



Joint NGO Report

UN Committee on Economic, Social and Cultural Rights

Re: Reply to List of Issues by the State of Israel

Violations of the ICESCR by Israel against the Arab Bedouin in the Negev/Naqab desert

Submitted by:

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&
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Table of Contents

(List of Issues) Question 8	p. 3
Questions 11 and 12	p. 3
Question 14 (a)	p. 5
Question 14 (b)	p. 8
Question 14 (c)	p. 9
Question 14 (d)	p. 10
Question 14 (e)	p. 11
Question 14 (f)	p. 11
Question 14 (g)	p. 11
Question 14 (h)	p. 12
Question 24	p. 12
Question 26	p. 13
Question 30	P. 14
Question 31	p. 14



Question 8 (a). Proportion of persons below the poverty line

The differences between the Jewish majority and Palestinian Arab minority in Israel, including the Arab Bedouin, are critical when analyzing poverty rates. In its response to the List of Issues (LoI), the State of Israel does not provide data on poverty disaggregated by population group (Annex 1, p. 10). It provides data indicating overall poverty rates of 18.4% among households in 2017, 21.2% among individuals, and 29.7% among children. As noted by Adalah and NCF in our previous report to the Committee, the Bedouin in the Negev/Naqab have the highest levels of poverty in Israel; according to the Israeli National Insurance Institute (NII), the poverty rate among Bedouin families was 58.5% in 2016. Among Bedouin individuals the poverty rate stood at 63.4%, and among Bedouin children at 68.2%, and therefore **a staggering two-thirds of Bedouin families, individuals and children were living beneath the poverty line in 2016**. These alarming figures *underestimate* poverty levels among the Bedouin, since the most impoverished group, the approximately 90,000 people¹ living in unrecognized villages, around 33% of the Bedouin population, were not included in the NII's survey. These figures indicate the importance of taking special account of the Bedouin population in assessing and tackling poverty in Israel. For more information, see Adalah and NCF's previous report to the Committee, January 2019, pp. 4-5.

Questions 11 and 12. Non-discrimination – Principle of Equality; The Basic Law: Israel – The Nation-State of the Jewish People

- **Principle of Equality**

As the State's response to this question clearly indicates, the right to equality and freedom from discrimination is not explicitly enshrined in Israeli law as a constitutional right, nor is it protected by statute. Moreover, the recent enactment of **The Basic Law: Israel – The Nation-State of the Jewish People** has further weakened the constitutional status of the Palestinian minority in Israel overall. The law does not provide for the right of equality and in fact it is in direct conflict with the realization of the right to equality of non-Jewish citizens of Israel, including the Bedouin, and increases the gap between the legislative situation in Israel and the achievement of the rights promulgated in the CESCR.

- **Basic Law: Israel – The Nation-State of the Jewish People**

In the response submitted to the Committee's question (12) regarding the Basic Law: Israel – The Nation-State of the Jewish People, the State fails to provide information about any assessments it has carried out on the law's impact on the non-Jewish population in Israel. As the response further indicates, the law, which was designed to further consolidate the Israeli Jewish population's position of primacy within this state, will further disadvantage non-Jewish citizens and exacerbate existing segregation within the state.

The law enshrines and gives additional constitutional grounding to violations of the rights of members of the national Palestinian minority in Israel, including the rights identified in the List of Issues by the Committee, i.e. the rights to self-determination, non-discrimination and cultural rights. The law sets forth the constitutional order of Israel and articulates the ethnic-religious identity of the state as exclusively Jewish. It is the "law of laws", capable of overriding any ordinary legislation. It alters the constitutional framework of the state, making changes that violate established international norms: there is no democratic constitution in the world that designates the

¹ Estimates of the number of people currently living in unrecognized villages range from 86,000 to 92,000, as there are no precise figures from the State.



constitutional identity of the state on racial grounds, as serving one ethnic group only, as this Basic Law envisions.

The main provisions of The Basic Law: Israel – The Nation-State of the Jewish People:

- Article 1 states that the Land of Israel (“Eretz Israel”) is the historic national home of the Jewish people, in which the State of Israel was established, and in which the Jewish people exercises its natural, cultural, and historic right to self-determination. It adds that the right to exercise national self-determination in the State of Israel is solely for the Jewish people.
- Article 2 sets forth the symbols of the state, all specifically Jewish in character: the national anthem is *Hatikvah*; only Jewish people are represented in the symbols of the state: the flag is Israeli (a prayer shawl); Independence Day is a national holiday; the Hebrew calendar is the official calendar of the state; the official holidays are Jewish holidays.
- Article 3 defines the capital of Israel as Jerusalem, which includes occupied East Jerusalem.
- Article 4 states that the official language of the state is Hebrew, demoting Arabic, which was previously a second official language, to a language with an undefined “special status”, which is inferior to an “official status”. This “special status” offers the possibility of using Arabic only in practice and at the individual level, but does not recognize it at the collective level as the language of the minority.
- Article 5 establishes that immigration leading to automatic citizenship is exclusive to Jews (from around the world) under the Law of Return, while the Palestinian refugees continue to be denied the right to return to their homeland, in violation of international human rights and humanitarian law, and UN Security Council Resolutions.
- Article 6 provides that the state will strengthen ties between the state and Jewish people around the word, and preserve the cultural, historic, and religious heritage of the Jewish people in the Diaspora.
- Article 7 provides that the state views development of Jewish settlement as a national value, and will act to encourage, promote and consolidate its establishment, thereby instituting segregation as a new legal norm, and allowing for the annexation of the West Bank.

