one of the following offenses:
 - Treason;
 - Attempted coup;
 - The use of arms against the US;
 - Rebellion, insurrection or the participation in a plot the commit the aforementioned;
 - Conspiracy to overthrow the government by force, or to start a war against it.

- Exercising the law is in the hands of the US Secretary of State:
- The citizenship of a naturalized citizen may also be revoked **due to the concealment of information that is material for the purpose of qualifying for citizenship.**

A citizenship revocation of ground of misrepresentation, the following four conditions must be met:

1. The applicant has concealed facts or misrepresented facts regarding the facts relating to naturalization;
2. The misrepresentation was intentional;
3. The undisclosed information is material for the purpose of the naturalization process.
4. The approval of the claim for citizenship was made on the basis of the misrepresentation or concealment.

- Under US law, citizenship can also be revoked **if the naturalized person becomes a member of a communist party, totalitarian party, or terrorist organization** within five years of receiving citizenship, as such a person is considered uncommitted to the constitutional values of the United States.
- It should be noted that under U.S. law, in order to obtain citizenship, **the applicant must prove a good moral character, support the principles and ideas of the US constitution, and a commitment to maintaining the good order and happiness of the U.S.** If it becomes clear to the General Prosecution that at the time of naturalization, an applicant does not meet the aforesaid conditions – and possibly even mislead the authorities in this matter – it has the authority to apply to a district court for revocation of citizenship.³⁰
- As of 2008, the U.S. revoked 87 citizenships of Nazi criminals who fled to the U.S. after World War II as part of the establishment of the Office for Special Investigations (OSI). Of this group, 62 have left the country. The discrepancy stems from the fact that some of the defendants died during the process, and several **remained in the U.S. as no other country would to accept them.**³¹ One of the cases involves Feodor Fedorenko, a Ukrainian, who was a guard at the Treblinka death camp and who was deported to the USSR in 1984, where he was tried and sentenced to death, and indeed executed in 1987.³²
- The United States had revoked a number of citizenships of **terrorist operative, who've concealed their terrorist activity when applying for citizenship. Among them are:**
 - **Fawaz Muhammad Damrah** – originally a Palestinian from Nablus, who immigrated to the United States and received citizenship. On January 13, 2002 he was arrested on suspicion of **concealing**

³⁰ https://fs.knesset.gov.il/globaldocs/MMM/194d9728-a1be-ea11-8118-00155d0af32a/2_194d9728-a1be-ea11-8118-00155d0af32a_11_16370.pdf

³¹ <https://www.justice.gov/sites/default/files/criminal/legacy/2011/03/14/12-2008osu-accountability.pdf> p.7-8

³² <https://www.justice.gov/sites/default/files/criminal/legacy/2011/03/14/12-2008osu-accountability.pdf> pp.69-70

information about past affiliation with the PFLP terrorist organization. Damarah lives in Ohio where he had become an imam, who in his sermons incites terrorism against Israel and against Jews, and even raises money for violent jihad and for the PFLP through "charitable organizations".³³ On June 18, 2004, he was convicted by a court and stripped of his U.S. citizenship.

Despite the fact that he held a Jordanian citizenship, Jordan refused to accept him into its territory. As part of the arrangement, he was transferred via Jordan to Israel, where he was arrested by the authorities and deported to Judea and Samaria.³⁴ **Despite the fact that his current permanent status is unclear – the United States had deported him from its territory.**

- **Rasmea Odeh**, born in the now abandoned village of Lifta near Jerusalem, and immigrated to the United States in 2004 where she received citizenship. On November 10, 2014, she was convicted by a Michigan court for **concealing her involvement in terrorist activities on behalf of the PFLP: in 1969 she planted an IED in a Jerusalem supermarket that claimed the lives of two students.** In 1979, she was released from two life sentences following a prisoner release deal and **deported to Jordan.** After an 18-month prison sentence, she was exiled from the US to Jordan in 2017 **while holding Jordanian citizenship.**

Countries whose revocation of citizenship is contingent on dual citizenship: France, the Netherlands, Belgium

France, the Netherlands, and Belgium condition revocation of citizenship only in the case of dual citizenship, and do not allow revocation of citizenship from citizens born with citizenship (Denaturalization) but only on those who have obtained citizenship (Denationalization).

- **Belgium:**
 - **Belgian law stipulates that citizenship can be revoked for involvement in terrorist activities, such that jeopardize Belgium's security.** In December 2012, a legislative process was initiated with the aim of revoking citizenship from those involved in terrorism, with this definition significantly expanded since July 2015, with the terrorism clause being a separate item.
 - **The law states that citizenship cannot be revoked from native-born citizens with it in cases of eligibility through a parent. It further stipulated that a person cannot be rendered stateless.** Between 2009 and 2020, 21 citizenships were revoked in Belgium, of citizens of Tunisian, Moroccan, Serbian and other origins. Four of them were in prison at the time of the revocation; Thirteen were in Syria at the time of the revocation – among them Malika al-Aroud ("the black widow of jihad") and the leader of the radical Islamist movement "Sharia4Belgium" Fouad Belkacem.³⁵
- **France:**

