



**Adalah NGO Report to the UN Committee on the Rights of the Child:  
The Rights of Palestinian Arab Children in Israel**

Submitted October 2012

Adalah is pleased to submit this report to the United Nations Committee on the Rights of the Child (UN CRC) to assist the Committee in developing its “list of issues” during the pre-session review of Israel’s Second Periodic Report of 2010 in October 2012. In this report, Adalah wishes draw attention to three main fields in which state discrimination has a severe impact on Arab children – *health rights, education rights and family unification rights*.

Palestinian Arab citizens of the state comprise 20% of the total population, numbering almost 1.2 million people.<sup>1</sup> This group of Palestinians remained in their homeland following the establishment of the State of Israel in 1948, becoming an involuntary minority. A part of the Palestinian people who currently live in the West Bank, the Gaza Strip and the Diaspora, they belong to three religious communities: Muslim (82%), Christian (9.5%) and Druze (8.5%).<sup>2</sup> They are a relatively young population, and account for around 25% of all school-aged children in the State of Israel. Their status under international human rights instruments to which Israel is a State party is that of a national, ethnic, linguistic and religious minority, although they are not officially recognized as such by Israel. Palestinian citizens of Israel, including children, are marginalized and discriminated against by the state on the basis of their national belonging and religious affiliation as non-Jews.

Poverty is a major obstacle to the enjoyment of CRC rights by Arab children in Israel. The net monthly income of Arab households is just 63% of the net monthly income of Jewish households, despite the larger average size of Arab families.<sup>3</sup> The Arab Bedouin community, particularly Bedouin children, are the poorest and most vulnerable population group in Israel, and their rights are consistently undermined by the state’s discriminatory policies, including its refusal to provide adequate resources to the unrecognized villages in the Naqab (Negev) in the south of Israel, referred to by the state as “illegally constructed villages” or “illegal settlements”. In 2011, in its concluding observations on Israel, the **UN Committee on Economic, Social and Cultural Rights** expressed concern about “the high incidence of poverty among families in the State party, in particular among the Arab Israeli population”.<sup>4</sup>

<sup>1</sup> Israeli Central Bureau of Statistics (CBS), Statistical Abstract of Israel 2009, No. 60, Tables 2.2, 2.8, 2.10. This figure does not include the Arab population of occupied East Jerusalem or the occupied Golan Heights.

<sup>2</sup> Ibid.

<sup>3</sup> OECD, *Labour Market and Socio-Economic Outcomes of the Arab-Israeli Population*, March 2010, p. 33, available at:

<http://www.oecd.org/officialdocuments/displaydocumentpdf?cote=DELSA/ELSA/WD/SEM%282010%292&doclang=en>

<sup>4</sup> Concluding Observations of the Committee on Economic, Social and Cultural Rights—Israel, E/C.12/ISR/CO/3, 2 December 2011, para.24.

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In its Concluding Observations for Israel in 2002, the CRC raised concerns about the rights of Arab children in Israel, including gaps between the rights of Jewish and Arab children. In paragraph 26, the Committee drew attention to the fact that there were no constitutional guarantees for defending Israeli citizens from discrimination. The Committee found that this constituted a direct violation of Article 2 of the Convention.

Recognizing the large gap between the needs and services provided to Jewish and Arab citizens, paragraphs 42-43 of the CRC's concluding observations in 2002 called on Israel to "ensure that Israeli Arab children receive the same level and quality of services as Jewish children". Paragraph 46 expressed the Committee's concern at the "persistent and significant gap in health indicators" between Jews and Arabs, while paragraph 54 expressed concern that "investment in and the quality of education in the Israeli Arab sector is significantly lower than in the Jewish sector". Overall, the concluding observations recognized the Arab and Bedouin populations, particularly women and children, as being among the most vulnerable groups in Israel, and repeatedly called on the state to "strengthen and increase the allocation of resources to ensure that all citizens benefit equally from available health services".

Furthermore, in paragraphs 12 and 13, the Committee expressed its concern about the "absence of a central mechanism to coordinate the implementation of the Convention" in order to achieve a "comprehensive and coherent" child rights policy. In paragraphs 14 and 15, the Committee also stated its concern that although Israel's report contained a large volume of statistical information, they felt that it was "not sufficiently analyzed" to assess progress in the Convention's implementation.

Ten years later, Adalah continues to echo many of the 2002 Concluding Observations' concerns in regards to Israel's most recent CRC report of 2010. While the new report contains a great deal of statistics and recognizes the Jewish-Arab disparities in regards to several indicators such as health, the causes of these disparities are not given a full or accurate analysis. Adalah would also point out that Israel's lack of official data on Arab Bedouin citizens living in unrecognized villages in the Naqab in general, and children in particular, is a serious drawback both for its report to the Committee and for its own state responsibilities to ensure that equal rights, services and treatments are provided to those citizens.

The multiple levels of discrimination highlighted by the CRC and other UN human rights treaty-bodies have not been reduced, and in some cases have even intensified. Despite Israel's promise to abide by international commitments and standards in ensuring equal rights to its citizens, in reality and practice Arab children continue to face the state's discriminatory policies in nearly all economic, social, and cultural spheres of life. Moreover, Israel's failure to establish a "comprehensive and coherent" child rights policy in fact widens the inequality in rights between Jewish and Arab children and inhibits the creation of effective solutions to address these gaps.

# Health Rights of Arab Children

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## *Articles 19, 23, 24, 26 of CRC*

The National Health Insurance Law (1995) requires the healthcare system to provide equitable, high-quality health services to all citizens of Israel, including children. However, Palestinian citizens of Israel face numerous barriers that prevent them from exercising their right to the highest sustainable standard of health; children are often the most vulnerable. An important measure of the provision of health care is the lack of clinics and hospitals in Arab towns and villages. Nazareth is the only Arab town in Israel with hospitals; the three hospitals that operate there are church run and church affiliated, and are not state hospitals. All state hospitals are in Jewish or mixed cities. The limited provision of public transportation to and from Arab towns and villages exacerbates the problem. Specialized health facilities for disabled children are also lacking or woefully inadequate in Arab towns and villages. Further, Palestinian citizens of Israel may face a language barrier, since most health service providers speak only Hebrew. Children, who often do not speak Hebrew, are particularly affected since appropriate medical care depends on clear communication between doctor and patient.

The problem of access to healthcare and mobility is particularly acute in the Naqab (Negev) in the south of Israel. Arab Bedouin unrecognized villages lacking on-site health facilities, including “mother and child clinics”, which provide preventive health services and post-natal care, including routine immunizations for infants, are often located at a great distance from main roads, and where most women do not drive.<sup>5</sup> Arab Bedouin children are also the most affected by disease and infections caused by the State’s refusal to provide clean drinking water to dozens of unrecognized villages in the Naqab. The combined effect of these barriers leads to elevated infant mortality rates among Arab Bedouin children in Israel.

Several UN human rights committees have raised questions over Israel’s provision of equal and adequate healthcare for Arab citizens, including Arab children, and children with disabilities. The **UN Committee on the Elimination of Discrimination Against Women (CEDAW)** expressed concern about the continuing discrepancies in the infant and maternal mortality rates of Jewish, Arab and Bedouin women and children.<sup>6</sup> The **UN Committee on Economic, Social and Cultural Rights (CESCR)** also expressed its concern that the Israeli education system “still does not provide adequate support to children with disabilities”, and showed concern towards the “lack of services provided in practice to children with disabilities in regular schools, effectively limiting their integration into regular class settings”.<sup>7</sup> Adalah also

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<sup>5</sup> According to a survey conducted by the “Women Promote Health” group and PHR-Israel, 50% of women from unrecognized villages surveyed reported that they go to health clinics on foot, and that they do not have another way to get there. See, Physicians for Human Rights-Israel, “Israel’s Step Children: About the lack of pediatrics in the Unrecognized Villages in the Negev and its Ramifications,” November 2008. Position paper available at: [http://www.phr.org.il/uploaded/articlefile\\_1237372920593.pdf](http://www.phr.org.il/uploaded/articlefile_1237372920593.pdf).