Since the law gives constitutional backing to the state to consolidate Jewish demographic majorities throughout Israel, and is likely to be used to establish segregated, exclusively Jewish towns in areas where Palestinian citizens are most concentrated, including in the Naqab/Negev and the Galilee in the north of the State. The law legitimizes discriminatory land policies, such as admissions committees that filter non-Jewish families and individuals out of small towns built on state land throughout the state. It would also give constitutional justification to discriminatory budgeting policies that channel public funds to Israeli Jewish communities and even to Jewish individuals, for the purpose of incentivizing them to relocate to certain areas.

Despite the foundational nature and far-reaching scope of the law, it contains no commitment to democratic norms, or a guarantee of the right to equality, or a prohibition of discrimination on the basis of race, nationality, ethnicity or any other category for all people living under Israeli sovereignty. Indeed, it does not even define its citizenry, referencing instead the Jewish people as its subject, and defining sovereignty and democratic self-rule as belonging solely to the Jewish people, wherever they live around the world. Fourteen petitions challenging the law are currently pending before the Israeli Supreme Court.² To date, the state has not responded to the petitions, and the Court has not yet scheduled a hearing date.

² Adalah petitioned the Israeli Supreme Court on 7 August 2018 to challenge the constitutionality of the law on behalf of the High Follow-Up Committee for Arab Citizens of Israel, the Joint List of Arab political parties, and the National Committee of Arab Mayors. HCJ 5866/18, *The High Follow-up Committee for Arab*



Question 14: The Bedouin people

(a) Rights of the Bedouin to their traditional and ancestral land

In the middle of the nineteenth century, the Negev/Naqab was the permanent living space of the Bedouin and was divided among the various tribes, who relied mainly upon farming crops with minimal water requirements and animal herding on approximately two million dunams of land (of 13 million dunams in the Naqab) for their livelihood. After the establishment of the State of Israel in 1948, the Bedouin were expelled from most of their lands and only 10-15% of the original population remained in Israel. From 1948 to 1967 the Bedouin lived under military rule during which the military governor had absolute control of the movement, employment, land use, and many other aspects of the community's life. During that time, they were forbidden to leave the restricted area without written permission from the military governor.

Land belonging to Bedouin who became refugees, as well as significant portions of land owned by the Bedouin who remained in Israel, were expropriated and 'nationalized' by the Israeli authorities under a number of laws.

In addition, the State began to establish the townships and initiate the process of urbanization that was imposed on the Bedouin population in the Negev/Naqab. New laws, such as the Planning and Building Law,³ have re-designated most of the Bedouin lands as agricultural areas, nature reserves or military areas, designations which preclude the establishment or existence of villages. As a result, all existing Bedouin residential structures in those areas were declared illegal and the phenomenon of the "unrecognized villages" was born, i.e. villages that were established, for the most part, prior to 1948 and with no planning status thus illegal under Israeli law. The SoI, which created the phenomenon of the "unrecognized villages", continuously tries to depict the Bedouin population as trespassers and criminals. The attempt to present the Bedouin citizens as if they "obstruct urban expansion"⁴ is absurd as it is a direct result of the racist and discriminatory laws it enacted, for the main purpose of dispossessing the Bedouin of their ancestral land.

The Negev/Naqab desert constitutes 60% of the territory of the State of Israel, and about 8% of the total population resides in it. While the Bedouin make up for about 34% of the population in the Negev/Naqab, they reside on less than 3% of the land. The vast majority of the fertile agricultural land in the north-western Naqab has been allocated by the State to Jewish citizens living in *kibbutzim*, *moshavim* and 'individual farms'. Although the State is attempting, with all means available, to displace the Bedouin and forcefully move them into townships, the Bedouin citizens have been resisting the State's policies for decades, maintaining their connections to their ancestral land. While the SoI is trying to portray its actions as done for "the common good of all Bedouin population",⁵ it is in practice, forcing them to relinquish all claims to ancestral land and move into urban and overcrowded townships against their will. Notwithstanding, while the SoI is concentrating the Bedouin over a small area of land, Jewish residents of the Negev/Naqab are living on large portions of land, and in a variety of settlements.

Citizens of Israel v. The Knesset (pending). For more information and legal analysis on the law, see Adalah webpage, *Israel's Jewish Nation-State Law*: <https://www.adalah.org/en/content/view/9569>

³ Planning and Building Law – 1965 (in Hebrew): <https://tinyurl.com/ycg3dzqj>

⁴ List of issues in relation to the fourth periodic report of Israel (Addendum): Replies of Israel to the list of issues, 12 August 2019, p.6.

⁵ Ibid.



In 1970, the SoI announced a land rights resolution plan with regard to the Bedouin lands in the restricted area around Be'er Sheva metropolis. This procedure allowed the Bedouin to file claims for land ownership. In total, 3,200 claims were submitted to the Land Registry, covering an area of about 991,000 dunams. Another 600,000 dunams of tribal grazing land were not recognized as part of the plan, and the ownership of 200,000 dunam in the central Negev/Naqab region was “resolved” by way of registering them as State land without prior knowledge of the Bedouin plaintiffs, the Al ‘Aazāzmeh tribe.

