



**NGO Pre-Sessional Report to the UN Committee on the Elimination of Discrimination Against Women (CEDAW) for the List of Issues Prior to Reporting on Israel at the 68<sup>th</sup> Session**

Submitted by Adalah - 1 July 2016

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Adalah is pleased to submit this report to the UN CEDAW to assist it in preparing a List of Issues Prior to Reporting ahead of its review of Israel at its 68<sup>th</sup> Session. This report provides information on the urgent issues of discrimination against **Palestinian Arab women citizens of Israel** and Israel's lack of compliance with its commitments under the Convention on the Elimination of All Forms of Discrimination against Women.

**ARTICLE 2: Policy of eliminating discrimination against women**

**A. New legislation**

In its 2011 Concluding Observations on Israel (para. 4), the Committee referenced a 2008 amendment to the Statistics Ordinance as a positive law reform for its requirement for state statistics to be segregated by gender. Notably, however, the amendment fails to address the frequent **lack of specific data on Arab Palestinian women and girls** who are citizens of Israel from many relevant surveys, statistical reports and other sources of data gathered, processed and published by the state.

Further in its 2011 Concluding Observations, the Committee noted that Israel had provided information on Arab women citizens of Israel<sup>1</sup> in its previous (fifth) periodic report (para. 46); however, the state does not consistently publish data on this group, even when it concerns issues of direct concern to them. And the 2008 amendment to the Statistics Ordinance does not require state agencies to fill this specific gap. It is a major omission, since Arab women face specific obstacles and different and/or more severe problems than those facing Jewish women citizens of Israel, which can be masked or overlooked.

Palestinian Arab women citizens of Israel are a disadvantaged group who face multiple forms of discrimination. Specific, complete and reliable data on their socio-economic conditions and civil-political status is a prerequisite of accurate analysis of the impact of laws and state policies and practices on them, and essential to efforts to protect and advance their enjoyment of the rights guaranteed by the Convention.

It is additionally important that Arab citizens of Israel – and Arab women in particular – be consistently included in relevant data surveys because of their status as a national, homeland minority that makes up about 20% of Israel's total population. Despite their status as a minority group under international law, they do not enjoy the protection of Israeli law as members of a minority. Israel has yet to include the fundamental right to equality and freedom from discrimination – including equality between Jewish and Arab citizens of the state – in the Basic Law: Human Dignity and Liberty (1992). On the contrary, this Basic Law emphasizes the character of the state as a Jewish state.

One of the results of this lack of protection in the law is the state's lack of consistent data-gathering on Arab women citizens of Israel, including Bedouin women, who are among the most disadvantaged groups

<sup>1</sup> Adalah is critical of the term 'Israeli Arab', as used by the Committee in its last set of Concluding Observations, preferring 'Arab and/or Palestinian citizens of Israel', as do most members of the Arab Palestinian minority in Israel.

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of women and girls. Around 200,000 Bedouin living in the unrecognized villages in the Naqab (Negev) desert in southern Israel are routinely and deliberately excluded from state-published statistics. A recent example of such an omission is found in a report released in 2014 by the National Insurance Institute (NII) on *Poverty and Social Gaps*.<sup>2</sup> According to the report, poverty rates among Jewish families in Israel remained virtually unchanged between 2013 and 2014, at 13.6%. By contrast, poverty rates among Arab families in Israel rose by around 5% over the same period to 52.6%, the largest increase recorded among any population group. **Critically, the poverty rates cited for Arab families in Israel in the Poverty Report excludes data for the Bedouin population, the most impoverished group in Israel, including women and girls.**<sup>3</sup> As a result, the state underestimates the true rate of poverty among the Arab minority.

**The data collected by the Central Bureau of Statistics (CBS), on which the NII relies for calculating the rate of the incidence of poverty, has not included the Bedouin population in its expenditure surveys since 2012.** The CBS claims that it has difficulty in surveying this population group; however, the report does state that the poverty rate among Bedouin families is estimated to be around twice as high as the overall poverty rate.<sup>4</sup> Despite this fact, the state is not gathering data on this marginalized group.