<sup>6</sup> Concluding Observations of the Committee for the Elimination of Discrimination Against Women—Israel, CEDAW/C/ISR/CO/5, 18 January 2011, para. 38. See also CESCR Concluding Observations of 2011, para. 31; CERD Concluding Observations of 2007, para.24.

<sup>7</sup> Concluding Observations of the Committee on Economic, Social and Cultural Rights—Israel, E/C.12/ISR/CO/3, 2 December 2011, para. 34. See also CESCR Concluding Observations of 2003, paras. 17, 33.

notes in this regard that Israel ratified the UN Convention on the rights of persons with disabilities on 28 September 2012. This chapter provides information on *Arab infant mortality and maternal health*, the disadvantages for *Arab children with disabilities*, and the *denial of water rights* to thousands of Arab Bedouin citizens of Israel living in unrecognized villages in the Naqab.

## **Infant Mortality and Maternal Health**

According to official data, in 2008 infant mortality rates among the Jewish majority in Israel stood at 2.9 per 1,000 live births. While infant mortality rates are falling as a whole over time, in the same year the average infant mortality rate among the Arab minority was more than double that among the Jewish majority, at 6.5 per 1,000 live births. For the Arab Bedouin, the rate is even higher, at 11.5 per 1,000 live births in 2008.<sup>8</sup>

The disparities between these infant mortality rates exemplify the inequality in maternal and child health rights of the Arab population. While Israel's CRC report attempts to blame these figures on cultural traits or customs, it ignores the state's negligence in providing adequate services to the Arab and Bedouin communities.

The following Adalah case concerning "mother and child clinics" demonstrates this fact. "Mother and child" clinics are state-funded health centers that provide preventive health services and post-natal care. They operate throughout Israel, but not in some Arab Bedouin villages in Naqab, because of their unrecognized status, according to the state. However, the clinics are of particular importance to the Bedouin, because this community has the highest infant mortality rates in Israel. After the Health Ministry opened mother and child clinics in six unrecognized Bedouin villages in 2000 and 2001 following litigation before the Israeli Supreme Court by Adalah,<sup>9</sup> it closed three of them suddenly in October 2009. Together they served around 18,000 people living in the three villages (Qasr el-Ser, Abu Tlul and Wadi el-Nam) and the surrounding area. The ministry proposed that the women and children in these villages travel to Beer el-Sabe (Beer Sheva) or neighboring Jewish towns located 20 km and even farther away across the desert to receive these health services. The lack of public transport to and from the unrecognized villages, coupled with the fact that few Bedouin women own or even drive cars meant that thousands of women and their children stopped receiving basic health services. The closure of the clinics posed a real danger of harm to the lives of pregnant women, mothers, infants and unborn babies in these villages.

Adalah petitioned the Supreme Court again in December 2009 to demand that the ministry reopen the clinics.<sup>10</sup> In response, the state argued that it could not find staff willing to work in the clinics and had therefore been forced to close them. However, as a result of Adalah's petition, the health ministry reopened two of the clinics, in Qasr el-Ser and Abu Tlul, a year after their closure, in September 2010. The clinic in Wadi al-Nam was eventually reopened in December 2011.

Most of the clinics available to the Arab Bedouin suffer from insufficient allocation of resources to meet the needs of their patients, particularly in regards to maternal and child health.

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<sup>8</sup> The Central Bureau of Statistics, Statistical Abstract of Israel, 2009.

<sup>9</sup> HCJ 7115/97, *Adalah, et al. v. The Ministry of Health, et al.*

<sup>10</sup> HCJ 10054/09, *Wadad El-Hawashly, et al. v. The Ministry of Health.*

For example, none of the 11 Clalit health clinics operating in the unrecognized villages, which serve around 70,000 people, has a gynecologist on staff.<sup>11</sup> As a result, thousands of Arab Bedouin women, including pregnant women and women with small children, have to travel long distances to see a gynecologist, which prevents many from receiving necessary health care.

In a letter sent together with Physicians for Human Rights (PHR)-Israel in December 2011 to the Ministry of Health, Adalah demanded the allocation of gynecologists to Arab Bedouin unrecognized villages in the Naqab.<sup>12</sup> Clalit responded in December 2011 that it was not necessary to provide gynecologists in the clinics because: the existing general practitioners are adequate for the needs; most of the residents of these areas are children; the women can travel to clinics located in recognized towns; the clinics in the unrecognized villages are temporary; and that the costs of purchasing ultrasound equipment are unjustified. According to an expert medical opinion written by PHR-Israel, general practitioners cannot fulfill the role of gynecologists and the health of women and new-born infants suffer in their absence.

In another case, the Supreme Court issued an order to show cause in 2011 on Adalah's petition challenging a new law that conditions the state's payment of child allowances on vaccinations.<sup>13</sup> This law has a particularly harmful effect on thousands of Arab Bedouin children who live in unrecognized villages in the Naqab. According to Health Ministry data, the percentage of children who are not immunized is significantly higher in these villages than elsewhere in Israel. One of the main reasons for this disparity is the lack of accessible clinics, which administer children's vaccinations in these villages.<sup>14</sup> While the state's aim is sound – for all children to receive immunizations – it is attempting to do so without making adequate provision for parents to attain these services for children in the poorest communities in Israel. The court ordered the state to explain why such a law that threatens to cut to child allowances for thousands of Arab Bedouin children is legal. The case is pending.

The persistently high infant mortality rates of Arab and Arab Bedouin citizens of Israel, and the state's negligence in providing sufficient and accessible health care services to their communities, violates Article 24 of the CRC. This article requires state parties to ensure the "enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health". These requirements include taking measures to diminish infant mortality, ensure the availability appropriate pre-natal and post-natal care, and provide other basic health care services to children. In particular, the inadequate provision of health services in the Arab Bedouin unrecognized villages is a deliberate policy of neglect on the part of the state; the state seeks to evacuate these villages and relocate their residents, in part by creating intolerable conditions. These actions gravely endanger the health and welfare of vulnerable Arab Bedouin children citizens of Israel, whose rights are made subordinate to the state's discriminatory plans to evacuate their villages and uproot their communities.

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<sup>11</sup> See Adalah Annual Report of Activities 2011, p. 11, available at:

<http://www.adalah.org/newsletter/eng/apr12/docs/Adalah%20Annual%20Report%202011.pdf>

<sup>12</sup> Ibid.

<sup>13</sup> HCJ 7245/10, *Adalah v. Minister of Welfare and Social Affairs* (case pending).

<sup>14</sup> See Adalah press release "Israeli Supreme Court Orders State to Explain Why New Law that Threatens Cuts to Child Allowances for thousands of Arab Bedouin Children is Legal", 15 September 2011: <http://www.adalah.org/eng/?mod=articles&ID=1606>.