In 1975, the state appointed a special body, known as the Albeck Committee,⁶ to deal with Bedouin claims of land ownership. The Committee recommended that the State not examine the merits of the claims, but rather conduct “negotiations” so as to reach an accord with the Bedouin plaintiffs, including the offering of compensation. The Committee also supported the government's position that the Bedouin lands are in fact “Mawat” lands⁷ which can therefore be reclassified as State land, claiming that this policy conforms to both Ottoman and British law. Thus, the State chose to follow a bureaucratic-administrative track, rather than handling thousands of claims by way of legal process. The Albeck Committee also recommended that the government act “beyond the letter of the law”, by granting compensation in a negotiated process, on the condition that the plaintiffs waive all their claims against the State. In accordance with these recommendations, the government began negotiations but at the same time froze all ownership claims. The percentage of compensation has changed over the years, but it was, and remains, low, insufficient, and unjust.

In 2004, following Government Resolution 216⁸ and the adoption of a new development plan for the Negev/Naqab region, the Southern District Attorney's Office and the Israel Land Administration (now the Israel Land Authority) began to pursue a counterclaim strategy⁹ and to handle the hearing of 3,200 claims that had been frozen for over 30 years. To date, the State has filed about 400 counterclaims, and those that have been resolved were decided in favor of the State. The filing of counterclaims not only legitimizes the actions and policies of the State, but also puts tremendous pressure on the Bedouin citizens to accept the solutions proposed by the Government. Although the Bedouin residents of the area enjoyed the actual recognition and autonomy granted to them by the Ottoman and British authorities, the Israeli courts did not recognize their rights to ownership of the land. That, in addition to unique circumstances surrounding the proof offered to the courts concerning the Bedouin' historical rights to the land, allowed the courts to rule in all the cases brought before them in favor of the State.

The fact that the Israeli courts ruled that all the lands in question are “Mawat”, to which Bedouins have no ownership rights, are a testimony to Israel's discriminatory and unjust land laws. The state and the courts do not recognize the authenticity and/or relevancy of traditional documents held by some of the Bedouin plaintiffs, among them: land sale and purchase contracts, mortgage contracts,

⁶ Justice Ministry, 1975, Team of Experts Concerning Land Issues, The Siyāj and Northern Negev Areas – Final Report, p. 7 (in Hebrew).

⁷ *Mawat* land, or “dead land”, was defined in the Ottoman law of 1858 as vacant and uninhabited land, which is far enough from the nearest settlement that the loudest voice of a person in that settlement cannot be heard, or alternatively, either a mile and a half away or half an hour walk from said settlement. According to Article 103 of the Ottoman law, a person who cultivated such lands, i.e. turned them into agricultural lands, would be entitled to register the land as his own, even if he did so without permission from the Ottoman regime.

⁸ Government Resolution No. 216, April 14, 2003, The Plan for the Bedouin Sector in the Negev (in Hebrew): <https://tinyurl.com/yxp3jwrv>

⁹ For more information, see: Negev Coexistence Forum for Civil Equality, 2012. Processes of dispossession in the Negev/Naqab: The Israeli Policy of Counter Claims against the Bedouin-Arabs: <https://tinyurl.com/yalmenpo>



and documentation of taxes on land or crops paid to the Ottoman and/or British authorities. Furthermore, the courts undervalued the oral testimonies of Bedouin elders, choosing instead to rely on the reports of European missionaries of the 18th century regarding the nature, ownership, and working of land. This approach relies almost entirely on Western sources and ignores the traditional way of life and culture of the Bedouin concerning land management and acquisition.

The Israeli governmental policy of filing counterclaims has serious implications for the Bedouin plaintiffs, many of whom have either dropped out of court hearings or chose not to come from the start with the understanding that in any case they cannot win a trial or appeal the State's position. The high costs, lack of formal/recognized documentation, and lack of trust in the judicial system contributed to their avoidance of legal procedures and increased the rate of “resolution” of the land disputes by encouraging the Bedouin to view the legal system as non-responsive to their claims.

Israel's policy deviates drastically from that of the Ottoman and British administrations that preceded it, abusing a law enacted more than a century ago; freezing all legal processes for 35 years before the filing of counterclaims (after many of the Bedouin claimants have died); avoiding the establishment of a legal framework that will examine Bedouin rights and allow the use of unofficial documents and oral testimonies. All of the aforementioned represent only part of the flaws in the process of resolving the Bedouin land claims in the Negev/Naqab. This policy presents the Bedouin as “criminals” and “outlaws” who lack any rights to land in the Negev/Naqab.

