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***The Legal Framework of  
International Migration in Israel***

Analytic and Synthetic Notes 2006/06 - Legal module

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**CARIM**  
**Euro-Mediterranean Consortium**  
**for Applied Research on International Migration**

**Analytical and Synthetic Notes – Legal Module**  
**CARIM-AS 2006/06**

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**The Legal Framework of International Migration in Israel**

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## **Section 1: Texts Relevant to International Migration – National and International Texts**

### **1. International Texts, Organizations, Bodies and Web Sites:**

#### **A. Universal Texts**

- a. UN Conventions Relevant to Migration ratified by the State of Israel and date of ratification: (for further information see UN Convention website at: <http://www.unhchr.ch/pdf/report.pdf>)**

International Covenant on Economic, Social and Cultural Rights – CESCR- 3 Jan. 1992.

International Covenant on Civil and Political Rights- CCPR – 3 Jan. 1992.

International Convention on the Elimination of all Forms of Racial Discrimination – CERD- 2 Feb 1979.

Convention on the Elimination of all Forms of Discrimination Against Women – CEDAW- 2 Nov. 1991.

Convention on the Rights of the Child- CRC- 2 Nov. 1991.  
(Optional Protocol to the Convention on the Rights of the Child (CRCOPSC) ratification: 18 July 2005)

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) – 2 Nov. 1991.

1951 United Nations Convention Relating to the Status of Refugees (signature: 1951, ratification, 1954).

1967 Protocol Relating to the Status of Refugees (accession 1968).

For text of convention and Protocol see: <http://www.unhcr.ch/cgi-bin/taxis/vtx/news/openssl.htm?tbl=NEWS&id=3c5196494&page=news>

<http://www.unhcr.ch/cgi-bin/taxis/vtx/protect/openssl.pdf?tbl=PROTECTION&id=3b66c2aa10>

Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime (s. 14/11/01 – entry into force: 25/12/03)

(for more information see UN protocol site:

[http://www.unodc.org/unodc/en/crime\\_cicp\\_signatures.html](http://www.unodc.org/unodc/en/crime_cicp_signatures.html))

**b. International Labour Organization (ILO) Conventions ratified by the State of Israel relevant to migration, and date of ratification: (for further information see the ILO Migration Website at:**

<http://www.ilo.org/public/english/protection/migrant/about/standards.htm>

**Convention 97** – Migration for Employment Convention (Revised), 1949 (r. 30 March 1953).

**Convention 118** – Equality of Treatment (Social Security) Convention, 1962 (r. 9 June, 1965).

**Convention 29**- Forced Labor Convention, 1930 (r. 7 June 1955).

**Convention 87**-Freedom of Association and Protection of the Right to Organize Convention, 1948 (r. 28 Jan 1957).

**Convention 98** - Right to Organise and Collective Bargaining Convention, 1949 (r. 28 Jan. 1957).

**Convention 100**- Equal Remuneration Convention, 1951 (r. 9 June, 1965).

**Convention 105**-Abolition of Forced Labour Convention, 1957 (r. 0 April, 1958).

**Convention 111**-Discrimination (Employment and Occupation) Convention, 1958 (r. 12 January 1959).

**Convention 138**- Minimum Age Convention, 1973 (r. 21 June 1979).

**Convention 182**-Worst Forms of Child Labour Convention (r. 15 March, 2005).

**B. International Agreements:**

**a. Temporary Movement of Persons for Provision of Services**

World Trade Organisation (WTO) General Agreement on Trade in Services: Third Protocol: Movement of Natural Persons Supplying Services (Mode Four)

(to see agreement text:

[http://www.wto.org/english/docs\\_e/legal\\_e/legal\\_e.htm#services](http://www.wto.org/english/docs_e/legal_e/legal_e.htm#services)).

To see Israeli horizontal commitments:

<http://www.moital.gov.il/NR/rdonlyres/FBCF4D8E-0924-4435-88FD-EC25D94586D9/0/HorizontalCommitments.doc> )

## C. Bilateral Agreements:

### a. Peace Treaties:

**Peace Treaty Between the Government of the Arab Republic of Egypt and the Government of the State of Israel (March 26, 1979)** - (to see text at Israel Ministry of Foreign Affairs Website: <http://www.mfa.gov.il/MFA/Peace%20Process/Guide%20to%20the%20Peace%20Process/Israel-Egypt%20Peace%20Treaty>)

**Treaty of Peace Between the State of Israel and the Hashemite Kingdom of Jordan (Oct. 26, 1994)**- (the text of the treaty can be found at the Israel Ministry of Foreign Affairs Website: <http://www.mfa.gov.il/MFA/Peace%20Process/Guide%20to%20the%20Peace%20Process/Israel-Jordan%20Negotiations>).