## Arab Children with Disabilities

Another major inequality between Jewish and Arab children is the lack of health services provided to disabled Arab children citizens of Israel in general, and Arab Bedouin children in particular. According to official data, 9.1% of all Arab Bedouin children suffer from functional disabilities or chronic illnesses that require ongoing medical treatment or monitoring, compared to 8.3% for Arab children in general and 7.6% for Jewish children.<sup>15</sup> Twice as many Arab children suffer from severe disabilities as Jewish children in Israel. A high percentage of Arab Bedouin children have Downs syndrome and infants with low weight.<sup>16</sup>

According to a survey, the percentage of Arab children with special needs who received medical, paramedical, or psychosocial service is lower than the percentage of Jewish children with special needs.<sup>17</sup> This gap is as a result of the severe shortage and lack of availability of the necessary services in Arab towns and villages. For example, out of 70 units for therapeutic child development, only 10 are located in Arab towns. In 2011 there were 82 rehabilitative day care centers, only 12 of which were in Arab villages. Israel has 31 institutes for child development; while three of these institutes operate in the south in the Jewish of cities Be'er Sheva, Ashkelon and Eilat, none has been built in an Arab Bedouin town or village.<sup>18</sup> According to a discussion held in the Knesset's Education Committee on 25 October 2010, there is no special school for the deaf in the Naqab. Instead, deaf children are included in schools during "integration hours". It also emerged that the Arab Bedouin have their own unique sign language, but learn Israeli sign language as they enter the Israeli education system.

In addition to the unequal allocation of resources, many Arab disabled persons do not get enough information concerning their rights because of language barriers, although Arabic is recognized as an official language in Israel alongside Hebrew. Many information leaflets, forms, and manuals for disabled children are not provided in Arabic, and most available service providers do not speak Arabic.<sup>19</sup> The National Insurance Institute (NII) does not disseminate information of health rights in Arabic. Most websites of governmental authorities, including the website of the Commission of Equality for People with Disabilities, do not provide information in Arabic. There is also an absence of a central body that focuses on disseminating information, guidance and advice to people with disabilities.<sup>20</sup> The lack of Arabic-speaking healthcare providers and information about healthcare in Arabic is a particular problem for Arab children, since the majority are not yet proficient in speaking or reading Hebrew.

Arab Bedouin towns and villages receive even fewer services than other Arab towns and villages, including family counseling, social security benefits, transportation and support services, special education, psychosocial assistance, and paramedical treatments. In the Bedouin town of Rahat, for example, no child has received services from a doctor or psychologist in a

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<sup>15</sup> Israeli Ministry of Justice - Commission for Equal Rights of People with Disabilities. (2011). Disability and life integration into Israeli society - Perennial comparative perspective.

<sup>16</sup> Murad Muhammad. (2009). "Access to health services for children with disabilities in the Bedouin sector in the Negev." Matter of attitude, Issue 9. 43-50.

<sup>17</sup> Ibid.

<sup>18</sup> Knesset Research and Information Center Committee, "Availability of community services for children with special needs" (2011). Available at: <http://www.knesset.gov.il/mmm/data/pdf/m02942.pdf>

<sup>19</sup> "Beaten Twice: People with disabilities in the Arab Society in Israel," edited by Abbas Abbas. AlManarah - Association for the Advancement of persons with disabilities in the Arab Society in Israel, 2011, p. 14.

<sup>20</sup> Ibid.

child development center.<sup>21</sup> There is also a significant gap in services provided between government-planned and recognized towns and unrecognized Bedouin villages due to the state's refusal to provide permanent and sufficient health infrastructure in the unrecognized villages. As a result, Arab Bedouin families of children with special needs frequently report experiencing more problems with transportation, the accessibility of services, remote locations, and high costs for obtaining health services.

One of many examples is the case of a child with a disability from the Arab village of Sheikh Danoun who dropped out of education because of the lack of adequate state healthcare. In November 2007, Adalah sent a letter to the Matte Asher Regional Council and the Ministry of Education (MOE) demanding that the personal care-giver of a 14-year-old disabled Arab child from Sheikh Danoun be reinstated.<sup>22</sup> The child has been diagnosed with a 100% permanent disability in his spinal cord but had been studying at the local comprehensive school with a permanent personal care-giver due to the lack of a special educational facility. However, at the end of the 2006-2007 school year, the regional council cancelled this position and replaced it with a care-giver for all students with special needs in the class. As a result the child did not receive the necessary care and was forced to discontinue his education.

The "compound discrimination" faced by Arab and Bedouin children with special needs violates Israel's duties pursuant to Article 23 of the CRC, which calls on state parties to ensure that "mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community". The inadequate provision of resources and the multiple obstacles to accessing information and care for disabled Arab children greatly impedes their right to the highest quality assistance possible, and thus preserves their status as one of the most vulnerable groups in Israel.

### **Water Rights in the Unrecognized Arab Bedouin Villages**

In 2010, the **United Nations General Assembly** recognized the right to water and sanitation as a human right, and acknowledged that clean drinking water and sanitation were essential to the realization of all human rights.<sup>23</sup> However, in Israel, tens of thousands of Arab Bedouin citizens of the state in the Naqab are today still living without access to clean drinking water. Israel is not providing them with access to clean drinking water because it does not officially recognize the villages they live in. Most people in the unrecognized villages have to obtain their water via improvised, plastic hose hook-ups or unhygienic metal containers, which they use to transport water from a distant water point. The poor-quality drinking water results drives high rates of dehydration, intestinal infections and other diseases associated with poor hygiene, such as dysentery, particularly among children. The fact that these villagers, including thousands of children, are still living without access to clean drinking water is testimony to the state's disregard for their health rights and for the state's related obligations under the Convention.

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<sup>21</sup> Murad Muhammad, "Access to health services for children with disabilities in the Bedouin sector in the Negev," *Matter of attitude*, Issue 9. 2009, 43-50.

<sup>22</sup> See Adalah press release, "Adalah Demands Education Ministry and Matte Asher Regional Council Reinstate the Personal Care-Giver to Disabled Arab Child", 11 November 2007: <http://www.adalah.org/eng/?mod=articles&ID=527>

<sup>23</sup> See United National General Assembly Resolution 64/292.

In its report to the Committee, Israel cites an appeal launched by Adalah in 2005 to the Haifa District Court on behalf of 767 Arab Bedouin citizens of Israel living in the Naqab to provide access to sources of drinking water.<sup>24</sup> According to Israel's report, the Court rejected the appeal because it brought up the "complex issue of the organization of 'unrecognized villages'", further stating that "providing connections to the water mains is not the way in which to resolve the problem of unauthorized villages". The report also mentions Adalah's subsequent appeal to the Supreme Court against the Haifa District Court's ruling.<sup>25</sup> The report briefly describes the arguments Adalah made, but does not relate to the Supreme Court's landmark decision on Adalah's petition concerning the right to water delivered in 2011, or the state's failure to implement that decision (see below).

Adalah began to demand equal access to clean, drinking water for Arab Bedouin citizens living in the unrecognized villages in 2001. Adalah brought a series of petitioners before the Supreme Court and the lower courts. In 2011, ten years after the initial litigation was filed, the Supreme Court issued a precedent-setting ruling on Adalah's appeal that enshrined the right to water as a constitutional right.<sup>26</sup>

However, the Supreme Court tempered its decision by also ruling that Arab Bedouin citizens living in the unrecognized villages were only entitled to what it referred to "minimal access" to water, arguing that the long-term solution lay in the relocation of Arab Bedouin citizens from the unrecognized villages. Despite its vague stipulation about "minimal access" to water, the Supreme Court also found that three of the six villages represented in Adalah's appeal should be connected to the water network.

When Adalah then applied to the Water Board to request that it connect these three villages to the public water network, it refused to do so. Disregarding the court's decision, the Water Board claimed the villagers should either leave the unrecognized villages or purchase water tanks and fill them from water points in the recognized Bedouin towns.