In article No.47 of the SoI's reply to the LoI, the State argues that it is “currently working on a further examination of the mechanism for resolution of the Bedouin ownership claims”.¹⁰ However, in recent years, the Bedouin Authority (responsible for “regularizing Bedouin settlement”) has continuously argued that it is doing everything in its power to avoid resolution of ownership claims. In an interview from April 2019, the head of the Bedouin Authority Yair Maayan stated that, “We have changed our direction completely. Today we do not deal with the ownership claims at all, it is an argument that will never end... We do not enter into discussions, arguments and persuasions”.¹¹ Israel's Minister of Agriculture Uri Ariel, to whom the Bedouin Authority is subject to, added that the decision to stop dealing with claimants had proven to be the favorable solution for the State.¹²

According to the Israel Democracy Institute, only 380 claims (12% of all claims) were settled as of 2008, covering an area of 205,670 dunams (about 18% of the total claimed land). Thousands of claims remained unresolved, and many of the claims were “resolved” under duress of the auspices of a law known as the “Peace Law”. In 2013, there were still 269,931.22 dunams left to settle.¹³ Adalah and NCF urge the Committee to press the SoI for more information on the so-called mechanisms for resolution of Bedouin ownership claims.

¹⁰ List of issues in relation to the fourth periodic report of Israel (Addendum): Replies of Israel to the list of issues, 12 August 2019, p.6.

¹¹ Billy Frenkel, “The State will resettle 125,000 Bedouins in the Negev in three years”, *Calcalist*, 2 April 2019 (in Hebrew): <https://tinyurl.com/y2nww552>

¹² Ibid.

¹³ Ronit Levin-Schnor, “The Negev Disengagement Plan: About the bill for the regularization of the Bedouin settlement in the Negev”, Israel Democracy Institute, 2013, p.13 (in Hebrew).



(b) Impact of measures taken to ensure the Bedouin continue their traditional way of life and culture, and their recognition as an indigenous people

In its response to the Committee's LoI, the SoI denies the Arab Bedouin of the Negev/Naqab claims to indigeneity status. Similarly, Israel's Supreme Court has ruled that the international Declaration on the Rights of Indigenous Peoples was of no avail to Bedouin petitioners, members of the al-'Uqbi tribe who sought to challenge a District Court decision from 2012 to register their land in the 'Araqib area as state property: "With regard to the international Declaration on the Rights of Indigenous Peoples, the State of Israel did not join the United Nations General Assembly Declaration on Indigenous Peoples' Rights of 2007, which the appellants referred to and did not adopt in internal Israeli legislation. In any case, this declaration is of no avail to the appellants, since the declarations of the United Nations General Assembly have no binding effect."¹⁴

The debate around Bedouin indigeneity is embroiled in the controversy over land in the Negev/Naqab and Israel's legal, planning and historical attempts to deny Bedouin rights to the land and justify its mechanisms of dispossession and discrimination.¹⁵ This denial impacts the entire Bedouin population, especially those living in unrecognized villages, which are mostly located on their ancestral lands. Non-recognition manifests in the denial of basic services, home demolitions, recurring waves of State violence, and the omission of such villages from official maps.

The SoI's claims denying the indigenous status of the Arab Bedouin of the Negev/Naqab are not based on any serious analysis or the prevailing scholarship on the matter. Quite the contrary, a line of top researchers in the field, as well as the relevant international bodies, such as the UN Permanent Forum on Indigenous Issues or the UN Human Rights Council, have fully accepted the Bedouin as an indigenous group. This entails the protection of its rights according to the UN Declaration of the Rights of indigenous Peoples (2007), which emphasizes indigenous rights over land, settlement, resources, culture and identity.¹⁶

The Bedouin of the Negev/Naqab comply with all legal and historical definitions of an indigenous group, including the one offered by Martinez Cobo and the International Labour Organization, quoted by the SoI, as they fulfil the conditions outlined in these definitions – they reside continuously for hundreds of years (at least) in the Negev/Naqab region; they have maintained a distinct culture and identity for centuries; they have been governed by customary Bedouin laws for centuries; and were ruled by colonial powers such as the Ottomans and the British.

The Negev/Naqab was declared as part of the State of Israel in 1948 and the Bedouin residing in the area were excluded from equal rights and equal citizenship and placed under military regime. As a result of decades of discrimination and neglect, they have become one of the poorest, most marginalized populations in Israel. Between 1948-1958, the SoI evicted majority of indigenous Bedouin to Egypt, Gaza, West Bank and Jordan, and did not allow most of them to return. The remaining population was dispossessed from most of its land and denied recognition or basic services for their tradition tribal villages, which Israel attempts to relocate to nearby townships in order to use Bedouin ancestral land for Jewish civil or military purposes. Despite these

¹⁴ Sec. 81 of the Supreme Court's ruling in C.A. 4220/12, *Al-'Uqbi, et al. v. The State of Israel* (decision delivered 14 May 2015).

¹⁵ Yiftachel O., Roded B., Kedar S. (2016). Between Rights and Denials: Bedouin Indigeneity in the Negev, Environment and Planning A, Vol.48, pp. 2129-2161: <https://tinyurl.com/y2mqfcny>

¹⁶ General Assembly, United Nations Declaration on the Rights of Indigenous Peoples, adopted on 13 September 2007: <https://tinyurl.com/y85j278g>



discriminatory policies, the Bedouin have maintained a strong connection to their lands, heritage, identity and customary laws.

As noted, almost all independent and serious research supports the claims made above, which were published in the best stages of social and historical research. In particular, the paper by Yiftachel, Roded and Kedar (2016),¹⁷ which provides a broad review of the literature and debunks systematically state's claims that deny Bedouin indigeneity. Further, two past UN Special Rapporteurs for indigenous peoples (Radolfo Stavenhagen¹⁸ and James Anaya¹⁹), as well as a long-term commissioner of Aboriginal land rights in Australia (John Sheehan)²⁰ have published materials supporting Bedouin indigenous claims. Given the above, the SoI's rejection of Bedouin indigenous status appears to be motivated by political interests, aiming to deny their claims to maintain control over their lands, resources, traditions and culture.

