

Adalah's Case List: Coronavirus and Human Rights

Petitions pending before the Israeli Supreme Court – as of 4 May 2020

Adalah filed seven petitions before the Israeli Supreme Court since mid-March 2020, three 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) 8 APRIL 2020: Access to coronavirus testing for Palestinians living in Jerusalem behind the Separation Wall

Success: In response to Adalah's urgent Israeli Supreme Court (SCT) 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](#) (14 April)

Adalah filed an urgent Israeli SCT 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](#) (8 April)

Case Citation: *HCJ 2471/20, Adalah et al. v. Ministry of Health (case pending)*

(2) 1 APRIL 2020: Access to coronavirus testing Bedouin citizens of Israel living in the Naqab

Adalah filed an urgent petition to Israeli Supreme Court (SCT) demanding that the state establish coronavirus drive-in test centers for Palestinian Bedouin villages in the Naqab (Negev) or, alternately, a mobile test center. Adalah also called for allocation of additional ambulances in Naqab as current emergency medical vehicles 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

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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 Palestinian 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: H CJ 2359/20, Adalah et. al. v. The Prime Minister (case dismissed 14 April 2020)

II. Promoting dignified life

(3) 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. [PRESS RELEASE](#) 1 (14 April), [PRESS RELEASE](#) 2 (20 April), [PRESS RELEASE](#) 3 (22 April)

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

(4) 5 APRIL 2020 – Demanding distance learning, education rights for 50,000 Bedouin pupils in the Naqab

Adalah filed a petition to Israeli SCT 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. More than 50,000 Palestinian Bedouin children in Naqab (Negev) villages are not connected to electricity or internet, most don't 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; no decision yet from the court. [PRESS RELEASE](#)

Case Citation: H CJ 2398/20, Adalah et. al. v. The Prime Minister, et, al (case pending)

(5) 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). Adalah will reply in the coming days. The court did not issue any suggestions or a ruling regarding meetings or phone calls with attorneys. [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

(6) 5 APRIL 2020: Challenging the power of the executive to issue emergency regulations

The Joint List and Adalah filed a petition to the Israeli SCT (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 SCT will hold a hearing on this case before an expanded panel of five justices on 7 May 2020.*

Case Citation: HCJ 2399/20, Adalah and the Joint List v. The Prime Minister

(7) 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 SCT 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 powers of the Shin Bet pursuant to the GSS Law (2002). As history has shown, however, the Shabak has often intervened in civilian issues, particularly regarding Palestinians, whose individual, cultural and political lives have been a constant target of surveillance and repression. Here, 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 may continue to act. [The Supreme Court's decision](#) (Hebrew)

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.

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](#)