Adalah appealed against the Water Board's decision to the Haifa District Court, sitting as a water tribunal, on behalf of residents of two of the villages, Umm el-Hieran and Tel Arad. The 500 residents of Umm el-Hieran, for example, must travel 8 km to the nearest water point, which is owned by a private citizen, unlicensed and expensive. From there, they transport the water back to the village in unsanitary tanks. The court denied the appeal in January 2012, specifically citing eviction notices against the village as a justification for denying access to water. In its decision, the lower court ignored the Supreme Court's ruling, which declared that minimal access to water was a right that did not depend of the status of the village. On 27 March 2012, Adalah appealed again to the Supreme Court, arguing that supplying water to citizens is a constitutional duty of the state.<sup>27</sup> The case is pending.

Israel's denial of the right to water to thousands of Arab Bedouin citizens of Israel, including children, violates Article 24 of the CRC in that it denies the "highest attainable

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<sup>24</sup> D.C.H. Appeal 609/05, *Abdallah Abu Msaed, et al. v. The Water Commissioner*.

<sup>25</sup> C.A. 9535/06, *Abdullah Abu Musa'ed, et al. v. The Water Commissioner and the Israel Lands Administration*.

<sup>26</sup> Civil Appeal 9535/06, *Abdullah Abu Musa'ed, et al. v. The Water Commissioner and the Israel Land Administration* (decision delivered 5 June 2011). The court's decision followed an appeal filed by Adalah in 2006 on behalf Arab Bedouin citizens of Israel from six unrecognized villages, representing 128 families. Adalah asked the court to overturn a 2006 ruling by the Haifa District Court (sitting as a water tribunal) that refused to connect them to the main water network.

<sup>27</sup> Civil Appeal 2541/12, *Salib Abu al-Qi'an v. The Government Authority for Water and Sewage* (case pending).

standard of health”. As Adalah argued in its appeals, the Water Commissioner’s decisions were based on improper and arbitrary considerations, primarily the political/land issue of the “illegal” status of the unrecognized villages. The aim of these decisions is to support the government’s discriminatory policy of relocating Arab Bedouin – the majority of whom are children – from their land to government-planned towns by refusing to provide them with basic services such as access to clean drinking water. In the meantime, the health of thousands of children and their families is at risk from dirty drinking water.

## Education Rights of Arab Children

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### *Articles 8, 28, 29, 30 of CRC*

Palestinian Arab school children in Israel make up approximately 25% of the country’s school students, at around 480,000 pupils.<sup>28</sup> From elementary to high school, Arab and Jewish students learn in separate schools. Systematic, institutionalized discrimination in the education system in Israel impedes the ability of Arab students to develop the skills and awareness to participate on an equal basis, as individuals and as a community, in a free society. The state education system ignores the rights, the needs, and the priorities of Arab students, and thus denies them the opportunity to develop a positive cultural and national identity.

The **UN Committee on the Elimination of Racial Discrimination** (CERD) expressed concern that the socioeconomic gap and “compartmentalized” existence between the Jewish and non-Jewish communities was “an obstacle to uniform access to education and empowerment”.<sup>29</sup> The **UN Committee on Economic, Social and Cultural Rights** (CESCR) expressed concern about “the unequal treatment of Bedouin women and girls with regard to education, employment, and health, especially those living in unrecognized villages”.<sup>30</sup> The **UN Committee on the Elimination of Discrimination Against Women** (CEDAW) similarly expressed concern that Israeli Arab and Bedouin women and girls remain in a disadvantaged and marginalized situation, including with regard to drop-out rates and access to institutions of higher education”.<sup>31</sup>

This chapter provides information on *matriculation and dropout rates, the discriminatory allocation of resources, and the denial of the right to determine educational goals and objectives.*

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<sup>28</sup> In the 2007/2008 school year, their number stood at 480,517 pupils. CBS, Statistical Abstract of Israel 2008, No. 59, Table 8.13.

<sup>29</sup> Concluding Observations of the Committee on Racial Discrimination—Israel, CERD/C/ISR/CO/14-16, 28 February 2012, para. 11 and 19; see also CERD Concluding Observations of 2007, para. 22, 27 (CERD/C/ISR/CO/13).

<sup>30</sup> Concluding Observations of the Committee on Economic, Social and Cultural Rights—Israel, E/C.12/ISR/CO/3, 2 December 2011, para. 30

<sup>31</sup> Concluding Observations of the Committee for the Elimination of Discrimination Against Women—Israel, CEDAW/C/ISR/CO/5, 18 January 2011, para. 34. See also CEDAW Concluding Observations of 2005, para. 35-36.

## Matriculation and Dropout Rates

Jewish school children in Israel outperform Arab children from early on in their education. By grade 5, Jewish children gain an average score of around 79% in the Hebrew examination, while Arab children score on average 61% in the examination of Arabic, their native tongue.<sup>32</sup> In 2007, 54.1% of Arab women and 39.5% of Arab men received *matriculation certificates*, compared to 70.5% of Jewish women and 61.1% of Jewish men.<sup>33</sup> Arab also children attend school for fewer years than Jewish children, and in recent years the gap between the two groups has not closed: from 2003 to 2006, Arab children aged 15 and over received an average of 11.1 years of schooling, while during the same period Jewish children received an average of 12.7 years of schooling, that is, over one and a half additional years.<sup>34</sup>

Another alarming and related trend is the high percentage of *dropout rates* in the Arab education system: 7.2% of Arab students dropped out of school compared to 3.7% of students in the Jewish education system in 2006-2008; between grades 9 to 11, the dropout rates were 8.7% among Arabs and 4.4% among Jews.<sup>35</sup> This persistent trend led the **UN Committee on Economic, Social and Cultural Rights** to express its concern that the school dropout rate was “systematically higher in Arab schools compared to Hebrew schools, especially in Grade 9”.<sup>36</sup>

These factors greatly undermine the efforts to meet the commitments stipulated in Article 28 of the CRC, including to make primary, secondary and higher education accessible to all children and to take measures to reduce dropout rates.<sup>37</sup> In its 2011 report on Israeli Education Policy, the **OECD** states that the “persistently poor educational outcomes” and the shorter years of education among Arab citizens are predominantly a result of many Arabs’ low socioeconomic status, the lack of finances for Arab local authorities to develop educational infrastructure, the geographic distance and challenges to accessing schools (such as those faced by the Bedouin in the Naqab), and the difficulties of learning two languages with Hebrew prioritized as an essential tool for tertiary education and future employment.<sup>38</sup> These are indications that the state’s treatment of the Arab education sector is systematically damaging to the rights of Arab children in enjoying a high and equitable standard of education.

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<sup>32</sup> The website of the Ministry of Education, press release dated 6 February 2008, “Good results in examinations in mathematics, English and science in Haifa” (Hebrew). According to the press release, Jewish children in the Haifa District scored an average of 79% in Hebrew language examinations, a score quoted as being similar to the national average, while Arab children in the Haifa District scored an average of 62% in Arabic language examinations, quoted as slightly higher than the national score for Arab children of 61%. Part of the reason for the lower educational achievement of Arab students is the low standard of the Arabic text books used in Arab schools, which must be approved by the state. A recent study conducted by the Arab Cultural Association into all Arabic text books taught to first- and second-grade pupils found many to be of poor quality; the survey found a total of approximately 4,000 mistakes and inaccuracies in the textbooks, including 892 linguistic and grammatical errors. The findings of the research were presented at a conference held by the Arab Cultural Association on 6 November 2009 in Nazareth. For more information, see in Arabic: <http://www.arabcultural-a.org/shownews.php?ID=199>

<sup>33</sup> Israel’s Fifth Periodic Report to the UN Committee on the Elimination of Discrimination against Women, CEDAW/C/ISR/5, 21 October 2009, p.157, para. 366.