³³ <https://www.investigativeproject.org/profile/110/fawaz-damra>

³⁴ <https://www.nbcnews.com/id/wbna16638494>

³⁵ Maarten P. Bolhuis and Joris van Wijk, "Citizenship Deprivation as a Counterterrorism Measure in Europe; Possible Follow-Up Scenarios, Human Rights Infringements and the Effect on Counterterrorism", In: European Journal of Migration and Law, October 2020, https://brill.com/view/journals/emil/22/3/article-p338_2.xml?language=en&ebody=pdf-63199, pp. 4-5

- **According to French law, in certain cases in which the person acted against the fundamental interests of the nation or committed acts of terrorism, that person's citizenship may be revoked, provided that they were not native-born French and having obtained French citizenship, and they hold dual citizenship.**
- The original section of the 1996 Code Civil was **retroactively** expanded in 2003 for terrorist offenses committed up to 10 years before the acquisition of citizenship (naturalization), and in 2006 that time frame was further expanded to 15 years before obtaining citizenship (Article 25 of the Civil Code).
- Between 1996 and 2020, 16 citizenships were revoked in France, of which 6 held Algerian citizenship in tandem with their French citizenship. 7 others held Moroccan citizenship, and the rest Tunisian, Turkish or other citizenships.³⁶
- **The Netherlands:**
 - **Revocation of citizenship in the Netherlands is based on Article 14 of the Netherlands Nationality Act.** The authority to revoke citizenship is in the hands of the Ministry of Justice and Defence. In Netherlands, **the law allows the revocation of citizenship only in cases of dual citizenship.**
 - **Dutch law does not distinguish between a naturalized person and a native-born citizen** regarding the revocation of citizenship.
 - Until 2010, citizenship could only be revoked for those who obtained it fraudulently or by concealing relevant information, or by force of enlistment in a foreign army. Since then, several amendments have been made to the law to include terrorist offenses as well. In 2010, article 14(2) was introduced, allowing the revocation of citizenship from a person involved in offenses against state security and the state's international relations, and who was sentenced to prison for 8 years or more, or **a person involved in terrorist activities or who enlisted in a foreign army.** In 2016, the amendment was expanded to include **assistance in the preparation of terrorist acts.** In 2017, a new article 14(4) was introduced, which allows for the revocation of citizenship **without a prior criminal conviction**, "subject to the national security interest," from a person aged 16 and over, who is not in the Netherlands, if that person is a member of a terrorist organization and poses a threat to national security.
 - Between 2017 and 2020, **23 citizenships** were revoked in the Netherlands, most of them of persons of Moroccan origin, and several other Egyptian, Iraqi and Turkish origin.³⁷ Thus for example, the citizenship of four Dutch citizens of Moroccan origin, who held dual nationalities and who were involved in fighting as part of a terrorist organization were revoked. The Dutch Minister of Defence and Justice had determined that their actions were **in contradiction to every Dutch value** and **therefor, they are no longer worthy of their Dutch citizenship.**³⁸

Australia

- **Citizenship in Australia can only be revoked for citizens with dual citizenship, in cases where that person behaves in certain manners, such as involvement in terrorism and breach of allegiance towards Australia. As per the Australian law, it is possible to revoke citizenship from a person**

³⁶ Ibid, pp.6-7

³⁷ Ibid., pp. 8-10.

³⁸ https://fs.knesset.gov.il/globaldocs/MMM/194d9728-a1be-ea11-8118-00155d0af32a/2_194d9728-a1be-ea11-8118-00155d0af32a_11_16370.pdf

regardless of how the citizenship was obtained – whether from those who are native-born Australians, or those who obtained Australian citizenship.

- **Under the Australia Citizenship Act of 2007** and the 2020 amendment, a person enjoys the rights inherent in their being an Australian citizen in exchange for the following obligations:³⁹
 - Pledge of allegiance to Australia and its people;
 - **To share** their democratic values;
 - **To respect** their rights and freedoms;
 - **To uphold** and obey the law of the State.
- One may be eligible for citizenship by birth or may obtain such citizenship by various means.
- **Citizenship is terminated under the following conditions:**
 - **Voluntary renunciation:** A person, by his/her own volition renounces their Australian citizenship;
 - **Criminal or fraudulent proceedings:** The Minister of Interior can revoke citizenship from a person who did not automatically receive his/her citizenship in appropriate circumstances.
 - **Non-compliance with special residency requirements:** The Minister of Interior may revoke citizenship from a person who did not automatically receive citizenship.
 - **A child of a person whose citizenship was revoked:** If a person is a child of a guardian parent who ceases to be an Australian citizen, the Minister of the Interior can revoke their citizenship under certain circumstances.
 - **Conduct that is inconsistent with loyalty to Australia:** Section 36 of the Citizenship Act reviews this case and was expounded and expanded under the Citizenship Act in a 2020 amendment. Parliament has acknowledged that "Australian citizenship is a common bond, involving reciprocal rights and obligations, and that citizens may, through certain conduct incompatible with the shared values of the Australian community, demonstrate that they have severed that bond and repudiated their allegiance to Australia."