**Agreement on the Gaza Strip and the Jericho Area, between the Government of the State of Israel and the PLO (May 4<sup>th</sup>, 1994)** (the text of the agreement can be found at the Ministry of Foreign Affairs Website at: <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Agreement+on+Gaza+Strip+and+Jericho+Area.htm>).

### b. Bilateral Conventions: Social Security Agreements:

Social Security Agreements (for more information see National Insurance Institute of Israel site at: [http://www.btl.gov.il/English/btl\\_indx.asp?name=newbenefits/international.htm](http://www.btl.gov.il/English/btl_indx.asp?name=newbenefits/international.htm))

UK- Israel Agreement: s. 1957, amended 1984 (to view text: [http://www.dwp.gov.uk/lifeevent/benefits/ recip\\_health\\_pdfs/2003/sa14\\_oct.pdf](http://www.dwp.gov.uk/lifeevent/benefits/ recip_health_pdfs/2003/sa14_oct.pdf))

Netherlands-Israel Agreement: s. 1963, new agreement, 1985

French- Israel Agreement: s. 1965

Belgium- Israel Agreement: s. 1971

Austria-Israel Agreement: s. 1973

Germany-Israel Agreement: s. 1973

Sweden-Israel Agreement: s. 1982

Switzerland-Israel Agreement: s. 1984

Italy-Israel Agreement: s. 1987

Poland-Israel Agreement: s. 1981

Denmark-Israel Agreement: s. 1995

Finland-Israel Agreement: s. 1996

Uruguay-Israel Agreement: s. 1998

The Czech Republic Israel Agreement: s. 2000

Canada-Israel Agreement: s. 2000 (to view text: <http://www.sdc.gc.ca/en/isp/ibfa/countries/overview/israel.shtml>)

### c. Bilateral Conventions: Avoidance of Double Taxation Agreements

Israel has concluded Avoidance of Double Taxation Agreements with approximately 30 countries. A list of such agreements can be found at the website of the Ministry of Industry, Trade and employment at: <http://www.moital.gov.il/NR/exeres/BB135FF8-8A82-4D4E-B88A-C71EC661527A.htm>

## 2. National Texts, Bodies and Websites

### A. Constitutional Texts:

**a. Proclamation of Independence, (14 May, 1948)** - (to see text: [http://www.knesset.gov.il/docs/eng/megilat\\_eng.htm](http://www.knesset.gov.il/docs/eng/megilat_eng.htm) (Website of Knesset; Israeli Parliament- English Translation of Israeli Proclamation of Independence)).

**Summary:** The Proclamation of Independence sets out the historical and religious connection of the Jews to the Land of Israel, and declares the establishment of a Jewish State, open for Jewish immigration, fostering development for the benefit of all its inhabitants, based on freedom, justice and peace, ensuring complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex and guaranteeing freedom of religion, conscience, language, education and culture. The Proclamation calls upon the Arab inhabitants of Israel to participate in the building of the State on the basis of full and equal citizenship.

**b. Basic Law: Human Dignity and Liberty (1992)**  
(to see text of this law and of other Basic Laws go to: [http://www.knesset.gov.il/description/eng/eng\\_mimshal\\_yesod\\_1.htm](http://www.knesset.gov.il/description/eng/eng_mimshal_yesod_1.htm) -website of Knesset; Israeli Parliament)

**Summary:** One of a series of 11 existing Basic Laws setting out fundamental and constitutional issues in the absence of one formal constitutional document, the stated purpose of this 1992 statute is to set out the values emanating from the Jewish and democratic nature of the State protecting human dignity and liberty. Section 6 of the law, entitled "Leaving and Entering Israel", states that all persons are free to leave Israel and that every Israeli national has the right of entry into Israel from abroad. Other matters dealt with in the statute are the preservation and protection of life, body and dignity, the protection of property and personal liberty and the protection of privacy.

**c. Employment (Equal Opportunities) Law, 5748-1988** (Latest amendment published 2004. An unofficial translation of the law – updated only until 2000- can be found at the website of Israel Ministry of Industry Trade and Labour at:

<http://www.moital.gov.il/NR/rdonlyres/2654DA40-7F3A-44DE-AC90-813996BD7570/0/25.pdf>).

Summary: Section 2 of this 1988 statute forbids employers to discriminate among employees or among employment seekers on account of sex, sexual tendencies, personal status, pregnancy or parenthood, age, race, religion, nationality, country of origin, views, political affiliation, or frequency or duration of reserve duty in the armed forces. Differences stemming from the nature of the job or position are not deemed discrimination.

**d. The Law of Return, 5710-1950** (English translation of the law and its two amendments can be found at the Knesset (Israel Parliament) website at:

<http://www.knesset.gov.il/laws/special/eng/return.htm>).