(c) Impact of measures to implement the second five-year Socio-Economic Development Plan for the Negev in line with the Committee's general comments on the right to adequate housing and forced evictions

The State fails to provide information in its responses to the question of the impact of the plan as they relate to the right to adequate housing or forced evictions. Adalah and NCF refer the Committee here to its previous report, January 2019, pp. 3-4, where they outline their concerns about the plan as a mechanism of forced displacement.

Updated information on home demolitions in Bedouin townships and villages in the Naqab/Negev

Since 2013, the annual number of home demolitions against Bedouin citizens in the Naqab has tripled from 697 in 2013 to **2,326 in 2018 – an increase of 333%**. The number of "initiated" demolitions (those carried out by the enforcement authorities) increased between 2013 and 2017 from 321 to 641 demolitions, but there was also a dramatic decline of initiated demolitions between 2017 and 2018, from 641 to 262 demolitions. Thus, in only one year (2017-2018), the number of demolitions carried out by the authorities decreased by 244%, although the total number of demolitions in those years increased from 2,200 to 2,326 at the end of 2018.²¹ Notably, in 2018, 89% of all demolitions were "self-demolitions".

The main reason for the increase in "self-demolitions" is that the SoI is continuing to invest large budgets in enforcement and "regulatory" mechanisms, which has resulted in the constant presence of inspectors and police forces on the ground; the use of aerial photography implemented by drones to mark new construction; the use of threats that are vaguely disguised as "negotiations" on the part

¹⁷ Yiftachel O., Roded B., Kedar S. (2016), Between Rights and Denials: Bedouin Indigeneity in the Negev, Environment and Planning A, Vol.48, pp. 2129-2161: <https://tinyurl.com/y2mqfcny>

¹⁸ Stavenhagen, R. (2007). UN Special Rapporteur, "Report, paragraph 261," 19 March 2007, UN (A/HRC/4/32/Add.1): <https://tinyurl.com/yy7usj3d>

¹⁹ Anaya, J. (2011). "Annex VI: Israel: Situation of Unrecognized Bedouin Villages in the Negev Desert", in *Cases Examined by the Special Rapporteur* (2011): <https://tinyurl.com/jrlzplg>

²⁰ Sheehan, J. 2012. "Applying the Australian Native Title Framework to Bedouin Property", in *Indigenous (In)Justice: Human Rights Law and Bedouin Arabs in the Naqab/Negev*, ed. Ahmad Amara, Ismael Abu-Saad, and Oren Yiftachel (Cambridge: Harvard University Press, 2012), pp. 228-53: <https://tinyurl.com/c9yzzef>

²¹ Ibid, p.21.



of representatives of the Bedouin Authority; and the imposition of heavy fines and expenses.²² For more information, see Adalah and NCF's prior report to the Committee, January 2019, pp. 9-10.

In March 2019, NCF, the Human Rights Defenders Fund (HRDF) and Adalah met with and submitted information regarding home demolitions, forced evictions and the persecution of Bedouins human right defenders to the UN Special Rapporteur on Minority Issues. In a communication to the Government of Israel (1 May 2019), six UN Special Rapporteurs²³ expressed serious concern regarding "significant number of demolitions of Bedouin livelihood structures and homes in the Negev/Naqab region... and which have led to forced evictions and relocations of Bedouin communities, with no guarantees for return."²⁴ They added: "These enforced demolitions and evictions... exacerbate the overall sentiment within the Bedouin minority of a continued and mounting persecution, with serious adverse effects on the rights of persons belonging to the Bedouin minority."²⁵ The issue of forced evictions and demolitions targeting the Bedouin community has been raised in the past by the Special Procedure's mandate in 2014. The SoI has not responded to the serious concerns expressed in either letter to date.²⁶

(d) Measures taken to ensure meaningful participation of the Bedouin and to seek their consent in planning and development policies and plans

As Adalah and NCF previously stated (please see our earlier report to the Committee, pp. 6-7), in the case of the unrecognized villages, teams from Authority for Development and Settlement of the Bedouin in the Negev (the Bedouin Authority) visit villages and enter into negotiations with residents only to discuss terms of their forced displacement to the Bedouin townships, e.g. the location of new plots and amount of compensation. Displacement itself is a foregone conclusion and not subject to negotiation. A recent example is the village of Ras Jraba, an unrecognized village located close to the town of Dimona that is home to hundreds of people. When negotiations aimed at settling the terms of their displacement failed, the state filed eviction lawsuits against the villagers. Adalah obtained power of attorney to represent villagers in August and September 2019 and will pursue the case to protect their rights to their land in the coming months/years. In the previously-cited example of Umm al-Hirān, agreements reached between villagers and the state authorities for their relocation in 2018 have now collapsed, after the Attorney General concluded that they lacked a legal basis.²⁷

Adalah and NCF further emphasize that planning processes undertaken in the recognized villages, which Israel alleges to have been participatory, have not resulted in progress on the ground. Even though these villages have undergone processes of master planning, participatory or otherwise, and