This article stipulates that Australian citizenship will be automatically ceased, subject to the discretion of the Minister of the Interior according to two parameters – whether that person behaves in a certain way or is convicted in a certain way:

- **Citizenship cessation determination for certain conduct – Article 36B:** The Minister of the Interior has the power to revoke the citizenship of a person aged 14 and above in cases wherein that person has exhibited such conduct while abroad, or who had exhibited such conduct on Australian soil but has since left the country and has not been tried for aforesaid conduct. Each of the following behaviours **demonstrate that the person has renounced their loyalty to Australia and that the person's Australian citizenship would be contrary to the public interest.** These include **involvement in terrorist activity**, whether by carrying out the attack or assisting in the action; **enlisting in or fighting for a terrorist organization**; financing terrorism, and enlisting in a foreign army currently at war against Australia.
- **Citizenship cessation determination for certain convictions – Article 36D:** The Minister of the Interior has the authority to revoke the citizenship of a person convicted of certain offenses for which he/she

³⁹ <https://www.homeaffairs.gov.au/foi/files/2022/fa-220100994-document-released.PDF>

has been sentenced to imprisonment of at least 3 years. These offenses demonstrated that the person has **repudiated their allegiance to Australia** and that **the person's Australian citizenship would be contrary to the public interest**: these offenses include attacks using explosive devices and lethal devices, treason, sabotage, espionage, foreign interference, terrorism, foreign incursions and recruitments.

- In some cases, the law also permits the revocation of citizenship, without notification to the person whose citizenship has been revoked (section 36G) if such notice is likely to endanger Australia's security, protection, or international relations or law enforcement operations.
 - If a person is denied citizenship under these circumstances, he/she are prohibited from ever become a citizen again.
 - **That same amendment states that there is no difference between a person native-born citizen and a person who has obtained Australian citizenship** (articles 36B(4), 36D(4)).
 - **The Australian law does not permit citizenship revocation from a person who does not have citizenship in another country, that is, to leave him/her stateless** – according to section 36H(3)(a)(i).⁴⁰
- **In June 2022, the Australian Supreme Court struck down Article 36B, which gives the Minister of Interior the power to revoke the citizenship of a person without trial for certain conduct, including involvement in terrorist offenses, and limited the power to revoke citizenship by the executive branch only to the cases described in article 36D, after the conviction of the judiciary.** The disqualification followed a verdict in the case of Dalil Alexander – a terrorist of Turkish-Australian descent, who was imprisoned in Syria, and who appealed against the decision to revoke his citizenship without prior conviction.⁴¹
 - As of May 2022, **22 citizenships** have been revoked in Australia as a result of the implementation of this policy.⁴²

The British Case: Counterterrorism Strategy

- **The UK demonstrates a stricter policy on revocation of citizenship as a counterterrorism measure. The UK had revoked 373 citizenships between 2006 and 2018 – 53 of them due to involvement in terrorism.** This number is higher than the total number of citizenships revoked by France, the Netherlands, Canada and Australia combined.⁴³
- **The British Nationality Act of 1981** allows the Secretary of State to revoke citizenship if "he is convinced that the revocation is **conducive to the public good.**" Public good is defined by the UK government when a person is involved in serious crimes, acts of terrorism and cases of "unacceptable

⁴⁰ <https://www.legislation.gov.au/Details/C2020A00088>

⁴¹

https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/FlagPost/2022/June/Power_to_revoke_citizenship

⁴³ <https://www.cambridge.org/core/journals/law-and-history-review/article/abs/revocation-of-citizenship-and-rule-of-law-how-judicial-review-defeated-britains-first-denaturalization-regime/12A8A7CE76F7E7DB691F38DE5CBB52A1>

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behavior” such as the praise of terrorism. The Secretary of State has **wide discretionary freedom** because **revocation of citizenship is not contingent on any conviction or legal approval**.

- Since 2003, legislative amendments have greatly expanded the range of possibilities for revocation of citizenship and implementation thereof. In 2003, the amendment introduced broad authority, instead of specific conditions, to deprive a British citizen from his/her citizenship for **"anything seriously prejudicial to the vital interests of the United Kingdom or a British overseas territory"** (wording that is very reminiscent of the 1961 Convention on the Reduction of Statelessness – see relevant clause), **also making it possible to revoke citizenship of native-born citizens, and not only of those who obtained it**. This also provided protection against statelessness. In 2005, after the London bombings, the bar was lowered from "severely endangering" to the revocation "conducive to the public good." In contrast, the 2014 **amendment made it possible to revoke citizenship even in the event that a person remains stateless.**⁴⁴

Precedents in the Western World for Revocation of Status and Deportation not contingent on Dual Citizenship or Status in Another Country: "Applicable to Citizenship Elsewhere", Technically Remaining Stateless