Summary: This 1950 law sets out the basic right of every Jew to immigrate to Israel. This right can be abrogated if the potential immigrant is involved in activity directed against the Jewish people, if he poses a health or security risk, or if he is a criminal likely to endanger public welfare. A 1970 amendment to the law extended its provisions to include non-Jews who are the children of a Jew, their spouses, grandchildren of a Jew, and their spouses, and the spouse of a Jew, excluding a person who was a Jew but voluntarily changed his religion. The amendment also included a definition of a Jew as the child of a Jewish mother or a convert to Judaism who is not a member of another religion.

## **B. Law, Regulations and Administrative Texts:**

**a. The Citizenship Law, 5712- 1952** (most recent amendment, 2004).

Summary: This 1952 statute sets out methods of acquiring Israeli citizenship as well as circumstances in which such citizenship can be lost or waived. The statute sets out special conditions for acquisition of citizenship by spouses of Israeli citizens, by minor children, and in unusual cases in which the Minister of Interior is convinced that granting citizenship to the applicant is of special interest to the State.

**b. The Entry into Israel Law, 5712- 1952 (last amended on 8 August, 2005)**

**Summary:** This statute sets out the five types of visas and residence permits which may be issued to non-Israeli citizens wishing to enter and reside in Israel. It fixes procedures for entry into Israel at recognized border crossings, sets out criminal penalties for illegal entry or residence in the country, and determines the conditions for cancellation of visas and permits. The fourth chapter of the law deals with detention and deportation of those illegally residing in Israel and establishes the Tribunal for

Detention Review before whom each such detainee must be brought within 14 days of arrest.

**c. The Citizenship and Entry into Israel Law (temporary provision) 5763-2003**

[http://www.knesset.gov.il/laws/special/eng/citizenship\\_law.htm](http://www.knesset.gov.il/laws/special/eng/citizenship_law.htm) (Knesset website, unofficial translation- does not include 2005 amendment of law).

Summary: This temporary statute, which went into force on July 2003 for an initial period of one year, states that a Palestinian resident of the Judea and Samaria and the Gaza Strip may not receive Israeli citizenship and may not receive license or permit to reside in Israel for a period of over 6 months, except in unusual circumstances in which granting of such status is of special interest to the State. The law was enacted due to statistics concerning terrorism in Israel, according to which 11% of the Palestinians involved in terrorist activity inside Israel had entered the country in the context of family reunion. The law was extended for an additional 6 month period in 2004 and for 4 months in Feb. 2005. On 1 August 2005 the law was extended in an amended version, in which the original restrictions were limited to Palestinian men over 35 years of age and women above 25 years of age. The amended statute includes additional circumstances under which a resident of the above areas can receive residence permit or license, including certain circumstances of family reunion with a partner or a parent residing legally in Israel, medical treatment or work. The amended law will remain in force until 31 March 2006, at which time the security considerations which underscore this legislation will be reevaluated. The constitutionality of this statute is currently being challenged in the Israeli High Court of Justice.

**d. The Population Registry Law, 5725-1965 (last amended on 8 August, 2005)**

**Summary:** This statute sets out the type of information concerning those residing in Israel which is to be contained in the Population Registry, and obliges residents to notify the registry of changes in such information. The law also contains provisions for the issuance of identity cards as well as conditions for receipt of information contained in the registry.

**e. The Foreign Workers Law, 5751-1991** (published 21 March, 1991; amended 7 times; most recent amendment published 11 April, 2005. A translated version of the law, updated only as of the year 2000, can be found on the website of the Ministry of Industry, Trade and Labour at: <http://www.moital.gov.il/NR/ronlyres/CAD9826B-2D53-4775-BAE3-8AF57531B3B4/0/5.pdf>).

Summary: This statute sets out the conditions for employment of workers who are not Israeli residents or citizens, as well as the criminal penalties imposed upon employers who do not fulfill their obligations under the law. The statute states that only employers holding valid employment permits may employ foreign workers. In addition, employers of foreign



workers who are not residents of the Palestinian Authority must pay a number of yearly taxes and fees and must provide the overseas workers with medical insurance, proper housing and a detailed employment contract. Employers of foreign workers in the construction field are obligated to pay a monthly sum over and above the worker's salary into a special fund, to be transferred to the worker when he leaves the country, if he has not overstayed the period set out in his visa. Section D2 of the statute authorizes the Commissioner of the Foreign Workers Department to collect wages owing to Palestinian employees from Israeli employers and to pay them directly to the workers, after transferring obligatory deductions to the proper authorities, including the "equalization deduction" set out in article 7 of Annex Four of the Gaza Jericho Agreement of 29 April 1994 between Israel and the Palestinian Authority.

