

Adalah's Case List: Coronavirus and Human Rights

Petitions pending before the Israeli Supreme Court – as of 2 June 2020

Adalah filed 10 petitions before the Israeli Supreme Court (ISC) since mid-March 2020, four of which remain pending, in three main areas: (i) ensuring access to health care; (ii) promoting dignified life, and (iii) promoting the rule of law and separation of powers. Four of the seven cases challenge the government's authority to continuously decree Emergency Regulations regarding the coronavirus epidemic without the oversight of the Knesset.

I. Ensuring access to health care

1. 21 May 2020 – Demanding isolation structures and a coronavirus action plan appropriate for Arab Bedouin women living in unrecognized villages in the Naqab

Adalah, on behalf of eight women's rights groups, the Regional Council for the Unrecognized Villages in the Naqab, the Negev Coexistence Forum and the Arab Center for Alternative Planning filed a petition to the ISC against the Ministries of Interior, Health and other authorities, demanding suitable isolation conditions for Arab Bedouin women living in the unrecognized villages, in order to comply with Health Ministry recommendations during the coronavirus pandemic. The petitioners asked for temporary buildings to be placed in two unrecognized villages: Al Zarnooq, with about 5,000 residents and Al Zaarora with about 2,600 residents, and a plan to meet the needs of other villages, home to over 70,000 people. Adalah argued that: (1) the women do not have the conditions for isolation in their homes; (2) there are no suitable options for isolation in their villages; and (3) social norms would prevent the women from staying in hotels outside their villages, as the state suggested. Without such isolation buildings, the women and their families remain without protection against the spread of the virus. Adalah supported the petition with an affidavit from a Bedouin women's rights expert, and another affidavit from a social worker who conducted a survey of 67 Bedouin women in the two villages to identify their needs in this regard. The petitioners argued that the respondents' failure to provide suitable isolation centers violates the women's constitutional rights to the life and health, and that statutory law imposes an obligation on the state to provide preventive health services equally, which in this case mandates that special measures be taken to meet the needs of this distinct sub-group. No hearing date set.

Case Citation: HCJ 3301/20, Adalah et. al v. Ministry of Interior et al (case pending)

2. 7 May 2020 - Protecting prisoners in overcrowded Gilboa prison from coronavirus outbreak

Adalah filed an urgent petition to the Israeli Supreme Court (ISC) demanding that Israeli authorities take all necessary actions to protect the 450 prisoners - classified as "security prisoners" by the Israel Prison Service (IPS), overwhelmingly Palestinians - being held in the overcrowded Gilboa prison from a COVID-19 outbreak. Overcrowding in Israeli prisons is a grave danger to the health and lives of prisoners and hinders any measures being undertaken to prevent the spread of the virus, especially directives relating to social distancing. Adalah argued that the IPS and the Public Security Ministry had failed to implement Health Ministry guidelines regarding the conditions required to prevent the spread of coronavirus among Palestinian prisoners in Gilboa Prison. Adalah also demanded that the IPS publish detailed information – in Arabic and on a daily basis – on the health status and conditions

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of the prisoners related to coronavirus, and any de facto measures that have been taken. To date, the IPS has not published any information on the situation of prisoners and coronavirus. The ISC ordered the IPS and the state to respond, and the IPS did. No hearing date set. [PRESS RELEASE](#).

Case Citation: HCJ 2904/20, Adalah et. al. v. Israel Prison Service, et. al. (case pending)

3. 8 APRIL 2020: Access to coronavirus testing for Palestinians living in Jerusalem behind the Separation Wall

Success: In response to Adalah's urgent ISC petition, Israeli health authorities opened clinics and testing centers via the Clalit HMO in the Shuafat refugee camp and Kufr Aqab neighborhoods starting on 14 April 2020. A clinic was also opened in Silwan. Later, drive-in centers were opened, as requested in the petition, at the entrance of both Kufr Aqab and the Shuafat refugee camp so that the residents of the area could be tested without the need to cross the checkpoint into Jerusalem. Adalah is following closely with the residents to make sure that their needs regarding health care and coronavirus tests are fulfilled. [PRESS RELEASE](#)