#### **B. Lack of a constitutionally guaranteed right to equality**

As the Committee noted in its 2011 concluding observations, Israel has yet to include the right to equality – including equality between men and women and between Jewish and Arab citizens of Israel – and the prohibition of both direct and indirect discrimination in its Basic Law: Human Dignity and Liberty (1992). On the contrary, this Basic Law emphasizes the character of the State as a Jewish State. As a result, the fundamental right to equality and freedom from discrimination, a cornerstone of international human rights law, is not enshrined as a constitutionally-protected right in Israel.

While the State argues in its fifth periodic report (para. 27) that this Basic Law comprises the right of equality, through the right to human dignity, this fundamental right is currently protected by judicial interpretation alone. However, the importance of the principle of equality requires that it be explicitly guaranteed in the Basic Laws or in a written constitution. The absence of an explicit guarantee of the right to equality in the Basic Laws or even in ordinary statutes diminishes the power of this right and leaves the Palestinian minority in Israel in general, and Palestinian women citizens of Israel in particular, vulnerable to discrimination. The implementation of the right to equality may vary from case to case, depending on the Israeli Supreme Court's interpretation of the facts and the law. In its 2011 Concluding Observations on Israel (para. 11a), the Committee called on Israel to include in its legislation "a specific right of non-discrimination on the grounds of sex, and a definition of discrimination that encompasses both direct and indirect discrimination and discrimination in the public and private spheres, in conformity with article 1 of the Convention." The UN Human Rights Committee, in its 2014 Concluding Observations also called on Israel "to explicitly incorporate the principle of equality and non-discrimination" into its Basic Law: Human Dignity and Liberty.<sup>5</sup>

Although ordinary statutes do provide protection for the right of equality for women, such as The Women's Equal Rights Law – 1951, which declares total gender equality, no statute guarantees the right to equality for Palestinian citizens of Israel, including Palestinian women, who often face compound discrimination on the basis of the sex and nationality. The Palestinian minority faces severe discrimination in all fields. Numerous laws, decisions and policies favor or prioritize Israeli Jewish

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<sup>2</sup> The National Insurance Institute (NII), *Poverty and Social Gaps, Annual Report*, 2014 (in Hebrew): [http://www.btl.gov.il/Publications/onr\\_report/Documents/onr2014.pdf](http://www.btl.gov.il/Publications/onr_report/Documents/onr2014.pdf)

<sup>3</sup> Id. p. 14.

<sup>4</sup> Id.

<sup>5</sup> UN Human Rights Committee, "Concluding observations on the fourth periodic report of Israel," CCPR/C ISR/CO/4, 21 November 2014, para. 7.

citizens on the basis of their national belonging, and/or exclude or discriminate against Palestinian citizens either directly or in their application. Moreover, in the past few years, attempts to pass a bill that would enshrine Israel's status as a Jewish state and grant a constitutional right to self-determination only for Jews have intensified.<sup>6</sup> Legal challenges launched against such discriminatory measures are weakened by the lack of a constitutionally-guaranteed right to equality.

#### **Case Study: Few Arab women citizens of Israel on the boards of directors of governmental corporations**

The Israeli Supreme Court dismissed a petition in 2003 demanding that the state fully implement affirmative action laws providing for equal representation of women (passed in 1993) and adequate representation of the Arab population on the boards of governmental corporations (passed in 2000).<sup>7</sup> The court concurred with the State's contention that it was difficult to find suitable Arab candidates for board positions,<sup>8</sup> although the petition included a list of over 70 qualified Arab professionals, women and men. **Thus, despite these affirmative action laws, in 2014 only 2% of sitting board members of governmental corporations were Arab women citizens of Israel, down from 2.7% in July 2009.**<sup>9</sup> Overall, in 2014, 9% of these board members were Arab citizens, while 44% were women in total.<sup>10</sup> Therefore, there is clear discrimination against Arab citizens, women and men. Further, while Israeli Jewish women's representation increased from 7% to 42% between 1994 and 2014, there was very little improvement in the representation of Arab women, which has remained near-static. This case illustrates the problem of interpretation in practice, and how the effect of the lack of a constitutionally-guaranteed right to equality can be particularly detrimental to Arab women.