<sup>34</sup> Israeli Central Bureau of Statistics (CBS), Statistical Abstract of Israel 2008, No. 59, Table 8.3.

<sup>35</sup> CBS, Statistical Abstract of Israel 2008, No. 59, Table 8.24

<sup>36</sup> Concluding Observations of the Committee on Economic, Social and Cultural Rights—Israel, E/C.12/ISR/CO/3, 2 December 2011, para. 33; see also CESCR—Israel Concluding Observations of 1998, para.29.

<sup>37</sup> Convention on the Rights of the Child, 20 November 1989, Article 28.

<sup>38</sup> OECD, “Israeli Education Policy: How to Move Ahead in Reform”, 4 June 2010, p.11, available at: [http://search.oecd.org/officialdocuments/displaydocumentpdf/?doclanguage=en&cote=eco/wkp\(2010\)37](http://search.oecd.org/officialdocuments/displaydocumentpdf/?doclanguage=en&cote=eco/wkp(2010)37).

### *First and only high school in unrecognized village in the Naqab*

On 27 August 2012, the Ministry of Education (MOE) opened the first and only high school in the “formerly” unrecognized Arab Bedouin villages in the Naqab, in the village of Abu Tulul.<sup>39</sup> This year, the new school is comprised of four 10th grade classes of 120 students, with plans for the 11<sup>th</sup> and 12<sup>th</sup> grade in the coming years. The school is comprised of 12 caravans (pre-fabricated structures); four are used as homeroom classrooms, four will be used as general classrooms, and two will accommodate science and computer labs. Two caravans are set aside as bathrooms.

Approximately 12,000 Arab Bedouin citizens of Israel live in the area of Abu Tulul–El-Shihabi. There are three elementary schools and one middle school in the area, attended by 2,400 children. The absence of a local high school led to a sharp increase in the drop-out rates of high school students; these rates are significantly higher than the overall national average. Moreover, the traditional nature of Arab Bedouin society also led to higher drop-out rates among high school- aged girls, than high school-aged boys; families often do not permit girls to travel for far distances to attend high school, thus the location of the school is crucial.

The opening of the school was the result of a seven-year struggle conducted by the residents of the village and the surrounding villages and Adalah. In its petition in September 2009, Adalah demanded that the court compel the MOE to implement the 2007 Supreme Court ruling ordering it to establish a high school in Abu Tulul and to open it by September 2009. The court’s ruling was based on the state’s own commitment before the court in 2007.

Another example is the Supreme Court’s 2005 ruling ordering the appointment of truant officers in Arab Bedouin schools in the Naqab. Six years after the decision, the number of truant officers working in Arab Bedouin schools has in fact fallen, despite the fact that the percentage of student drop outs in these schools is the highest in the country.<sup>40</sup>

## **Discriminatory Allocation of Resources**

The poor performance and high dropout rates of Arab students attests to the state’s severe underfunding of Arab schools in Israel. Israel does not regularly release official data detailing how much it spends in total on each Arab and Jewish student, and there are no separate lines in the state budget for Arab education, a major gap in transparency.<sup>41</sup> However, state statistics published in 2004 reveal that for the academic year 2000-2001, public investment in Arab schools equaled an average of NIS 534 per Arab student, compared to NIS 1,779 per Jewish student, or three times more.<sup>42</sup>

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<sup>39</sup> See Adalah press release “After a Seven-Year Struggle, First High School Opens in Abu Tulul Arab Bedouin Village in the Naqab”, 31 August 2012: <http://www.adalah.org/eng/?mod=articles&ID=1825>

<sup>40</sup> Ibid.

<sup>41</sup> The state budget for education is structured in such a way as to prevent analysis of exactly how much funding Arab education receives. The budget is broken down into 20 general articles, of which only one includes a breakdown of spending on Arab and Jewish education, namely the Pedagogy Administration, the executive arm of the MOE. The Pedagogy Administration allocated 4% of its budget to Arab education in 2006 and 3% in 2007. In addition, in line with the State Budget for 2006, drawn up by the MOE, just 1.5% of the state funds allocated to NGOs working in the field of education were allocated to NGOs providing educational services to Arab children and students. See State Budget, 2006 and 2007 (Hebrew).

<sup>42</sup> CBS, *New Survey—Investment in Education 2000/1*, 3 August 2004 (Hebrew).

This under-funding is manifested in many areas, including the poor infrastructure and facilities characteristic of Arab schools and the more crowded classrooms. As the OECD highlights in its 2011 report on Israeli Education Policy, the *average class size* in the Arab education system is higher than the Jewish system (29 students versus 25 students respectively), making Israel's average class size higher than that of other OECD countries (21 students).<sup>43</sup> The report also predicts that there is a high likelihood that many classes have even larger numbers of students, with 30 in the Jewish system and 35 in the Arab system.

The discrepancy in class sizes is just one example of the secondary status of Arab students in the state's education policies. Far from addressing the inequalities in the separate systems, the MOE's policies actually act to entrench the gaps between Arab and Jewish school children, as special programs to assist academically weak or gifted children are disproportionately awarded to Jewish schools. One of the main channels for the allocation of additional grants and benefits to towns, villages and their residents is the government's policy of designating certain areas as *National Priority Areas*, a classification that qualifies them for a host of lucrative benefits in several fields, including education. As the OECD's report on Israeli Education Policy acknowledged, the Supreme Court ruled in 2006 against the state's plan to develop educational and socioeconomic infrastructure in "National Priority" areas, which it deemed illegal because it ignored and discriminated against the majority of Arab localities.<sup>44</sup> The ruling was delivered on a petition filed by Adalah against the government's decision to grant NPA status to more than 550 Jewish towns and villages and less than a handful of Arab towns, in particular in the field of education.<sup>45</sup>

Another example is provided by the "Shahar" academic enrichment programs. In the late 1990s, the MOE admitted before the Supreme Court that its Shahar programs have privileged Jewish schools to the detriment of Arab schools, in response to a petition filed by Adalah.<sup>46</sup> Shahar programs, instituted in the 1970s, were intended to assist academically weak school pupils from socio-economically disadvantaged backgrounds to reach a par with other pupils. In 2000, the Supreme Court confirmed a state commitment to allocate 20% of Shahar funds to Arab schools. Prior to this commitment, the MOE had not implemented the Shahar programs in any Arab schools, although their pupils were often in greatest need of extra educational assistance. The Supreme Court accepted the state's position to increase implementation of the program in Arab schools on a gradual basis, ultimately thereby prolonging discrimination against them. As of 2010, the program has still not been implemented in any Arab schools, sustaining the discriminatory gap between the two education systems.

Underinvestment in Arab education is most blatant in the Naqab, where Arab Bedouin schools often lack basic services and facilities, including toilets, electricity, telephone and internet connections, and safe access roads, particularly in the unrecognized villages that have

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<sup>43</sup> OECD, "Israeli Education Policy: How to Move Ahead in Reform", 4 June 2010, p.15, available at: [http://search.oecd.org/officialdocuments/displaydocumentpdf/?doclanguage=en&cote=eco/wkp\(2010\)37](http://search.oecd.org/officialdocuments/displaydocumentpdf/?doclanguage=en&cote=eco/wkp(2010)37).

<sup>44</sup> OECD, "Israeli Education Policy: How to Move Ahead in Reform", 4 June 2010, p.17, available at: [http://search.oecd.org/officialdocuments/displaydocumentpdf/?doclanguage=en&cote=eco/wkp\(2010\)37](http://search.oecd.org/officialdocuments/displaydocumentpdf/?doclanguage=en&cote=eco/wkp(2010)37).