Adalah filed the urgent ISC petition, in coordination with the Civic Coalition for Palestinian Rights in Jerusalem, demanding coronavirus testing for Palestinians living in Kufr Aqab, the Shuafat refugee camp and adjacent neighborhoods. 150,000 Palestinians with Israeli-issued Jerusalem ID cards who live in these areas located beyond the Israeli separation wall have no access to coronavirus testing. Officially these neighborhoods are part of the jurisdiction of the Jerusalem Municipality, and thus, the Israeli Health Ministry is responsible for the ensuring the health and well-being of these residents. The Palestinian health ministry is not allowed to give them any services. The petition was filed on behalf of Adalah, the Chairman of the Northern Neighborhoods Committee (Kfar Aqab), four residents of Kfar Aqab, and four NGOs in the Shuafat refugee camp: the Palestinian Child Center, the Feminist Center, the Al Quds Association for Training and Special Education, and the Youth Center. [PRESS RELEASE](#)

Case Citation: HCJ 2471/20, Adalah et al. v. Ministry of Health

4. 1 APRIL 2020: Access to coronavirus testing Bedouin citizens of Israel living in the Naqab

Adalah filed an urgent petition to ISC demanding that the state establish coronavirus drive-in test centers for Bedouin villages in the Naqab (Negev) or, alternately, a mobile testing center. Adalah also called for allocation of additional ambulances in Naqab as current emergency medical vehicles were only sufficient to provide partial services. Petition filed on behalf of Adalah, the High Follow-Up Committee for Arab Citizens of Israel, the Arab Doctors Association in the Naqab, the Negev Coexistence Forum for Civil Equality (NCF), and the Regional Council for Unrecognized Villages in the Naqab (RCUV). The state responded to the petition citing certain medical criteria and need, and Adalah replied. On 14 April, the Court dismissed the petition ruling that it did not want to intervene in the allocation of resources. However, two of three justices stated that since the allocation of resources is not clear and dependent on daily developments, the state should consider if circumstances oblige it to provide more tests to Bedouins living around Roads 25, 31 and 80 (failing to also note Road 40). Further, the Court wrote that based on the state's response from 5 April, it appears that there are more solutions for Naqab residents. [PRESS RELEASE](#)

Case Citation: HCJ 2359/20, Adalah et. al. v. The Prime Minister

II. Promoting dignified life

5. 10 May 2020 - Demanding equitable emergency budgets for Arab towns to mitigate severe COVID-19 financial damages

Success: Adalah, on behalf of the National Committee of the Heads of Arab Local Authorities in Israel, filed a petition to the ISC demanding equitable budgets for Arab municipalities to mitigate financial damages caused by the coronavirus crisis. On 7 April 2020, the Knesset amended the Basic Law: State Economy to approve an emergency budget allocation, but the government provided aid to local councils for loss of commercial municipal taxes without considering the loss of residential taxes, resulting in discrimination against Arab municipalities. Arab towns lack industrial zones and business complexes, and the bulk of their income comes only from residential property taxes. According to these formulas, Arab municipalities were slated to receive **just 1.7 percent** of aid provided to all municipalities nationwide, while Arab citizens comprise **20% of the population**. Adalah argued that this budget criteria would lead to severe economic harm and to a potential financial collapse of Arab towns, jeopardizing the provision of essential public services. After filing the petition, officials from the Ministries of Interior and Finance held talks with the National Committee, and throughout this process, Adalah continued to provide to legal advice. Ultimately, the authorities agreed to increase budgets to Arab towns to an amount almost equivalent to that which was demanded in the petition, and the Knesset Finance Committee confirmed NIS 200 million (or US \$57.2 million) as a result of this legal action. [PRESS RELEASE](#).

Case Citation: *HCI 2936/20, The National Committee of the Heads of Arab Local Authorities v. The Prime Minister, et. al.*

6. 12 APRIL 2020 – Cancelling emergency regulations allowing the dismissal of pregnant women from employment with a permit from the Labor Ministry

Success: Adalah, on behalf MK Aida Touma Sulieman (Joint List), the Chairwoman of the Knesset's Special Committee on Welfare and Labor Affairs, filed an urgent petition to the Israeli SCT against the Emergency Regulations that were approved on 6 April. These regulations allow employers to put pregnant women, women undergoing fertility treatments, and women on maternity leave and 60 days after their return to work, on unpaid leave without obtaining a special permit from the Labor Ministry, in violation of The Employment of Women Law – 1954.