## **ARTICLE 10: Discrimination in education**

### **A. Dropout rates**

In its 2011 Concluding Observations (para. 34), the Committee expressed its concern that "Arab and Bedouin women and girls remain in a disadvantaged and marginalized situation, including with regard to drop-out rates and access to institutions of higher education."

Dropout rates remain a critical concern, especially among Arab Bedouin women in the Naqab, where the state's investment in the education of all children, including girls, is lowest. For example, the Bedouin village of Al-Fur'a has no local high school and has high dropout rates as a direct result. According to a 2014 survey by Adalah of 375 children who were enrolled in the village's middle school (at 9<sup>th</sup> grade), only 205 subsequently attended high schools in neighboring towns (at 10<sup>th</sup> grade), i.e. **the dropout rate stands at 45%.** In addition, others drop out before the 9<sup>th</sup> grade. The rate of dropping out is higher among girls than boys in the village, though the problem severely affects children of both sexes. Many Bedouin families do not permit girls to travel for long distances outside of their village to attend school, and thus it is incumbent upon the state to provide actual, on-site access to education.

According to the CBS, in 2013/2014, 91.5% of Arab girls were in schools at the age of 17, compared to 97.8% of Jewish girls (and 85% of Arab boys and 90.5% of Jewish boys).<sup>11</sup> However, the extremely high

<sup>6</sup> See, e.g., Hassan Jabareen, "The Real Debate over Israel's 'Jewish-Nation State' Bill, *The Nation*, 29 January 2015: <https://www.thenation.com/article/real-debate-over-israels-jewish-nation-state-bill/>

<sup>7</sup> The Governmental Companies Law (1975), which was passed in 1993, requires equal representation for all women in Israel on the boards of directors of government-owned companies. Amendment 11 to the same law, passed in June 2000, states that, "In the board of directors of governmental companies, adequate representation will be given to the Arab population."

<sup>8</sup> HCJ 10026/01, *Adalah v. Prime Minister et al* (decision delivered 2 April 2003).

<sup>9</sup> Gil Kalian, "The profile of new directors," *Calcalist*, 12 March 2014 (in Hebrew): <http://www.calcalist.co.il/local/articles/0.7340.L-3626406.00.html>

<sup>10</sup> Id.

<sup>11</sup> Central Bureau of Statistics (CBS), "Students in 7-12 grades, by age, sex and population group," Table 8.22, 10 September 2015: [http://cbs.gov.il/reader/shnaton/templ\\_shnaton\\_e.html?num\\_tab=st08\\_22&CYear=2015](http://cbs.gov.il/reader/shnaton/templ_shnaton_e.html?num_tab=st08_22&CYear=2015)

dropout rate in the Bedouin villages is not reflected in the state's data on national dropout rates **as the CBS stopped gathering data on the unrecognized villages in 2012 (see section on New Legislation, above).** As a result, dropout rates among Arab girls are significantly underestimated.

### ***B. Inadequate provision of preschool education***

The discrimination and marginalization faced by Bedouin children, and especially girls, begins at the very earliest stages, at preschool. In dozens of Bedouin villages in the Naqab, three- and four-year-old children are going without any preschool education – in violation of the law – while the majority of their peers throughout the country are receiving an early education suited to their age and needs. The resulting gaps do not close over time and leave about 5000 Bedouin children at a distinct disadvantage, with lifelong detrimental effects. While almost all Israeli Jewish children enter the educational system at the age of three, higher numbers of Palestinian Arab children citizens of Israel, and particularly Bedouin children living in the Naqab, are not integrated into any educational framework at this age.