- **Revocation of citizenship from a person such that renders that person stateless is not uncommon in countries around world, and is practiced in the democratic world.** A study conducted by two institutes found that **134 countries around the world** have procedure in place for the revocation of citizenship due to **breach of allegiance; In 98 of these states**, citizenship can be revoked even if it renders the person stateless; **In 101 of these countries**, the authority to revoke citizenship lies with the **prime minister or a relevant minister, while only in 14 of these states** – the authority to do so lies with **the courts**.⁴⁵ A prominent case study in the democratic world in this regard is **the UK**.
- Following various cases involving national decisions regarding minorities, wars or forced migration, **today there are millions of stateless people in the world – at the end of 2019 the official number was estimated at 4.2 million**, with the real number estimated to be much higher⁴⁶. Non-democratic countries have mass-revoked citizenship in a series of past cases, **some of which relate to Palestinian residents of Judea and Samaria:**
 - **The Kingdom of Jordan** has revoked the citizenship of over a million Palestinian residents of Judea and Samaria even before the establishment of the Palestinian Authority and the issuance of the Palestinian passport – an action that left them stateless. The measure of August 1, 1988, announced by then-King Hussein of Jordan, was called the **"disengagement"** ("Fak al-Ertibat", فك الارتباط) and was intended to rule out the possibility that Judea and Samaria would be included in the future as an integral part of the Kingdom of Jordan (the "Jordanian

⁴⁴ https://brill.com/view/journals/emil/22/3/article-p338_2.xml?language=en&ebody=pdf-63199 pp.10-12

⁴⁵ Global Citizenship Observatory, Institute on Statelessness and Inclusion, https://files.institutesi.org/Instrumentalising_Citizenship_Global_Trends_Report.pdf

⁴⁶ <https://www.unhcr.org/5ee200e37.pdf> p.56

option" in the Israeli-Palestinian peace process), after the latter held the territory for 19 years between 1948 and 1967 and granted its residents Jordanian citizenship. As part of the measure, the Palestinians lost their representation in the Jordanian parliament and their eligibility to vote and be elected, and all administrative ties with Judea and Samaria were severed. "Jordan does not have sovereignty over the occupied West Bank and Gaza Strip, which belong to the Palestinian people," the King declared.

In the words of a Jordanian legalist, Anis Qasim, who also led legal battles against Israel and the construction of the security fence, at the International Criminal Court (ICC) in The Hague: "More than 1.5 million Palestinians went to sleep on July 31, 1988 as Jordanian citizens and woke up on the morning of August 1 stateless."

Jordan continued to revoke the citizenship of Palestinians and leave them stateless even as late as 2000 and later, and according to various reports, revoked 2,700 citizenships between 2004 and 2008. The purpose of the practice, according to reports, is to rule out the possibility of Israel deporting Palestinians to Jordan.⁴⁷

- **Syria** has revoked citizenship in many cases, the most prominent of which was the revocation of 120,000 citizenships of Kurds from the predominantly Kurdish al-Hasakah province, rendering them stateless. This followed a one-day "census" in 1962, which sought to ascertain which residents of the province were of Syrian nationality and who were the children of immigrants from neighbouring countries.
- **Myanmar** revoked citizenship from millions of people, mostly Rohingya Muslims, following the 1982 Citizenship Law. The law established a hierarchical system between citizens according to ethnic groups and the circumstances of their presence in Myanmar (following immigration, marriage, citizenship inherited from parents, etc.) and also determines the civil status of each of the groups. **Today, about half a million Rohingya in Myanmar are stateless and an absolute majority of the 1.8 million Rohingya displaced and living abroad are also stateless.** The Rohingya group is particularly persecuted and suffers displacement, divorce and massacres.⁴⁸
- **Alongside these countries, in the democratic world, revocation of citizenship is not a very common practice, but it is not unheard of.**
 - **In 12 European countries, enlistment in a foreign army, not necessarily a foreign hostile army, constitutes grounds for revocation of citizenship.** These countries are the Netherlands, Spain, Lithuania, Latvia, France, Estonia, Cyprus, Romania, Greece, Germany, Austria, and Italy.
 - **All EU countries**, with the exception of Croatia, Poland and Sweden allow revocation of citizenship in case of **fraudulent acquisition of citizenship.**
 - **In 10 EU countries**, prolonged residence abroad constitutes grounds for revocation of citizenship.
 - In 15 EU countries, citizenship can be revoked in the event of **treason or breach of allegiance.** This includes committing serious crimes against the state; actions against the constitutional

⁴⁷ <https://www.timesofisrael.com/jordan-promises-to-stop-revoking-nationality-from-palestinians/>

⁴⁸ <https://statelessjourneys.org/wp-content/uploads/StatelessJourneys-Myanmar-final.pdf>

order and the institutions of the state; demonstrating disloyalty through action or speech; and acting against national interests.⁴⁹