On 17 April, the Israeli government cancelled this emergency regulation, and contended that after the dismissal of these women from their jobs, there was no longer any need for it. On 19 April, the Knesset and the State Attorney's Office sought the dismissal of the petition without a court hearing. However, Adalah demanded to proceed with the hearing, emphasizing that thousands of women were harmed by the illegal regulation. At the end of full-day SCT hearing held on 20 April, the SCT ordered the Israeli authorities to appear before the Knesset's Special Committee on Welfare and Labor Affairs on 27 April to determine solutions for these women. The Committee began its work and examined a few solutions, after questioning representatives of the Ministry of Welfare and the National Insurance Institute. Women harmed by this emergency regulation can appeal. [PRESS RELEASE](#) 1 (14 April), [PRESS RELEASE](#) 2 (20 April), [PRESS RELEASE](#) 3 (22 April)

Case Citation: *HCI 2486/20 MK Aida Touma Sulieman and Adalah v. The Prime Minister (Court joined HCI 2499/20, The Women's International Zionist Organization (WIZO) et al. v. The Prime Minister)*

7. 5 APRIL 2020 – Demanding distance learning, education rights for 50,000 Bedouin pupils in the Naqab

Adalah filed a petition to the ISC demanding access to computers and internet for children in unrecognized and newly-recognized Bedouin villages in Naqab (Negev) region in order to enable them to learn during the coronavirus period. Thousands of Palestinian Bedouin children in Naqab (Negev) villages are not connected to electricity or internet, and most do not have computers. Since school was closed on 15 March due to the coronavirus, their right to education has been denied. The petition was filed on behalf of Adalah, the Follow-up Committee for Arab Education, the Regional Council for Unrecognized Villages in the Naqab, the National Association of Arab Parents' Committees for Education, the Negev Coexistence Forum, Hamleh - The Arab Center for Social Media Development, and five children living in the unrecognized villages. The Court ordered the state to respond by 26 April, and then granted an extension of time, which Adalah opposed, until 5 May. The right-wing organization, *Regavim*, sought permission to submit an *amicus curiae* legal opinion against the petitioners' demands. The ISC held a hearing on 20 May, and while thousands of Bedouin children have not returned to school, the court dismissed the petition because the government declared a return to school. The ISC recommended that the petitioners pursue their claims with the new Education Minister and if not resolved within three months, to return to court. Some of the schools that serve these children contend that they cannot reopen because they cannot meet the Health Ministry's guidelines, while others are located in coronavirus "hot spots" where schooling has not resumed. [PRESS RELEASE](#)

Case Citation: HCJ 2398/20, Adalah et. al. v. The Prime Minister, et. al

8. 26 MARCH 2020 – Demanding right to counsel for prisoners

Adalah, Addameer: Prisoner Support and Human Rights Association, and Attorney Abeer Baker petitioned the Israeli SCT demanding the cancellation of emergency regulations that ban prisoners held by Israel from meeting with lawyers and families; and demanding access to telephone communications. A hearing was held on 2 April 2020. As the court did not issue any decision following the hearing, on 20 April Adalah submitted a motion for a temporary injunction, and a request for an "order to show cause" and for another hearing. On 22 April, the SCT asked the state and the IPS to reply to two suggestions: if the IPS would allow a prisoner to contact his/her family if: (1) he/she was diagnosed or sick or in quarantine; and/or (2) for Ramadan. The court did not issue any question or ruling regarding meetings or phone calls with attorneys. On 3 May, the state replied to the court's suggestions; they agreed and accepted the suggestions, excluding 90 prisoners from Gaza). The court did not issue any suggestions or a ruling regarding meetings or phone calls with attorneys. Another hearing was held on 28 May and Adalah continued to demand an injunction freezing the regulations. No decision. The Knesset is considering a newly-proposed law to ban visits for one year. [PRESS RELEASE](#)

Case Citation: HCJ 2282/20, Attorney Abeer Baker, et. al. v. The Prime Minister (case pending) (joined with HCJ 2280/20 Nawal Ghanem et. al v. Israel Prison Service)

III. Promoting the Rule of Law and the Separation of Powers

9. 5 APRIL 2020: Challenging the power of the executive to issue emergency regulations