²² Negev Coexistence Forum for Civil Equality, "Mechanisms for dispossession and intimidation: Demolition policy in Arab Bedouin communities in the Negev/Naqab, June 2019: <https://tinyurl.com/yx937585>

²³ Mandates of the Special Rapporteur in the field of cultural rights; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the human rights of internally displaced persons; the Special Rapporteur on minority issues and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

²⁴ 1 May 2019, Israel, JAL, ISR 6/2019, p. 6: <https://tinyurl.com/y5qvulcs>. See also NCF and Adalah's press release, "UN human rights experts raise grave concerns about Israel's planned forced displacement of Bedouin," 11 July 2019: <https://www.adalah.org/en/content/view/9772>

²⁵ 1 May 2019, Israel, JAL, ISR 6/2019, p. 6: <https://tinyurl.com/y5qvulcs>

²⁶ ISR 10/2014 of 14 October 2014: <https://tinyurl.com/y5nu4b3d>

²⁷ Agreements were concluded by the Bedouin Authority, which lacked the power to do so. Based on these illegal agreements, numerous residents of Umm al-Hirān moved to Hura. They started building their homes, committed to loans in order to do so, and now have substantial debts.



have received 'outline plans', the infrastructure in these villages in most cases remains on a par with that of the unrecognized villages: they continue to lack connections to the water, electricity and sewerage networks, as well as paved roads. Furthermore, it is impossible for villagers to obtain building permits for their homes. Many existing houses and other structures in the recognized villages are regarded as illegal by the State and are subject to demolition orders. Thus, even if these planning processes were participatory, a claim that Adalah and NCF highly doubt, any participation was ultimately irrelevant.

An example is provided by the village of Al-Fur'ah (pop. 6,000), which received official recognition in 2006. Despite being recognized, however, and the fact that the planning authorities entrusted the development of the master plan for the village to engineering offices in 2009, there has been no progress in the master plan, and the state has initiated legal proceedings against the residents of the village, who are being charged with building houses without permits. Without a master plan, there is no possibility for the residents to build homes except without permits. Meanwhile, various master plans that will directly affect the villagers, resulting in home demolitions and the confiscation of land, as well as increased environmental pollution, have been expedited, to the detriment of the rights of the villagers, including plans for new railways routed to displace the people of Al-Fur'ah and other villages, and the Sde Barir phosphate mine, planned to operate on land inhabited by around 15,000 Bedouin residents, including those living in Al-Fur'ah.

(e) Measures taken to alleviate poverty among the Bedouin

On the issue of the very high poverty rates afflicting the Bedouin in the Naqab/Negev, Adalah and NCF refer the Committee to its previous report, January 2019, pp. 2-3. They also stress that the Sol's response to the List of Issues only discusses various programmes that it has initiated to raise levels of employment among the Bedouin and associated budgetary provisions. However, it does not provide information about the impact on poverty-alleviating measures. However, persistently high levels of both absolute and relative poverty among the Bedouin further indicate the inadequacy of the measures taken to date.

(f) Steps to regularize the unrecognized villages and improve living conditions

Israel's response to the LoI Issues clarifies that it intends to evacuate the majority of the approx. 35 unrecognized Bedouin villages and displace their residents, who will be concentrated in the recognized townships and villages. It also (Annex, p. 29) reiterates previous information about ongoing planning processes to triple the size of the township of Rahat. Adalah and the NCF again stress that this expansion is intended largely for the intake of Bedouin displaced from the unrecognized villages, and are not a generous development project, as portrayed by the state. The organizations also criticize the dramatic expansion of what is essentially a failing town, which is impoverished and was not planned in consultation with the Bedouin population and not designed to accommodate their traditional way of life or culture.

(g) Measures to ensure access to public transportation in all Bedouin villages

The state admits in its response to the LoI that, in the case of the unrecognized villages, the provision of public transportation is preconditioned on the existence of the necessary infrastructure and compliance with relevant safety standards, and that the lack of paved roads to these villages prevents their connection to the public transport network (Annex 1, p. 30).

Adalah and NCF emphasize that the denial of basic infrastructure, including paved roads, to the unrecognized villages is the result of government policy that aims at driving them from their



villages and relocating them to the recognized townships and villages. The lack of necessary infrastructure to allow public transportation for the Bedouin villages is a direct result of this policy, and it is the responsibility of the state to develop this infrastructure. The two organizations further stress that the admission by the SoI that six of the recognized Bedouin villages still lack regular transportation services (Israel's Responses to the LoI, Annex 1, p. 30), attests to the State's ongoing, systemic negligence towards the Bedouin community in the Naqab/Negev.

In Umm Batīn, for example, a village that was recognized by the State in 1999, there is no public transportation in the village. In Bīr Haddāj, a village of more than 6,000 people, buses only enter as far as the school. The same applies to other recognized villages such as Abu Grīnāt, and Sa'wah/Mūlada'h.