- **Countries such as Japan and Austria do not allow dual citizenship, and require citizens, under varying conditions, to choose between foreign citizenship and their local citizenship.**
- **Britain allows the revocation of citizenship under certain circumstances, even when it renders the person stateless.** This was made possible with the enactment of section 40(4A) from 2014 of the British Citizenship Act of 1981. The clause introduced a **unique exception to the protection against statelessness: “has conducted themselves in a manner seriously prejudicial to the vital interests of the United Kingdom”** and even if **the Secretary of State “has reasonable grounds for believing that the person is able, under the law of a country or territory outside the United Kingdom, to become a national of such a country or territory.”** (See Appendix 2).
- The case of Shamima Begum illustrates how a defensive Western democracy may deprive citizenship or permanent status from those involved in terrorism even if they lack permanent status elsewhere (stateless). Begum grew up in East London to Bangladeshi parents, although she had never been to Bangladesh and held **no Bangladeshi citizenship in addition to her British citizenship.** In February 2015, at the age of 15, she moved to Syria and married an ISIS fighter – in other words, she herself was not officially an ISIS combatant, but had relocated to ISIS-controlled territory in order to marry a terrorist from the organization.

In 2019, the UK revoked her citizenship, and the British Supreme Court also ruled that she may not return to the UK to appeal the revocation. At the same time, the Bangladeshi Foreign Minister confirmed that if she moved to the Bangladesh, she would face the death penalty for involvement in terrorism. **Despite the statements of Begum's lawyer, that “the deprivation decision would render the appellant de facto stateless,”, the British Home Office responded that the argument “appears to amount to an assertion that the Secretary of State is under a duty to seek the views of foreign governments before he decides whether to deprive one of their nationals of their British citizenship... it would likely render the entire deprivation regime inoperable.”**⁵⁰

Moreover, the British court **supported the Home Secretary's right to revoke citizenship regardless of the person's wish to appeal**, noting that **the decision to strip Begum of her citizenship did not make her stateless because she was applicable to Bangladeshi citizenship – despite Bangladesh's announcement that if she returned, she would face a death sentence.** The British court also added that **Begum effectively holds Bangladeshi citizenship “by virtue of [Bangladeshi nationality legislation]. She held that citizenship as of right. That citizenship was not in the gift of the [Bangladesh] government”.**⁵¹

In 2010, Britain had decided to **revoke British citizenship from a person of Sudanese descent with British citizenship, who was suspected of involvement in terrorist acts in Somalia, and to prohibit him from returning to the country.** He appealed to the European Court of Human Rights, which **rejected his application without the possibility to appeal.** He argued that he could appeal the sentence

⁴⁹ [https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/625116/EPRS_BRI\(2018\)625116_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/625116/EPRS_BRI(2018)625116_EN.pdf)

⁵⁰ <https://www.theguardian.com/uk-news/2022/nov/23/stateless-shamima-begum-face-death-penalty-bangladesh-court-hears>

⁵¹ <https://www.theguardian.com/uk-news/2020/feb/07/shamima-begum-loses-appeal-against-removal-of-citizenship>

from abroad because Sudanese authorities could intercept his communications, but the court rejected the claim and ruled that his claim cannot be seen imposing an obligation on States to facilitate the return of every person deprived of citizenship in order for them to pursue an appeal against that decision.

Ultimately, **although the appellant did not have Sudanese citizenship at the time, the entitlement to such citizenship was sufficient, and he has indeed since obtained Sudanese citizenship.**⁵²

International Law: Revocation of Citizenship and Residency Status is Permissible Even When Resulting in Statelessness

- The determination that revocation of citizenship and residency contravenes international law, certainly in cases where it leaves a person stateless, is inconsistent with reality. **International law permits the revocation of citizenship and residency from a person at the discretion of the sovereign, even though the result will be leaving that person stateless, provided that a number of conditions are met.**
- **The Convention on the Reduction of Statelessness of 1961**, use as grounds for opposing such a measure, unequivocally states that revocation of citizenship and residency in a way that would leave the person stateless is permissible under certain circumstances.⁵³
- **Article 8 of the convention states:**
 - Clause 1 determines: **“A Contracting State shall not deprive a person of its nationality if such deprivation would render him stateless”;**
 - However, clauses 2 and 3 **stipulate circumstances that exclude the provision of clause 1, if they are prescribed by the State’s law:**
 - As per clause 2, **a person may be deprived of the nationality of a Contracting State:**
 - On account of residence abroad for a period, not less than seven consecutive years, if he/she fails to declare to the appropriate authority the intention to retain the nationality.
 - In the case of a national of a Contracting State, born outside its territory – the law of that State may condition the retention of nationality after the expiry of one year from his/her attaining his/her majority conditional upon residence at that time in the territory of the State, or registration with the appropriate authority.
 - Where the nationality has been obtained by misrepresentation or fraud.
 - According to article (3), a State has the right to revoke citizenship and leave a person stateless if its law specifies a number of prohibited behaviors:
 - A breach of allegiance that manifests in **receiving emoluments, or payments from another state in violation of the law, or conduct that is seriously prejudicial to the vital interests of the State;**

⁵² [https://hudoc.echr.coe.int/eng-press#{%22itemid%22:\[%22003-5648370-7152422%22\]}](https://hudoc.echr.coe.int/eng-press#{%22itemid%22:[%22003-5648370-7152422%22]})