<sup>45</sup> See HCJ 2773/98 and HCJ 11163/03, *The High Follow-up Committee for the Arab Citizens in Israel, et al. v. The Prime Minister of Israel* (decision delivered 27 February 2006).

<sup>46</sup> See HCJ 2814/97, *The Follow-Up Committee on Arab Education, et al. v. The Ministry of Education, et al.*, submitted to the Supreme Court by Adalah in May 1997.

schools.<sup>47</sup> In addition, the state has regularly ignored or procrastinated in its obligations to provide educational services in the Naqab, even when it committed to doing so before the Supreme Court. An example of this is the court's 2009 order to appoint or establish training for education counselors in the Arab Bedouin government-planned towns of Rahat, Segev Shalom, Hura, Afrara, and Lagiyya. However, only one school has since received an educational counselor and no training programs have been established.<sup>48</sup>

*Lack of accessible education in Arab towns and villages*

Most Arab Bedouin villages still lack accessible schools for their children. This reality exacerbates the precarious state of education in the Naqab, where only 15% of children receive high enough grades to be accepted to university. In February 2011, the Supreme Court rejected a petition submitted by Adalah to demand a school for the 350 elementary school-age children in the unrecognized Arab Bedouin village of Sawaween in the Naqab.<sup>49</sup> The court accepted the state's argument that it had found a "solution" to the problem by transporting the children to schools in other towns and villages around 20km away. The court stated that there was no better solution for the time being.

Arab schools outside the Naqab are also at risk of neglect by the state. In 1994 in Safad, a school was established in Akbara, the only Arab neighborhood in the city, for pre-school and 1<sup>st</sup> to 2<sup>nd</sup> grade children. However, the Ministry of Education announced the school's closure in November 2006 based on the low number of pupils, thereby requiring elementary school children to travel 50km a day to and from school.<sup>50</sup> After the parents approached Adalah on the matter, a pre-petition was sent to the Attorney General's Office demanding that the MOE cancel its decision to close the school in the 2007-2008 year. Adalah argued that it was known when the school was founded that the number of pupils would be low, and thus the MOE's decision contradicts its previous decision and commitment. Further, the closure of the school breaches the MOE's duty to provide accessible compulsory education to all its children. The school was not re-opened.

The state further disadvantages access to education by not providing many Arab citizens with necessary services such as transportation to schools. This severely impacts children's ability to pursue their education if they live a far distance from the closest school, which are usually based in towns other than their own.

For example, in the 2006-2007 school year, the Misgav regional council made the decision to stop providing bus transportation for children from the Arab Bedouin villages of Kammaneh and Husseniya to their school in the village of Nahaf in northern Israel.<sup>51</sup> The council

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<sup>47</sup> See, e.g. Adalah News Update, "Adalah Petitions Supreme Court to Compel Connection of Two Arab Bedouin Schools in the Naqab (Negev) to the National Electricity Network," 9 July 2009, available at: [http://www.adalah.org/eng/pressreleases/pr.php?file=09\\_07\\_10](http://www.adalah.org/eng/pressreleases/pr.php?file=09_07_10)

<sup>48</sup> See Adalah press release "The Israeli Government Fails to Implement Supreme Court Decisions concerning Arab Bedouin Schools in the Naqab", 11 October 2011: <http://www.adalah.org/eng/?mod=articles&ID=1599>.

<sup>49</sup> See Adalah press release "Supreme Court: No Elementary School in the Arab Bedouin Unrecognized Village of Sawaween in the Naqab", 23 February 2011: <http://www.adalah.org/eng/?mod=articles&ID=1654>

<sup>50</sup> See Adalah press release "Adalah to Attorney General: Closure of Akbara School for Arab Children in Safad Violates the Compulsory Education Law", 20 June 2006: <http://www.adalah.org/eng/?mod=articles&ID=794>

<sup>51</sup> See Adalah press release "Following Request by Al-Tufula Center, Adalah Demands that Education Ministry to Resume Transport to School for Arab Bedouin Children in the North", 13 November 2007: <http://www.adalah.org/eng/?mod=articles&ID=526>.

instead decided to transfer the children to a school in Wadi Salameh, adding 10km to their journey. The council did not consult or inform the children's parents in their decision, and did not provide transportation after they were transferred to the new school. Some of the 150 children affected were forced to remain at home, particularly girls, due to the distance of Wadi Salameh, while others had to travel the 25km to and from the school on foot, which involves a dangerous crossing over a highway. Adalah sent a letter to the MOE in November 2011 demanding that it resume transportation for the children.

In another case, Adalah sent a letter to the MOE in September 2007 demanding that three Arab children be allowed to register at a Hebrew-language pre-school in Led (Lod), due to the long distance between their homes and the Arabic-language schools the Led municipality assigned to them.<sup>52</sup> Adalah stressed that the lack of transportation has forced them to return home on foot, travel on alternative buses if available or stay at home, and argued that the unavailability of transportation violates the children's right to obtain a free, compulsory education and denies them an educational framework. The MOE subsequently ordered the Preschool Division to have the Arab children registered in November 2007.

#### *Health and safety hazards in Arab schools*

In February 2006, Adalah filed a petition demanding the immediate repair of safety hazards at the "Al-Manara" Arab elementary school in Akka to remove dangers to the lives of its 670 pupils.<sup>53</sup> Contrary to MOE regulations, for example, there were no water fountains and children were forced to drink from water faucets in sinks in the school's small bathroom facilities; the playgrounds lacked shaded areas and the ground was slippery and completely unsafe; and the area through which pupils enter and leave the school is also used as a car park. In August 2006, the Court ordered the state to complete repairs, and in September 2007 the court decided that the MOE and Akka Municipality should continue to complete outstanding, minor repairs.

#### *Lack of safe access roads to Arab schools*

Many Arab neighborhoods lack safe access roads to schools. In a case that began in 2005, following a petition filed by Adalah, the Supreme Court ordered the state to make urgent repairs to a road and traffic junction in order to facilitate access to an elementary school in al-Fur'a in the Naqab.<sup>54</sup> During the winter months, rainfall makes the dirt track to the school particularly treacherous, and as a result, the vast majority of the school's teachers and 1,187 pupils, at the time, could not attend classes for fear of being injured. Consequently, the school is frequently closed and lessons suspended, and the lack of a safe and paved road thus severely impacts the pupils' studies and disrupts their educational progress. Despite the court's ruling, however, the state failed to comply with its obligations, and thus Adalah filed another petition in October 2011 demanding that it make the repairs immediately. At a hearing held on 16 November 2011, the Israeli Supreme Court leveled scathing criticism against the Ministries of Education and

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<sup>52</sup> See Adalah press release "Education Ministry Orders the Led Municipality to Register Three Children at Preschools Located Close to their Homes", 13 November 2007: <http://www.adalah.org/eng/?mod=articles&ID=525>

<sup>53</sup> See Adalah press release "Supreme Court Orders Education Ministry and Akka Municipality to Repair all Safety Hazards in Arab Elementary School in Akka", 7 April 2006: <http://www.adalah.org/eng/?mod=articles&ID=490>.

<sup>54</sup> See Adalah press release "Following Adalah's Petition: Israeli Supreme Court orders State to Pave a Safe Road to School in Arab Bedouin Unrecognized Village of al-Fur'a in the Naqab", 17 November 2011: <http://www.adalah.org/eng/?mod=articles&ID=1177>

Transportation for not implementing the 2005 ruling of the court. The Chief Justice added that there is no explanation as to why so much time has passed without the state fulfilling its obligation, and that the pupils of the al-Fur'a school are again under risk the winter season returns. The court mandated that the state find a temporary, immediate and appropriate solution, and that it submit an updated notice regarding the construction of the road by the end of the year.