**f. The Absorption Basket Law, 5754- 1994** (published 28 December 1994).

Summary: This law sets out the right of an eligible immigrant to Israel to receive monetary assistance via the Ministry of Immigrant Absorption for living expenses and accommodations in Israel.

## **Section 2: Explanatory Notes :**

Following are explanatory notes to the sources set out above in the CARIM legal migration database for Israel.

The material in the Israel database includes texts dealing with issues of **permanent migration** as well as with **temporary and labor migration**. As per the CARIM outline, the database first presents **international texts** relating to both permanent or temporary migration, and then presents **national texts** dealing with both matters.

### **1. International Texts:**

#### **A. Universal Texts: UN and ILO Conventions Ratified by the State of Israel**

The first section above lists eight fundamental United Nations human rights treaties to which Israel is a party, as well as Conventions of the International Labour Organisation, dealing directly or indirectly with migration, which Israel has ratified. Despite having ratified these major human rights treaties and conventions, Israel, along with most other countries which are primarily migrant receiving, has not ratified the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (as of Sept. 2005 this Convention had been ratified by 33 primarily migrant sending countries and signed by 15 others). Similarly, Israel has ratified the ILO Migration

for Employment Convention (C. 97) but has not ratified the Migrant Workers (Supplementary Provisions) Convention (C. 143), currently ratified by only 18 countries, 15 of which are primarily migrant sending.

Israel was one of the original signatories to the United Nations Convention Relating to the Status of Refugees (signature: 1951, ratification, 1954) and its 1967 Protocol, yet for a lengthy period asylum claims in Israel were handled by the UNHCR (United Nations High Commissioner) in Geneva. In 2002 Israel created a governmental committee to which today directly reviews refugee status claims and recommends granting refugee status to petitioners.

UNHCR does not deal with Palestinian Refugees in Israel and surrounding countries, who are under the purview of UNWRA (United Nations Relief and Works Agency for Palestinian Refugees).

It should be noted that the definition of "refugee" under the UN Convention Relating to the Status of Refugees is more limited than the definition set out in UNWRA's mandate, as, inter alia, UNWRA defines as refugees descendants of persons who became refugees in 1948. UNWRA therefore continues to provide services to four generations of Palestinian refugees (as per UNWRA figures, due to natural populations growth, 918,000 Palestinian refugees registered in 1950 have grown to over 4 million refugees in 2005). UNHCR, which provides services to worldwide refugee populations not including Palestinians, estimates that refugee population at 9.2 million.

#### B. International Agreements – Temporary Movement of Persons for Provision of Services:

The GATS (General Agreement on Trade in Services) Agreement of the WTO (World Trade Organisation) established global rules for international provision of services, complementing the GATT Agreement (General Agreement on Trade and Tariffs) which deals with the provision of goods. The third protocol (Mode Four) of GATS deals with the temporary entry into a foreign country of natural persons supplying services, and thus has consequences on national policies concerning temporary (labour) migration. Questions of interpretation have been raised concerning this mode, concerning primarily what constitutes provision of services as opposed to importation of labour. In addition, there is criticism of the limited sectors and the broad restrictions placed in those sectors, of the commitments of most developed countries under this mode.

#### 2. Bilateral Agreements:

##### A. Peace Treaties:

Relations between Israel and the Arab countries on her borders are basic issues which have bearing on all Israeli policies, including migration. In addition, the issue of Palestinian Refugees is raised in the peace treaty

between Israel and the Kingdom of Jordan. For these reasons, links to two peace treaties have been included in this database. Annex 4 of the 1994 Jericho and Gaza agreement between Israel and the PLO contains provisions regarding entry, taxation and Social Security coverage for Palestinian workers employed in Israel and therefore a link to this treaty has also been included. It should be noted that pursuant to the Jericho Gaza Agreement, Israeli employers of Palestinians are obligated to pay a special "equalization deduction" above the salary paid to the worker. As per the agreement, these additional sums paid by employers of Palestinian workers are deposited temporarily in a bank fund in Israel, and are to be transferred to the Palestinian Authority after the creation of a Palestinian Social Security system.

#### B. Social Security and Taxation

b.c. As a country of immigration, bilateral agreements on social security and avoidance of double taxation are of great importance to the many immigrants to Israel from varied countries. The database details the countries with which Israel has concluded such agreements.

### 2. National Texts –

a. constitutional texts: Israel does not yet have one document that constitutes a formal constitution, but instead began a process of legislating a series of Basic Laws setting out issues of a fundamental, constitutional nature. In addition to the Basic Laws, the courts see the Proclamation of Independence as a basic document containing fundamental principles of the State of Israel, which may be used as a tool for interpreting laws and regulations. Finally, some fundamental principles and rights are set out in general legislative statutes such as The Law of Return, 5710-1950 or the Employment (Equal Opportunities) Laws, 5748-1988.

A summary of each national text is included in the database.