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See the relevant article from the Convention in Appendix 1. To review the full text of the Convention: https://www.unhcr.org/ibelong/wp-content/uploads/1961-Convention-on-the-reduction-of-Statelessness_ENG.pdf

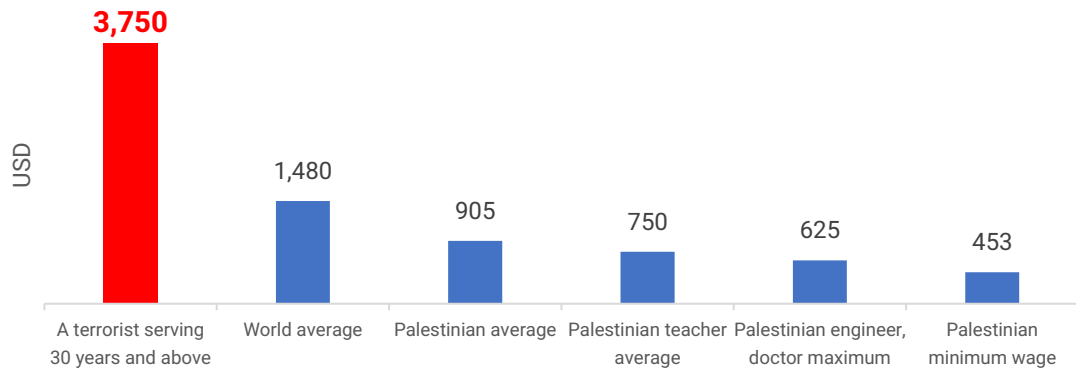
- A person has **taken an oath, or made a formal declaration, of allegiance to another State;**
 - There is definite evidence of a person's determination to **repudiate allegiance to the Contracting State.**
- It is important to note that **the convention does not prohibit leaving a person stateless, but sets the conditions that allow it, in the aim of reducing statelessness.**
- It should be noted that **Israel is a signatory to and committed to the Convention.**
- In any case, an Israeli Arab or a Palestinian with Israeli residency **is entitled to Palestinian residency status according to PA laws and will not be left stateless.**

III ■ **The Salary Mechanism for Terrorists and the Employment of the Palestinian Authority: Background and Data**

- **The Palestinian Authority**, which enjoys the image of a civil, bureaucratic, moderate, and pragmatic Palestinian government – certainly compared to the rival Palestinian organization Hamas – **takes an active part in the armed struggle against Israel** in many ways, including by operating **a well-oiled, budget-rich economic mechanism aimed at incentivizing popular, organized and any kind of terrorism** on part of Palestinians against innocent Israelis. This is the Pay for Slay mechanism.
- The PA has anchored the payment of salaries to imprisoned and released terrorists in a series of government laws and decrees, **particularly Laws 14 and 19 of 2004 and Law No. 1 of 2013.** According to these laws, prisoners are **"a combatant sector, and an integral part of the fabric of the Palestinian people,"** and the financial rights of the prisoner and his family must be guaranteed. The Authority will provide the allowance to every prisoner without discrimination – a monthly stipend for the years of imprisonment, and salaries and jobs upon release. Prisoners are also entitled to an exemption from payment for education and medical treatment, and to vocational training.
- According to PA law, **all Palestinians incarcerated in Israeli jails for committing acts of terrorism, including Arab citizens of Israel and residents of East Jerusalem, are included in the list of those entitled to a monthly salary from the Palestinian Authority.** It should be noted that prisoners serving a prison sentence for civil offenses such as car theft are not entitled to this allowance.
- Moreover, **in order to encourage more lethal acts of terrorism against Israelis, the monthly salary for prisoners serving their prison sentence, the grants to released prisoners, the benefits for the families of the imprisoned terrorists, and the granting of civilian or military rank to terrorists are divided according to a tier-based system according to the years spent behind bars.** Longer prison terms entitle the prisoner to a higher allowance. For example, as per decisions of the Palestinian government, the allowance for prisoners for the first three years of his imprisonment is about \$437 USD a month, and from the 30th year of his imprisonment – about \$3,750 USD **a month.** This is the equivalent of the salary of the president of the Palestinian Supreme Court, **and 8 times higher than the average minimum wage in the West Bank and Gaza, as well as 4 times the monthly income per capita of the average Palestinian.**