The Joint List and Adalah filed a petition to the ISC (on 5 April) maintaining that the government had no authority to issue Emergency Regulations to confront coronavirus pandemic and that all actions must be conducted via legislature in accordance with the Basic Law: The Government. Immediately after filing the case, the SCT gave the state 14 days to respond. However, on 6 April, the AG informed the Prime Minister that, in his view, there were constitutional problems with the government's continuous approval of Emergency Regulations regarding the coronavirus, and that it contradicted the rule the law. [PRESS RELEASE](#) (6 April) The ISC held a hearing on this case before an expanded

panel of five justices on 7 May 2020. While the court criticized the government's continued use of emergency regulations, even noting that it impossible to know what the law is as the publication of the regulations is often delayed, it did not issue any decision to date.

Case Citation: *HCJ 2399/20, Adalah and the Joint List v. The Prime Minister (case pending)*

10. 18 MARCH and 5 APRIL 2020 – Challenging the legality of Shin Bet (GSS) cellphone surveillance of citizens, both coronavirus patients and the location of persons who were in their vicinity

Success: The Joint List and Adalah submitted a petition to the SCT (18 March) against the Prime Minister, the Shin Bet, Israeli police, and Health Ministry demanding the cancellation of Emergency Regulations authorizing the police and the Shin Bet to track and monitor the location data of Israeli citizens via their cellphones, those who are coronavirus patients and persons who were in their vicinity. Adalah argued that the government had no legal authority to decree these Emergency Regulations, without the Knesset, pursuant to the Basic Law: The Government, and that the regulations disproportionately violated the constitutional rights of citizens. Following a SCT hearing, Adalah achieved a partial success in that the SCT issued an interim injunction limiting these practices, and on 19 March, the Knesset resumed its activities and established an oversight committee to examine and supervise the implementation of these measures. The court on 24 March cancelled the injunction based on the AG's claim that the state fulfilled the courts' orders. [PRESS RELEASE 1](#) (18 March), [PRESS RELEASE 2](#) (19 March)

The Joint List and Adalah filed an amended petition to the SCT (5 April) demanding the cancellation of Emergency Regulations authorizing the police to exploit the cellular location data of Israeli citizens; the amendment to Emergency Regulations expanding the powers of the Shin Bet to participate in the national effort against coronavirus; and the government's 31 March 2020 resolution which extends the Shin Bet's powers under the General Security Services Law (2002) to gather private information on Israeli citizens and residents as part of efforts to combat the coronavirus pandemic. A hearing on the petition was held in the SCT on 16 April 2020. The case was the first to be broadcast live on the Supreme Court's website [PRESS RELEASE 3](#) (5 April)

On 26 April, the ISC decided on the petition, accepting Adalah's argument that the GSS Law does not allow the government to authorize the Shin Bet to extend their actions beyond those relating to national security. Thus, there was no legal authority for the Israeli government to use the Shin Bet for surveillance of citizens during the coronavirus pandemic, and that the government and the Shin Bet must be subject to the rule of law. This decision is a milestone as, for the first time, the Court recognized restrictions on the Shin Bet's powers pursuant to the GSS Law (2002). However, although the Court recognized the illegality, it also gave the government and the Knesset time to propose and pass specific legislation on this matter, and during this interim period, the Shin Bet was allowed to continue to act. **The Supreme Court's decision ([Hebrew](#)) ([English](#))**

On 30 April, the Knesset Subcommittee for Intelligence and Secret Services voted to approve a governmental decision authorizing the Shin Bet to continue the program for another week. Adalah sent a letter to the Committee Chairman, the AG and others on the same day protesting that the government's extension of the program and the subcommittee's approval of it does not amount to the beginning of a legislative process and directly contradicts the 26 April Supreme Court ruling. A new bill to amend the GSS Law and to allow the continue of tracking by the Shin Bet has been proposed and is being considered by the Knesset.

Case Citation: *HCJ 2109/20, Adv. Shahar Ben Meir v. Knesset; HCJ 2135/20, ACRI v. Prime Minister, HCJ 2141/20, Adalah and the Joint List v. The Prime Minister, et. al and HCJ 2187/20, The Journalists' Union in Israel v. Prime Minister)*

Read: [Adalah's paper: Initial analysis of the Shin Bet coronavirus cellphone surveillance case](#)