On the subject of publicly-funded transportation for Bedouin children to schools located outside their villages, a service that is required in many unrecognized villages due to the state's policy of denying them on-site schools, Adalah and NCF draw the Committee's attention to an agreement made by the SoI in early May 2018 to fund the construction of school bus stops in the Neve Midbar and Al-Qasoum Regional Councils, adjacent to 47 schools – including 10 high schools, 37 elementary schools, and four planned schools that are not yet operational. The agreement followed the submission of a petition and a protracted legal battle led by Adalah and parents in numerous villages. The bus stops would serve approximately 20,000 Bedouin children who face serious safety hazards on their daily trips to and from school due to a lack of bus stops: children in many cases currently have to cross busy highways and stand unprotected at roadsides in all weathers in order to catch buses to school. The Be'er Sheva District Court accepted the state's commitment to establish bus stations, but at a hearing held on 12 June 2018 refrained from ordering authorities to establish a timeline for the construction of the bus stops. As of September 2019, the Ministry of Education has not transferred the necessary funds for the construction of the bus stops to the Neve Midbar and Al-Qasoum Regional Councils, and the children in question continue to risk harm to life and limb on their journeys to school.²⁸

(h) Steps taken to ensure improved data collection on Bedouin

Adalah and NCF refer the Committee here to its previous report, where the organizations discuss the SoI's flawed process of data collection on the Bedouin (pp. 1-2). The organizations stress that the State's collection of data on the Bedouin population of the Negev/Naqab is partial, often excluding, in whole or in part, the approximately 90,000 residents of the unrecognized villages. Since the Bedouin living in the unrecognized villages are not fully or accurately incorporated in national/regional/local surveys, state-cited employment rates among the Bedouin are limited to those living in recognized localities, leaving them artificially inflated. The existing data on the Bedouin is also often not disaggregated by sex, age or location of residence. Any efforts that the SoI may make in the future to improve the access of the Bedouin in the Naqab/Negev to the economic, social and cultural rights protected by the Covenant will be impracticable in the absence of systematic, comprehensive collection of data on the Bedouin in all their locations.

Question 24: The right to an adequate standard of living

Adalah and the NCF refer the Committee members to its previous report and the discussion of water and sanitation in the Naqab/Negev, pp. 8-10, which details the discriminatory provision of

²⁸ Adalah press release, "Court accepts state commitment to build school bus stops for Bedouin kids but refrains from ordering construction timeline," 13 June 2018: <https://www.adalah.org/en/content/view/9547>



safe drinking water within the State of Israel, in violation of the rights of the Bedouin living in the Naqab/Negev.

In addition, they stress that in the Supreme Court appeal referenced by the SoI in its response to the LoI (Annex, p. 65-66) C.A. 9535/06, *Abdullah Abu Musa'ed, et. al. v. The Water Commissioner et. al.*, which was brought by Adalah in 2006, the Court failed to guarantee the right to access safe drinking water for all citizens on a non-discriminatory basis: The Court ruled that the right to water is a constitutional right for all citizens of the state and that it is the duty of the state to secure this basic right. However, it emphasized that the case posed a dilemma as the inhabitants of the unrecognized villages were living “illegally” on “state land”. The court therefore ruled that the State was obliged to provide the Bedouin petitioners from unrecognized villages with the “minimum access to water” they required needed by the residents of the unrecognized villages, without specifying what constitutes “minimum” access, which could be interpreted as less than a regular connection to the central water network. Therefore, the Bedouin do not enjoy the right to water on an equal basis with other citizens.²⁹

Further, the data provided by the SoI in its response to the LoI on the subject of budgetary allocations for investment in water and sewerage systems in a number of Bedouin localities in the Southern District, within Governmental Resolution 2025, is limited to the amounts that were allocated on paper. It does not provide information about the sums that were in fact disbursed for the intended purpose, and it does not discuss the impact of these allocations. This is a serious omission given that funds allocated in governmental resolutions, plans and other budgets are frequently not expended as planned. In the case of Governmental Resolution 2025, for example, of the NIS 10 million allocated for the development of Segev Shalom, reported by the SoI in its responses to the LoI (Annex, p. 64), none has been disbursed to date, five years after the resolution was approved on 23 September 2014.³⁰

The continued failure of the SoI to provide adequate sewerage and sanitation infrastructure to Bedouin townships and villages in the Naqab/Negev, recognized as well as unrecognized, continues to create live-threatening health and safety hazards. According to a recent study conducted by Dr. Clive Lipkin, Director of the Cross-Border Water Research Institute at the Arava Center for Environmental Studies,³¹ Bedouin homes in both recognized and non-recognized localities are not connected to sewerage infrastructure, and that many households remain reliant on improvised pits to dispose of their sewage. The result, the survey found, was environmental damage through the contamination of the soil by untreated human waste, which may extend to the groundwater, presenting a danger to human life. The study also found large pools of sewage flowing from homes that were contaminated with dangerous forms of bacteria and viruses and provided breeding grounds for mosquitoes in the village of Umm Batin, which was recognized by the State in 2004 but remains unconnected to the sewerage infrastructure.

²⁹ Adalah press release, “Israeli Supreme Court: Arab Bedouin in the Unrecognized Villages in the Negev have the Right to ‘Minimal Access to Water’,” 6 June 2011: <https://www.adalah.org/en/content/view/7634>

³⁰ According to the pro-transparency budget watchdog website Budget Key, accessed on 1 September 2019 (in Hebrew), page on GR 2025 relating to Segev Shalom: <https://next.obudget.org/i/budget/0004511212/2014?li=2>

³¹ Reported in *Ynet*: Ilana Curiel, “Danger of sewage in the Negev: ‘May harm residents’,” 25 April 2018 (in Hebrew): <https://www.ynet.co.il/articles/0,7340,L-5240250,00.html>



Question 26. Steps taken to ensure activities of the World Zionist Organization (WZO), the Jewish National Fund (JNF) and the Jewish Agency for Israel (JA) are regulated and monitored by the State party to ensure that the Covenant rights are properly protected.