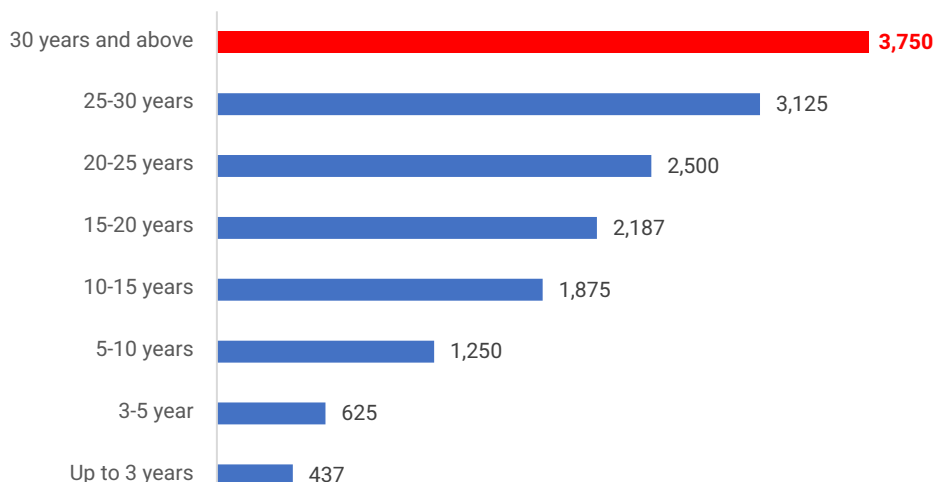
- **Terrorists from East Jerusalem are entitled to an additional \$92 USD a month, and Arab terrorists who are citizens of Israel are entitled to an additional \$109 USD a month.**
- Incarcerated terrorists released after serving more than 5 years in prison, continue to receive wages even after release, for their entire life, in addition to **a one-time release grant ranging from \$5,000 USD to \$25,000 USD.**
- **The PA is also required by law to employ released terrorists in its ranks in order to entitle them to economic and job security throughout their lives, including fully subsidized health insurance and education,** as well as to give them priority in annual job assignments in all government institutions.
- In addition, **through the PLO, the PA rewards a monthly stipend to the families of "martyrs"** killed or injured during terrorist attacks.
- **The PA spends an average of more than \$370 million USD a year for the purpose of terrorist compensation – the equivalent of about 7% of its budget** in most of the years surveyed, and of almost half of all foreign aid it receives from countries and other donors.
- Some 5,000 prisoners and 7,200 released prisoners, as well as 37,500 families of "martyrs" and the wounded, enjoy benefits and employment as a result of this policy.
- **The per capita terrorist budget is 80 times higher than the per capita health budget:** In comparison, in 2018 the budget of the Palestinian Ministry of Health, which budgets 5 million residents, was \$530 million USD (\$111.6 USD per capita per year), compared to the budget of the terrorist apparatus, which serves 12,200 prisoners and released prisoners and 37,500 families of "martyrs" and wounded, a fraction of the population – \$370 million USD (\$8,820 USD per capita per year).
- Among the terrorists receiving these benefits are Omar Abu Jalal, who murdered the Salomon family and is expected to receive about \$2.04 million USD during his lifetime; Abd al-Hakim Asi, who murdered Rabbi Itamar Ben Gal and is expected to receive a similar sum; and Amjad and Hakim Awad, who murdered the five members of the Fogel family from the village of Itamar, including a 3-month-old infant, and were sentenced to five life sentences and an additional 7 years in prison, and are expected to receive about \$2.13 million USD each over the course of their lifetime.
- Terrorism is considered a central and legitimate tool in realizing the goal of the PLO and the PA to eventually establish a Palestinian state while annihilating the State of Israel. In this context, the PA's salaries and employment mechanism is, in the eyes of the Authority, an important element in preserving the engine of terrorism and **turning the Palestinian armed struggle into an institutionalized policy.**
- This is a clear and declared policy of the Palestinian Authority, which is published in the media and in open sources. For example, Palestinian Authority President Mahmoud Abbas, who called the "martyrs" "stars in the skies of the struggle of the Palestinian people", who are "at the top of the Palestinian priorities," stressed several times – including on the UN podium – that "even if we had only one penny left, we would pay it to the families of martyrs and the prisoners."
- In doing so, **the PA promotes the expediency of choosing terrorism as a course of action** that not only entitles its perpetrators to respect and appreciation, but also **rewards them with much more generosity than what the average citizen earns.** This constitutes not only **solicitation of murder**, since money is guaranteed in advance, as well as a **flagrant violation of the Oslo Accords**, but also a **systemic normalization of the Palestinian armed struggle.**

- In doing so, the **PA meets the Israeli and global definition of a terrorist organization** – not only does it incentivize terrorism and finances terrorism through prisoners, released prisoners, and the families of "martyrs" and the wounded, but also employs many of them as public servants – including, absurdly, **in the ranks of its security apparatuses** that are supposed to fight terrorism.



In comparison to the world average, the income level of a Palestinian terrorist serving 30 years in prison and above is ranked the 18th in the world. He/she earns 4 times the average Palestinian salary and 8 times the average Palestinian minimum wage

Source on the world average income: International Labor Organization



According to the tiered wages system, a terrorist earns more than the Palestinian average salary from the 5th year of their time in prison and far above the minimum wage.