Israel's Compulsory Education Law (1949) provides that children of compulsory age are “entitled to free elementary education at an official educational institution.” In recognition of the importance of early childhood education, Amendment 16 to the law, enacted 32 years ago in 1984, lowered the age of free and compulsory education from five to three years of age. However, the government repeatedly postponed the law's full implementation, until it finally entered into force in the 2015-2016 school year.

Parents are therefore now obliged to send their children to schools from the age of three. This development is good news for many parents as it removes the financial burden of sending their children to private preschools. However, the state has failed to remedy the severe shortage of school places and resources needed to implement the law on the ground in many Arab towns and villages, perpetuating inequality of opportunity in education.

According Education Ministry data, in the years 2010-2014, the number of Arab children in preschools throughout the country was significantly lower than that of Israeli Jewish children.<sup>12</sup> Hence in 2014, around 95% of four-year old Jewish children attended preschools compared to 85% of Arab children.<sup>13</sup> The percentages of Bedouin three- and four- year-old children who attended preschool are much lower, standing at just 25%.<sup>14</sup>

#### **Case study: No preschools in Unrecognized Bedouin Village of Alsira in the Naqab**

Adalah is representing families from Alsira before the Administrative Court in Beer Sheva to compel the Education Ministry and the al-Qasoun Regional Council to provide preschools for the children of Alsira, either in the village itself, or in the neighboring town of Kseiffe via state-funded transportation.<sup>15</sup> There are around 21 children aged three or four in Alsira but the state has rejected demands to provide preschools due to the unrecognized status of the village. Adalah argued that the children's right to education cannot be conditioned on the status of their village, and that the state's use of children as a means of pressuring their families to leave their homes was illegal.

<sup>12</sup> See the State Comptroller's Report on the implementation of the education reform and reducing the gaps in early childhood education, Annual Report 65C (2015) (in Hebrew): [http://www.mevaker.gov.il/he/Reports/Report\\_290/5045ba10-eab6-401d-baf0-b95553fa1da4/65C-215-ver-3.pdf](http://www.mevaker.gov.il/he/Reports/Report_290/5045ba10-eab6-401d-baf0-b95553fa1da4/65C-215-ver-3.pdf)

<sup>13</sup> Id. p. 888.

<sup>14</sup> Based on data gathered by Adalah. See Adalah, “Inequality of Opportunity in Early Childhood Education: The case of 3- and 4-year-old Palestinian Arab children in Israel,” May 2015, Table 1, p. 3:

<http://www.adalah.org/uploads/Position-Paper-Early-Childhood-Education-Eng-May-2015.pdf>

<sup>15</sup> Administrative Petition 4749-05-16 (Be'er Sheva Administrative Court), *Ibrahim Alalamour v. The Ministry of Education and Al-Qasoun Regional Council*, petition filed 2 May 2016.

In 2006, Adalah succeeded to persuade the court to cancel demolition orders issued by the state against most homes in Alsira. The court found that the village “was built long ago, before the establishment of the state” and ruled against the forced displacement of the population. As Adalah contended in the petition, despite the cancellation of the demolition orders, which effectively constitutes recognition of the villagers’ right to live in their homes, the authorities continue to marginalize the children by denying them access to preschool. A hearing on the case has been scheduled for 11 July 2016.

### **C. Unequal funding of Arab education**

The discrimination against Arab and Arab Bedouin children in Israel in education is a persistent problem that stems from a lack of investment and unequal funding of separate Jewish and Arab education systems. Despite lower levels of educational achievement among Arab students at all stages of education – indeed Israel has the largest gaps in student achievement among all OECD countries, with Arab students scoring an average of 133 fewer points than Jewish student in the 2012 PISA tests<sup>16</sup> – investment in their schooling is less than their higher-achieving Israeli Jewish counterparts receive, as the following data indicates. The data is distributed according to five categories of educational achievement among school students: low, medium-low, medium, medium-high, and high.