The SoI's response to this question fails to address the practice of the Zionist organizations the WZO, JNF and the JA, as opposed to their theoretical obligation to respect the right to equality of all citizens of Israel, including Arab Bedouin citizens. In practice, these organizations, which function as quasi-governmental agencies in some areas in lieu of state authorities, operate exclusively and explicitly for the benefit of Jewish individuals, in accordance with their mandates.

The JNF, for example, openly operates for the exclusive benefit of Jewish people. The Memorandum of the JNF establishes that its principal goal is to purchase lands “for the purpose of Jewish settlement” on JNF lands.³² The JNF's Memorandum establishes the goals of the JNF as including the acquisition of land in any area within the jurisdiction of the Government of Israel “for the purpose of settling Jews on such lands and properties” (Article 3(a)). Other articles of the JNF's Memorandum emphasize that its funds are designated “to bring direct or indirect benefit to those of the Jewish religion, race or Jewish origins...” (Article 3(c)).

In June 2018, the Israeli Supreme Court rejected a petition filed by Adalah, the National Committee of Arab Local Authorities in Israel, and other NGOs against a clause in the Israel Land Authority (ILA) Act that determines that six out of 14 members of the Israel Land Council (ILC), a governmental body, be representatives of the JNF.³³ The petitioners argued that the compulsory and significant representation of the JNF on the ILC was illegal because of the inherent conflict between the Zionist aims of the JNF and the responsibility of the ILC to manage public land resources and determine national land policies for the benefit of all citizens. The Supreme Court dismissed the petition based on the assertion that there was no violation of the basic right to equality and dignity created by the JNF's 43% presence on the ILC. The Court ruled that, even if the JNF were acting, per se, for Jewish people only, the representatives of JNF in the ILC are expected to adhere to the principle of equality, and therefore there would not be a violation of the rights to equality or dignity of non-Jewish citizens, including Bedouin citizens.³⁴ In its decision, the Court relied on the theoretical upholding of the principle of equality, while failing to take adequate account of the discriminatory practices of the JNF and the rights violations inflicted by awarding a decisive influence in national land policy and decisions to an organization that is mandated to work for the exclusive benefit of Jewish people.

Moreover, Article 7 of the Basic Law: Israel – The Nation-State of the Jewish People provides that the development of Jewish settlement is a national value (see section on the Basic Law above, pp. 3-4 for more information) and that the state will act to encourage, promote and consolidate it. The new Basic Law therefore gives constitutional backing to the state to consolidate Jewish demographic majorities throughout Israel, including the Naqab/Negev, and is likely to be used to establish new segregated, exclusively Jewish towns. As a result of the law, the state authorities will become more like the Zionist organizations the WZO, JNF and the JA, and non-Jewish citizens have even fewer legal protections under Israeli domestic law from discrimination in land rights.

³² The JNF's Memorandum was approved on 9 May 1954 by the Minister of Justice, who was specifically authorized to do so by the Jewish National Fund Law – 1953.

³³ HCJ 6411/16, *The National Committee of Arab Local Authorities in Israel, et al. v. The Knesset, et al.* (decision delivered 19 June 2018).

³⁴ Adalah press release, “Israeli Supreme Court rejects petition against JNF membership in ILA land council,” 22 June 2018: <https://www.adalah.org/en/content/view/9595>



Question 30. Right to education

Adalah and NCF refer the Committee to their previous report, January 2019, section on Bedouin education in Israel, pp. 10-12.

Question 31. Cultural rights

(b) Promotion of cultural diversity and preservation of cultural heritage sites of various peoples, cultures, civilizations and religions

The response of the SoI to the LoI fails to provide any information on the promotion (or lack thereof) of the cultural rights of the Arab minority in Israel, including the Bedouin. In relation to the preservation of cultural sites, Israel's response states merely that within the Council for the Preservation of Israel Heritage Sites "there is a division charged with preserving historically significant buildings to different populations, including Arabs, Circassians and others." Further information in Annex I to Israel's response to the LoI fails to provide specific information about actions taken or public funding designated to the preservation of the many culturally and historically significant sites of the Palestinian minority in Israel. This lack of information is an indication of the ongoing neglect of such sites by the State.

(c) Promotion of linguistic diversity within Israel; the situation of the Arabic language in education

As Table No. 28 of Annex I to Israel's responses to the LoI of Issues states, the annual budget for the High Institute for the Arabic Language was just NIS 1,450,000 (USD \$402,800) for the year 2019, a paltry figure given that Arabic is the mother tongue of Palestinian citizens of Israel, a group which numbers about 1.5 million people or around 20% of the total population of the state and includes the Bedouin in the Naqab/Negev. Coupled with the demotion of the Arabic language from an official language of the state to a language with an undefined "special status" via the Basic Law: Israel – The Nation-State of the Jewish People in 2018, the state's failure to invest in the promotion of the Arabic language clearly reveals its lack of commitment to fulfil the cultural and linguistic rights of the Arab minority in Israel.