From the 30th year of their prison sentence, a terrorist earns one of the highest wages in the PA territories and in Gaza

■ ■ ■ IDSF-Habithonistim Recommendations

1. **The proposed bill should be adopted, according to which the citizenship of those who carry out acts of terrorism against Israelis, served a prison sentence as a result, and receives a salary from the Palestinian Authority should be revoked.**
2. **As part of the deterrence measures and counterterrorism policy, the State of Israel must take a much harsher stand against terrorists, which includes revocation of their citizenship and residency alongside heavy prison sentences and minimum sentences, denial of their social benefits, and their removal from Israeli citizens to the Palestinian Authority territories (Areas A and B in Judea, Samaria or Gaza). It is worth mentioning that removal to East Jerusalem does not constitute a true deportation since East Jerusalem is part of the State of Israel according to a government decision.**
3. **The support, assistance, and rehabilitation that the State of Israel offers to the families of victims of terrorism must, among other things, include reference to the issue of terrorists returning to the area of the victims' residence, as part of the physical and mental assistance processes. The deportation of the assailants and their accomplices will prevent a situation in which an assailant returns to his/her place of residence, which might be in close proximity to the residence of his victims' families of and near other civilian targets. This is the moral imperative of the State of Israel for the security and well-being of its citizens.**

We believe that the adoption of these recommendations will strengthen the security of the residents of the State of Israel, of the deterrence against terrorism, and equally strengthen national resilience and implement a proper national policy in the face of terrorism. These measures will demonstrate an uncompromising war on terrorism as well as a firm stand alongside the bereaved families.

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■ Appendix 1: The Full Text of The Relevant Article of International Law That Permits Revocation of Citizenship Rendering a Person Stateless – The 1961 Convention on The Reduction of Statelessness

Convention on the Reduction of Statelessness 1961

Article 8

1. A Contracting State shall not deprive a person of its nationality if such deprivation would render him stateless.
2. Notwithstanding the provisions of paragraph 1 of this Article, a person may be deprived of the nationality of a Contracting State:
 - (a) in the circumstances in which, under paragraphs 4 and 5 of Article 7, it is permissible that a person should lose his nationality;
 - (b) where the nationality has been obtained by **misrepresentation or fraud**.
3. Notwithstanding the provisions of paragraph 1 of this Article, a Contracting State may **retain the right to deprive a person of his nationality**, if at the time of signature, ratification or accession it specifies its retention of such right on one or more of the following grounds, being grounds existing in its national law at that time:
 - (a) that, **inconsistently with his duty of loyalty** to the Contracting State, the person
 - (i) has, in **disregard of an express prohibition** by the Contracting State rendered or continued to render services to, or received or continued to receive **emoluments**⁵⁴ from, another State, or
 - (ii) has **conducted himself in a manner seriously prejudicial to the vital interests of the State**;
 - (b) **that the person has taken an oath, or made a formal declaration, of allegiance to another State, or given definite evidence of his determination to repudiate his allegiance to the Contracting State.**
4. A Contracting State shall not exercise a power of deprivation permitted by paragraphs 2 or 3 of this Article except in accordance with law, which shall provide for the person concerned the right to a fair hearing by a court or other independent body.

⁵⁴ a salary, fee, or **profit from employment** or office

■ Appendix 2: The Letter of The British Law Allowing The Revocation Of Citizenship From A Person, Leaving Him Stateless In The Process, If He Is Entitled To Citizenship Elsewhere

British Nationality Act 1981, Section 40(4A)

[F1 40Deprivation of citizenship.

(1) In this section a reference to a person's " citizenship status " is a reference to his status as—

- (a) a British citizen,
- (b) a British overseas territories citizen,
- (c) a British Overseas citizen,
- (d) a British National (Overseas),
- (e) a British protected person, or
- (f) a British subject.

[F2(2) The Secretary of State may by order deprive a person of a citizenship status if the Secretary of State is satisfied that deprivation is conducive to the public good.]

(3) The Secretary of State may by order deprive a person of a citizenship status which results from his registration or naturalisation if the Secretary of State is satisfied that the registration or naturalisation was obtained by means of—

- (a) fraud,
- (b) false representation, or
- (c) concealment of a material fact.

(4) The Secretary of State may not make an order under subsection (2) if he is satisfied that the order would make a person stateless.

[F3(4A) But that does not prevent the Secretary of State from making an order under subsection (2) to deprive a person of a citizenship status if—

- (a) the citizenship status results from the person's naturalisation,
- (b) the Secretary of State is satisfied that the deprivation is conducive to the public good because the person, while having that citizenship status, has conducted him or herself in a manner which is seriously prejudicial to the vital interests of the United Kingdom, any of the Islands, or any British overseas territory, and
- (c) the Secretary of State has reasonable grounds for believing that the person is able, under the law of a country or territory outside the United Kingdom, to become a national of such a country or territory.]

(5) Before making an order under this section in respect of a person the Secretary of State must give the person written notice specifying—

- (a) that the Secretary of State has decided to make an order,
- (b) the reasons for the order, and
- (c) the person's right of appeal under section 40A(1) or under section 2B of the Special Immigration Appeals Commission Act 1997 (c. 68).

(6) Where a person acquired a citizenship status by the operation of a law which applied to him because of his registration or naturalisation under an enactment having effect before commencement, the Secretary of State may by order deprive the person of the citizenship status if the Secretary of State is satisfied that the registration or naturalisation was obtained by means of—

- (a) fraud,
- (b) false representation, or
- (c) concealment of a material fact.]

Source: <https://www.legislation.gov.uk/ukpga/1981/61/section/40>