In the Israeli Jewish education sector, students with lower levels of educational achievement receive extra funding to improve their performance. In Arab schools, however, students of different educational levels receive very similar amounts of funding. **The following tables also reveal that the gaps in investment between Arab and Jewish students increases over the course of their education**, at 23.6% in favor of Israeli Jewish students among low-achieving elementary school children, a figure which rises to 48.5% at junior high school level, and reaching 67.6% at high school level.

*Table 1. Funding for state-recognized elementary schools, per pupil, 2013/2014, in NIS<sup>17</sup>*

Level of educational attainment	Jewish	Arab	Gap	Gap as %
Low	19,431	15,715	3,716	23.65%
Low-medium	17,478	15,137	2,341	15.47%
Medium	16,275	14,145	2,130	15.06%
Medium-high	14,725	14,493	232	1.60%
High	12,632	0	—	—

*Table 2. Funding for state-recognized middle schools, per pupil, 2013/2014, in NIS<sup>18</sup>*

Level of educational attainment	Jewish	Arab	Gap	Gap as %
Low	24,852	16,736	8,116	48.49%
Low-medium	21,539	16,592	4,947	29.82%
Medium	19,784	16,335	3,449	21.11%
Medium-high	17,535	0	—	—
High	15,795	0	—	—

*Table 3. Funding for state-recognized high schools, per pupil, 2013/2014, in NIS<sup>19</sup>*

Level of educational attainment	Jewish	Arab	Gap	Gap as %
Low	31,446	18,757	12,689	67.65%

<sup>16</sup> Yarden Skop, “Israel Has Largest Gaps in Student Achievement of All OECD Countries, Study Shows,” *Haaretz*, 2 April 2014: read more: <http://www.haaretz.com/israel-news/.premium-1.583201>

<sup>17</sup> The Knesset Research and Information Center, “Data on the allocation of the Ministry of Education’s budget to schools by sector,” 17 December 2015, p. 7 (in Hebrew). The data excludes Jewish religious schools.

<sup>18</sup> Id. p. 10.

<sup>19</sup> Id. p. 13.

Low-medium	28,044	19,528	8,516	43.61%
Medium	25,849	19,176	6,673	34.80%
Medium-high	24,155	16,024	8,131	50.74%
High	21,323	18,660	2,663	14.27%

## **ARTICLE 11: Discrimination in employment**

### ***A. Employment rates***

When Israel joined the Organisation for Economic Co-operation and Development (OECD) in 2010, it committed to reducing the economic disparity between Jewish and Arab citizens of Israel. However, the employment rate among Arab citizens of Israel, and in particular among Arab women, remains extremely low relative to other groups. While the percentage of **employed Arab women** in Israel has increased slowly over time, it remains extremely low, at 24.8% (of Arab women aged 15+) in 2015.<sup>20</sup> The comparable figure for Jewish women is 62.4%. 60.1% of Arab men (aged 15+) were employed in 2015, as were 66.8% of Jewish men; notably, it was only among Arab women that the employment rate fell from the previous year (24.9% in 2014).<sup>21</sup> In 2014, Arab women also recorded the **highest unemployment rates** among labor force participants – 9.6% – compared to 5.7% of Jewish women, 7.0% of Arab men, and 5.6% of Jewish men.<sup>22</sup>

Those Arab women who do work **earn less per hour** (21% less) than Israeli Jewish women and are more likely to retire earlier.<sup>23</sup> They are disproportionately represented in the unskilled labor force, and professional workers are heavily concentrated in education and healthcare services, which together employ 36% of the total number of working Arab women.<sup>24</sup> They are almost completely **absent from the high-tech industry** (in which Israel is a world leader), accounting for less than 0.5% of all high-tech workers; Arab workers, men and women, make up just 1.3% of all high-tech workers combined.<sup>25</sup>

The poor integration of Arab women in the labor force can be explained in large part by the ineffectiveness to date of governmental action to dismantle structural barriers to their employment,<sup>26</sup> most significant among which are:

- Relatively low levels of educational achievement;
- Limited employment opportunities within Arab towns and villages;
- Poor accessibility to public transportation in Arab towns and villages;
- Discrimination against Arab citizens in hiring in the private and the public sectors, including employment conditioned on the performance military/civilian service;

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<sup>20</sup> Central Bureau of Statistics, Labour Force Survey Data, December, 4<sup>th</sup> Quarter and Annual Data of 2015, 31 January 2016, p. 10 (in Hebrew).

