



## **Adalah's Response to Israel's replies to the CRC's List of Issues**

**3 June 2013**

On 3 June 2013, the [UN Committee on the Rights of the Child's \(CRC\)](#) will review Israel's compliance with its obligations under the [Convention on the Rights of the Child](#). The Committee will examine [Israel's State Report](#) submitted in 2010 and its [replies to the CRC's "List of Issues"](#) filed in May 2013 on the implementation of the convention.

In October 2012, Adalah submitted an [NGO report](#) to the CRC to assist it in writing its "List of Issues" for Israel's review. Adalah's report focused on three main fields in which discriminatory state policies have a negative impact on Arab Palestinian children citizens of Israel: health, education and family unification rights.

In this response, Adalah wishes to raise the following key concerns regarding Israel's replies to the CRC's List of Issues, and the State's failure to comply with the CRC towards Palestinian citizens of Israel:

- ***The lack of legislation, policies and programmes to prevent discrimination against Palestinian Arab citizens (Question 1)***

In its Concluding Observations for Israel (COI) in 2002, the CRC raised concern about the lack of protection against discrimination: in paragraph 26, the CRC drew attention to the fact that no constitutional guarantees existed to defend citizens from discrimination. The CRC found that this constituted a direct violation of **Article 2** of the Convention.

In 2013, the lack of constitutional protection for the right of equality is even more problematic, as the Israeli government intensifies its discriminatory practices against the Arab minority. Despite Israel's replies to Question 1, the state often does not "adhere to the principle of equality", and does in fact frequently engage in discriminatory acts and practices. The State makes no mention of the 50 Israeli laws enacted since 1948 that discriminate against its Palestinian Arab citizens. These range from the "Absentees' Property Law" (1950) to the "Admissions Committees Law" (2011). During the Netanyahu-Lieberman government (2009-2012), over 20 discriminatory laws were passed and numerous others proposed.<sup>1</sup>

An example is the Nakba Law (2011), which mandates budget cuts to state-funded institutions that hold events to commemorate Israel's Independence Day as a national day of mourning. The Nakba is a central part of Palestinian identity, history and culture. By imposing penalties

<sup>1</sup> See Adalah's "Discriminatory Laws Database": <http://adalah.org/eng/Israeli-Discriminatory-Law-Database>

and discouraging open discussion about the establishment of Israel, the Nakba and Palestinian identity, the law violates the freedom of expression and the freedom of identity in all spheres of life, including political rights and education rights. Bi-lingual, Jewish-Arab democratic schools, which teach the narratives of both Jews and Palestinians concerning the establishment of the state, are particularly affected by the law, as it has created a “chilling effect” on their curriculum. The law has also affected students’ rights on campus, as universities have demanded that students who wish to organize Nakba commemoration events must pay for security, imposing a tax on speech, which is not imposed on other forms of expression.

Similarly, the Education Ministry (2009-2012) actively marginalized the Arabic education system while furthering extreme right-wing political ideology in the Hebrew education system. Among other acts, the Education Minister facilitated and funded tours to educational institutes in illegal Jewish settlements in the occupied West Bank. These ideologically-driven projects emphasized the rights of Jews to the land. Far from investing in human rights education and encouraging a pluralist and open space, as claimed by the state, the Ministry shaped the national curriculum to promote an ideological discourse that overtly discriminated against Palestinian citizens.

Numerous bills being debated in the Knesset also seek to consolidate the ethnic privileges of Jewish citizens. One bill under discussion, commonly known as the “Dichter Bill”, declares that, should Israeli courts have to decide between the “democratic principles” and the “Jewish nature” of the state, the courts should prioritize the “Jewish” over the democratic.

- ***The ban on family unification due to the Citizenship and Entry into Israel Law and the law’s effect on children’s rights (Question 2)***

The State argues in its replies that the decision to continually renew the ban on family unification between Palestinians is meant to “mitigate the security threat posed by terrorist organizations seeking to harm Israeli citizens.” However, as discussed in Adalah’s NGO report, the fact that thousands of Palestinians from the West Bank receive permits to enter Israel every day in order to work, seriously undermines the state’s security arguments in defense of the law.<sup>2</sup> The distressing consequences of the ban on family unification imposed on children – broken families, families under stress, illegality – are not discussed at all in the State’s reply; they serve only as an arbitrary punishment based on the children’s nationality.

The Citizenship Law and its ban on family unification directly violate **Articles 9 and 10** of the Convention. Moreover, numerous UN human rights treaty-body Committees have severely criticized the law in their COI and/or called on Israel to revoke the law, including the UN CERD (2012)<sup>3</sup>, the UN CESCR (2011)<sup>4</sup>, the UN CEDAW (2011)<sup>5</sup>, and the UN Human Rights Committee (2010).<sup>6</sup>

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<sup>2</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.

<sup>3</sup> Concluding Observations of the Committee on the Elimination of Racial Discrimination—Israel, CERD/C/ISR/CO/14-16, 9 March 2012, para. 18.

- ***The gaps in health indicators between Jewish and Arab children, including the lack of health clinics and access to water for Arab Bedouin in the Naqab/Negev (Question 8)***

The State responds to Question 8 by emphasizing several programs or funds that it has allocated to the Arab community, but this response is minimal and gives no attention to the causes of these systematic inequalities.

For example, Israel's refusal to provide **health services and water** to nearly 70,000 Arab Bedouin citizens of Israel living in unrecognized villages in the Naqab severely impacts their health and their ability to access these services; children are especially affected. Moreover, the Praver-Begin Plan, which will forcefully demolish homes and displace tens of thousands of Arab Bedouin citizens living in these villages, will severely impact the health, education and welfare of Bedouin children. As we have seen in other areas, the destruction of homes and forced evictions lead to trauma and other negative psychological effects on children, while their forced urbanization into a radically new environment in overcrowded "townships" will further impact their health and development.