One of the most serious cases was in the unrecognized Bedouin village of Al-Sayyid in the Naqab, where four children were killed on the road to school due to its appalling safety conditions.<sup>55</sup> Around 1,500 pupils attend two elementary schools on the site, which also houses 10 pre-schools and a health clinic. As a result of a petition filed by Adalah to the Supreme Court in November 2008, the Attorney General (Attorney General) announced in December 2008 that the state would construct a safe access road to the schools and health clinic, and also committed that work would be conducted on constructing roads to all schools and service centers in the unrecognized villages.

Similar cases over hazardous roads are frequent concerns for many other Arab schools. Most recently, on 28 August 2012, Adalah sent a letter to the Appointed Committee in Lod (the Municipality) and to the Regional Director of the Ministry of Education demanding the immediate establishment of a safe access road leading to the "Al-Rashedia" elementary school in Lod.<sup>56</sup> 700 children, all under the age of 11, study at the school. The one-way road to the school is narrow and serves as the city's entrance and exit road; it has no safety rim, no sidewalks, and no pedestrian crossings or any other safe passageway. Notably, the road is also full of truck and bus traffic because it leads to the city's northern industrial zone. Further, it is the only route that most of the children can take in order to reach their school. Due to this, the children are exposed to traffic hazards and severe, concrete and immediate threats to their safety on their way to and from the school.

The systematic negligence by the state in ensuring high and equal standards of education demonstrates its failure in upholding Article 28 of the CRC.

### **Denial of the right to determine educational goals and objectives**

The Ministry of Education (MOE) retains centralized control over the form and substance of the curriculum for Arab schools. The State Education Law (1953), as amended in February 2000, sets educational objectives for state schools that emphasize Jewish history and culture. Article 2 of the law specifies that the primary objective of education is to preserve the Jewish nature of the state by teaching its history, culture, language, and so on. Article 2(11) stipulates that one objective of education is to acknowledge the needs, culture and language of the Arab population in Israel. However, this rather weakly-worded article is not being implemented, and this objective has not been realized. In reality, students in Arab state-run schools receive very little instruction in Palestinian or Arab history, geography, literature and culture, and spend more time learning the Torah than the Qur'an or the New Testament. While state religious schools established only for religious Jewish students maintain autonomous control over their curricula,

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<sup>55</sup> See Adalah press release "Following Adalah's Petition State Commits to Create Roads to all Schools and Service Centers in the Arab Bedouin Unrecognized Villages in the Naqab", 17 December 2008: <http://www.adalah.org/eng/?mod=articles&ID=835>.

<sup>56</sup> See Adalah press release "Adalah Demands Safe Road to the "Rashedia" Arab Elementary School in Lod", 29 August 2012: <http://www.adalah.org/eng/?mod=articles&ID=1826>

the curriculum for Arab state schools is entirely determined by the MOE. While Arab schools do have a separate curriculum taught in Arabic, it is designed and supervised by the MOE, where Arab educators and administrators have little-to-no decision-making powers. Arabs account for only 6.2% of the total number of employees in the MOE,<sup>57</sup> and the vast majority work in Arab towns and villages or mixed cities, providing services directly to Arab communities. Arab professionals are rarely found in decision-making positions in the upper echelons of the ministry.

The MOE issued a report titled “The Government of Israel Believes in Education” in 2009, which instructs that references to the word “Nakba” be removed from new Arabic textbooks.<sup>58</sup> The term Nakba (“catastrophe” in Arabic) is used to refer to the mass expulsion of Palestinians and the destruction and confiscation of the majority of Palestinian land and property that accompanied the establishment of the State of Israel in 1948, a seminal event in Palestinian history. Palestinians traditionally mark Israel’s official Independence Day as a national day of mourning and organize commemorative events.

More recently, the Knesset enacted an amendment to the Budget Principles Law of 1985, popularly called the “Nakba Law”, in March 2011, and the Supreme Court rejected a challenge against the law “as premature”.<sup>59</sup> This amendment empowers the Minister of Finance to fine public bodies that benefit from public funding (for example schools, universities, or local authorities) if they hold events that commemorate “Independence Day or the day of the establishment of the state as a day of mourning.” They could also be fined if they hold events that aim to revoke “the existence of Israel as a Jewish and democratic state.” The text of this law raises concerns that fines will be imposed for holding events in which the Nakba is mentioned in any way, not only on Independence Day but throughout the year, and for criticism of the definition of a Jewish and democratic state.

The mere passage of the Nakba law in the Knesset, even before it affected the budget of any organization or institution, created a series of negative effects: limiting freedom of speech, creating a chilling effect on public debate, and violating the rights of Palestinian citizens of Israel to maintain and express their identity and historical narrative, which is a constitutive element of their identity.

The denial of these rights in the Arab education system is in breach of Articles 8, 29 and 30 of the CRC.<sup>60</sup>

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<sup>57</sup> The Civil Service Commission, “Suitable Representation for the Arab Minority, including the Druze and Circassians in the Civil Service,” 2006.

<sup>58</sup> Gideon Saar, “The Government of Israel Believes in Education,” August 2009 (Hebrew), available at: [http://meyda.education.gov.il/files/owl/hebrew/alsederhayom/education\\_presentation\\_final\\_opt.pdf](http://meyda.education.gov.il/files/owl/hebrew/alsederhayom/education_presentation_final_opt.pdf). The report has been adopted by the Ministry of Education and is now being implemented.

<sup>59</sup> See Adalah press release “Adalah and ACRI: Israeli High Court Ignored the Chilling Effect Already Caused by the ‘Nakba Law’”, 5 January 2012: <http://adalah.org/eng/?mod=articles&ID=1188>.

<sup>60</sup> Convention on the Rights of the Child, 20 November 1989. Article 8 calls on state parties “to respect the right of the child to preserve his or her identity, including nationality, name and family relations”; Article 29 states that education of the child should be directed to “the development of respect for the child’s parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own”; and Article 30 stipulates that “In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.”

By marginalizing Arab studies and banning the commemoration of their Palestinian history, the state is not only disrespecting the rights of the Arab child's identity but also actively seeking to suppress it. Instead of encouraging the development of diversity and respect for human rights, the state attempts to use education as a political tool to influence Arab children into conforming to its Jewish-Zionist character; a character that excludes the Arab citizens from sharing equal rights and negates their Palestinian identity.

## Family Unification Rights

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*Articles 2, 9, 10, 16, 26 of CRC*

### **The Citizenship and Entry into Israel Law**

In July 2003, the Knesset enacted the Citizenship and Entry into Israel Law (Temporary Order) (2003). The law denies the right to acquire Israeli residency or citizenship status to Palestinians from the OPT, even if they are married to citizens of Israel (Jewish or Arab). The ban is based solely on their nationality, not on individual security-related reasons. Since the overwhelming majority of Israeli citizens who marry residents of the OPT are Palestinian citizens, and since the ban does not apply to Israeli settlers living in the West Bank, the law discriminates against Palestinian citizens and violates their rights to equality, family life, dignity and liberty. It is also totally disproportionate to the alleged security reasons cited by Israel to justify it and is, rather, motivated by the state's desire to maintain a Jewish demographic majority.

Thousands of families are forced to live apart, or in a state of constant insecurity under the threat of separation, as a result of the law. Temporary visitor permits have been granted to Palestinian spouses in very restricted circumstances since July 2005, and in May 2006 the Israeli Supreme Court upheld the constitutionality of the law in a split 6-5 decision.<sup>61</sup> In 2007 the ban on family unification was extended to include spouses from "enemy states" Syria, Lebanon, Iraq and Iran, and "anyone living in an area in which operations that constitute a threat to the State of Israel are being carried out," according to the security services. The Gaza Strip was added to this list in June 2008. The Supreme Court upheld the law again in January 2012, in another 6-5 split decision.<sup>62</sup> The majority ruled that even if the law harmed the constitutional rights of citizens of Israel such as the right to equality, this infringement was proportional. The Knesset last extended the law 31 January 2012 for an additional year, at the end of which yet another extension is expected.