A stark example is the case of the unrecognized Bedouin village of Umm el-Hieran in the Naqab. In February 2013, the Supreme Court rejected an appeal submitted by residents of Umm el-Hieran to be allocated access to water, which was being denied by the State.<sup>7</sup> The decision contradicted a landmark ruling by the court in 2011, which declared the right to water to be a constitutional right for all Israeli citizens.<sup>8</sup> Instead of ensuring equal access for the Bedouin residents, the court ceded to the state's arguments and agreed that only "minimum humanitarian access" to water was needed.<sup>9</sup> Thus, the Supreme Court effectively denied the constitutional rights of its Arab Bedouin citizens, including children.

The State also writes in its reply that it is "setting norms" for language accessibility to health care institutions. However, despite such commitments, cultural and linguistic sensitivity in these services have not improved. Most health care facilities in Israel do not comply with the Ministry of Health's recent directive in February 2013 mandating linguistic accessibility. As a result, Arab women and other population groups are forced to look for assistance from family

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<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. 20.

<sup>5</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>6</sup> Concluding Observations of the Human Rights Committee—Israel, CCPR/C/ISR/CO/3, 29 July 2010, para. 15.

<sup>7</sup> C.A. (Civil Appeal) 2541/12 - Salib Abu al-Qi'an vs. The Government Authority for Water and Sewage.

<sup>8</sup> See C.A. (Civil Appeal) 9535/06, Abdullah Abu Musa'ed, et al. v. The Water Commissioner and the Israel Land Administration.

<sup>9</sup> See Adalah Press Release. "Supreme Court Refuses Water to Unrecognized Arab Bedouin Village of Umm el-Hieran," 25 February 2013: <http://www.adalah.org/eng/Articles/1924/Supreme-Court-Refuses-Water-to-Unrecognized-Arab>.

members or others to understand medical information and treatments, if they approach medical facilities at all.<sup>10</sup>

The health gap between Jewish and Arab children, particularly the Bedouin population, is in large part a consequence of the state's deliberate negligence in providing adequate services to its Arab communities. These acts violate **Article 24** of the convention, which demands the highest attainable standard of health, including access to health care facilities.

- ***The higher rates of child poverty in Arab communities compared to Jewish communities in Israel (Question 12)***

As noted in Adalah's NGO report, 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>11</sup> The Arab Bedouin community, particularly Bedouin children, are the poorest and most vulnerable population group in Israel; while over half of all children living below the poverty line in Israel are Arab. In 2011, the UN CESCR expressed concern about "the high incidence of poverty among families in the State party, in particular among the Arab Israeli population".<sup>12</sup>

Further, the rates of child poverty in Arab communities are expected to increase: the proposed national budget for 2013-14 greatly reduces monthly child allowances in Israel, a cut that would disproportionately hurt Arab families, many of whom live below the poverty line. The reduction of child allowances will widen the socio-economic gaps between the various groups in Israel, contrary to Israel's statements that it is working to address the rate of child poverty.

- ***The gap in dropout rates, enrolment rates, quality, facilities and allocated resources between the Hebrew and Arabic education systems (Question 13)***

The State responds to this question with a list of specific programs that it has designated to Arab schools. While these programs are examples of positive moves, Adalah's concern is that successive Israeli governments have confirmed such programs and "five-year plans" but few have actually been implemented. Moreover, over the last several years, such programs have had little effect on bridging the gap between the Hebrew and Arab education systems.

Arab pupils still face numerous obstacles and forms of discrimination that violate their right to education. Discriminatory policies such as the "National Priority Areas" (2006 and 2009) - which

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<sup>10</sup> See Adalah Press Release, "Israel Health Care Facilities Lack Required Translators, Cultural Sensitivity," 18 May 2013: <http://www.adalah.org/eng/Articles/2004/Israeli-Health-Care-Facilities-Lack-Required->

<sup>11</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&doclan guage=en>

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

afforded Jewish communities enormous educational benefits for students and teachers - demonstrate the continued inequality in the state's allocation of resources.<sup>13</sup> Rather than basing Israel's education policy on communities' needs and on the basis of equality, the government deliberately favours the development of the Hebrew system over the Arabic system.

The education rights of Arab Bedouin children in the Naqab are particularly undermined by the state's refusal to provide adequate resources to the unrecognized villages. Many of these children are forced to travel long distances to reach their schools or transfer to other schools due to the closing of proximate ones. The proposed Prawer-Begin Plan will severely disrupt the education of Bedouin children and exacerbate the already dire resources in underfunded Bedouin townships. These policies lead to the problems of high dropout rates, lack of schools and poor facilities. The systematic negligence by the state in ensuring high and equal standards of education demonstrates its failure in upholding **Article 28** of the convention.

- ***The legal issues concerning arrests and interrogations of Palestinian children in occupied East Jerusalem and the West Bank by Israeli forces (Question 16)***

In its response to Question 2, Israel denies the applicability of the Convention to areas outside its national territories, namely the West Bank and Gaza. The response also includes Israel's view about the relationship between international human rights law and the law of armed conflict. Therefore, the state failed to provide specific answers to the very clear questions in 16 a) to d). Overall, the CRC should reject the state's view – as all other UN human rights treaty bodies have done – that its obligations under the convention do not extend to its actions in the occupied territories.

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<sup>13</sup> See Adalah position paper, "On the Israeli government's new decision classifying communities as National Priority Areas", February 2010: <http://adalah.org/newsletter/eng/feb10/docs/english%20layout.pdf>.