Adalah believes that these judgments are inconsistent with Israel's obligations under the CRC. Separating children from their parents against their will in such a blanket fashion clearly violates Articles 3 and 9 of the Convention.

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<sup>61</sup> HCJ 7052/03, *Adalah, et al., v. The Minister of Interior, et al.*

<sup>62</sup> HCJ 830/07, *Zahava Gal-On, et al. v. The Minister of the Interior, et al.*

Many Palestinian spouses from the OPT affected by the law do not meet the minimal age requirement and thus cannot even obtain any temporary visitor permit to enter the country. This creates divided families in which children live only with one of the parents and are separated from the other. Other families in this situation live together illegally, which creates tensions and fears to all family members including the children, and an ongoing worry of possible forced separation that might occur at any given moment. Even for the families in which the spouse from the OPT does have some status in Israel, the status is a temporary one that needs to be renewed constantly, and thus children in such families continue to face constant fear of separation. The children suffer from the lack of stability and the lack of a guarantee that they will be able to live with one of their parents. Residents of the OPT who belong to such families, if they do not have temporary residency, are not allowed to work or are extremely restricted in their work in Israel, and are therefore unable to provide for their children. The Citizenship Law thus severely impacts the family's financial position, and children suffer as a result. Moreover, all of the children of such families, who are Israeli citizens, grow up with the knowledge that the state is denying their most fundamental rights as children based on their ethnicity, and are victims of racial discrimination. The right to equal citizenship is severely violated, not only in the enjoyment of equal rights but in the children's sense of belonging to the country and society they live in.

The law creates three tracks of naturalization in the State of Israel. The first, the highest track, is for Jewish persons, who can gain citizenship immediately and automatically under The Law of Return (1950). The second track is for foreigners, to whom the graduated procedure applies, allowing them to obtain Israeli residency or citizenship status over a period of years. The third, the lowest track, is for the spouses of Arab citizens of Israel from the OPT, Iran, Iraq, Syria or Lebanon. The creation of these tracks, which is based on the nationality of the applicant, constitutes racial discrimination and contradicts the principle of equality and prior decisions of the Supreme Court.

Amid ongoing international condemnation at the repeated extensions of the law's validity, UN human rights treaty bodies have repeatedly criticized and called on Israel to revoke the Citizenship and Entry into Israel Law.<sup>63</sup> In 2012, the **UN Committee Against Racial Discrimination** "urge[d] the State party to revoke the Citizenship and Entry into Israel Law (Temporary provision) and to facilitate family reunification of all citizens irrespective of their ethnicity or national or other origin."<sup>64</sup> In July 2010, the **UN Human Rights Committee** "reiterate[d] its concern that the Citizenship and Entry into Israel Law... remains in force and has been declared constitutional by the Supreme Court." The committee recommended that Israel revoke the law and "review its policy with a view to facilitating family reunifications of all citizens and permanent residents without discrimination."<sup>65</sup> The **UN Committee on Economic, Social and Cultural Rights in 2011** expressed concern that the Citizenship and Entry into Israel

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<sup>63</sup> See also CERD special decisions of 2003 (Decision 2/63) and 2004 (Decision 2/65) and Concluding Observations of 2007, para. 20 (CERD/C/ISR/CO/13); HRC Concluding Observations of 2003, para. 21 (CCPR/CO/78/ISR, par.21) and 2010, para. 15 (CCPR/C/ISR/CO/3); CEDAW Concluding Observations of 2005, para. 33-34 (CEDAW/C/ISR/CO/3) and 2011, para. 24-25 (CEDAW/C/ISR/CO/5); CESCR Concluding Observations of 2003, para. 18, 34 (E/C.12/1/Add.90).

<sup>64</sup> Concluding Observations of the Committee on the Elimination of Racial Discrimination—Israel, CERD/C/ISR/CO/14-16, 9 March 2012, para. 18.

<sup>65</sup> Concluding Observations of the Human Rights Committee—Israel, CCPR/C/ISR/CO/3, 29 July 2010, para. 15.

Law “imposes severe restrictions on family reunification”.<sup>66</sup> The **UN Committee for the Elimination of Discrimination Against Women** similarly expressed concern about the law’s effect to “adversely affect the marriage and right to family life of Israeli Arab women citizens”, and called on the law to be “brought into line” with articles 9 and 16 of its Convention.<sup>67</sup>

Israel’s ban on family unification severely violates the right to family life and runs counter to the spirit of Articles 9 and 10 of the CRC. Article 9 stipulates that state parties “shall ensure that a child shall not be separated from his or her parents against their will”, except when “such separation is necessary for the best interests of the child” in cases such as those involving abuse or neglect of the child by the parents.<sup>68</sup> It also stipulates that the state “shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child’s best interests”.<sup>69</sup> Both commitments in Article 9 are directly violated by the existence of Israel’s Citizenship Law, which arbitrarily separates spouses on the basis of nationality – not the parents’ behavior – and bans Arab children from visiting their parents living in countries regarded as enemy states or territories.

The Citizenship Law similarly violates Article 10 of the Convention. The Article states that applications for family reunification should be dealt with in a “positive, humane and expeditious manner”, and shall “entail no adverse consequences for the applicants and for the members of their family”.<sup>70</sup> At the same time, the state party should “respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country”, with considerations being made for matters such as national security.<sup>71</sup> As described earlier, spouses that are allowed to enter Israel have no guarantee that their temporary permits will be renewed, and the consequences of revocation directly impact the family members including children. The racial discrimination espoused by the law is also an affront to the human rights and dignity of those family members and their children.

Although Article 10 gives leeway to issues of national security, Israel’s claim that the blanket ban on family unification is a necessary procedure to defend itself is in fact very weak when faced with statistical evidence on the matter. Data provided by the State revealed that more than 130,000 Palestinians entered Israel for the purpose of family unification between 1994 and 2008, and that only 54 of these persons were involved in some way in acts of terror against the State.<sup>72</sup> Moreover, of these 54, seven were indicted, convicted and handed a prison sentence, and at least two of these seven were released from prison after serving minimal terms, which suggests that the charges against them were not serious. The fact that the law permits Palestinians from the West Bank to enter Israel in order to work, and that thousands of people receive such permits and enter Israel every day, seriously undermines the security arguments

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<sup>66</sup> Concluding Observations of the Committee on Economic, Social and Cultural Rights—Israel, E/C.12/ISR/CO/3, 2 December 2011, para. 20.

<sup>67</sup> Concluding Observations of the Committee for the Elimination of Discrimination Against Women—Israel, CEDAW/C/ISR/CO/5, 18 January 2011, para. 24.

<sup>68</sup> Convention on the Rights of the Child, 20 November 1989, Article 9.

<sup>69</sup> Ibid.

<sup>70</sup> Convention on the Rights of the Child, 20 November 1989, Article 10.

<sup>71</sup> Ibid.

<sup>72</sup> The state’s response is on file with Adalah.

raised by the State in defense of the law.<sup>73</sup> The distressing consequences imposed on children by the ban on family unification therefore have little justification and serve only as an arbitrary punishment on the basis of the children's nationality.

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<sup>73</sup> See Adalah Newsletter Vol. 89 "The Israeli Supreme Court's Decision in the Citizenship Law Case", by Hassan Jabareen and Sawsan Zaher, January 2012.