<sup>21</sup> Id. pp. 9-10.

<sup>22</sup> Central Bureau of Statistics, *Statistical Abstract of Israel 2015*, Table 12.1, 10 September 2015.

<sup>23</sup> Eran Yashiv and Nitsa Kasir (Kainer), *The Labour Market of Israeli Arabs*, Centre for Economic Policy Research, Policy Insight No. 78, February 2015, pp. 4, 7.

<sup>24</sup> Eran Yashiv and Nitsa Kasir (Kainer), *The Labour Market of Israeli Arabs*, Centre for Economic Policy Research, Policy Insight No. 78, February 2015, p. 6.

<sup>25</sup> Melanie Lidman, “Why barely 1 in 5 Israeli Arab women works, and how high-tech can fix that,” *The Times of Israel*, 8 March 2016: <http://www.timesofisrael.com/why-barely-1-in-5-israeli-arab-women-works-and-how-high-tech-can-fix-that/>

<sup>26</sup> This conclusion was also reached by Israel’s State Comptroller, who found that the government’s efforts to integrate Arab citizens into the workforce were ineffective and deficient. He further found that Arab citizens experience ongoing discrimination in employment and criticized governmental initiatives aimed at tackling the issue, stating that they lacked long-term planning and adequate financial management. See “The State Comptroller’s Report on Governmental Measures to Integrate Arabs into the Workforce, *Annual Report* 66C, May 2016 (in Hebrew): <http://www.mevaker.gov.il/he/Reports/Pages/537.aspx>

- The dominance of Hebrew in many workplaces; and
- Inadequate provision of daycare centers for children in Arab localities.<sup>27</sup>

#### **B. Under-representation in the civil service**

The Israeli government has further failed to address the low representation of Arab citizens in the civil service, particularly Arab women. Adalah found no cohesive process or plan aimed at raising the proportion of Arab women in the civil service. **As of 2014 Palestinian citizens of Israel in total held just 8.9% of civil service positions (short of the government's 10% target by 2012), with Arab women comprising only around 1.8% of the total.** By contrast, the proportion of Israeli Jewish women in the civil service has risen significantly. Adalah found that the affirmative action laws regarding the adequate representation of women in the civil service were implemented effectively in regards to Jewish women, but that there was no similar implementation of these provisions for Arab women, either through the law for improving women's representation or the law for improving representation of Arab citizens of Israel in general.<sup>28</sup> To date, Arab women have fallen through the gaps of targets to increase the representation both of women, which have overwhelmingly benefitted Jewish women, and of Arab citizens, which have disproportionately benefitted Arab men. Without specific affirmative action measures aimed at increasing the numbers of Arab women in the civil service, their representation is therefore unlikely to improve.

Indeed, the percentage of Arab workers who made up the total of newly hired workers in the public sector declined, from 14.3% in 2012 to 12.5% in 2014.<sup>29</sup> This lack of a concerted effort is particularly detrimental to Arab women: the gender gap between Arab men and women newly hired in the civil service actually increased between 2012 and 2014, when Arab women accounted for 37.4% of newly-hired Arab workers, down from 44.8% two years earlier.<sup>30</sup> Further, Arab workers are extremely underrepresented in key ministries, constituting just 3% of the staff of the Finance Ministry, 4% of the Ministry of Housing and Construction, and 2.8% of the Health Ministry in 2014.<sup>31</sup> Fifteen government ministries and administrative units had no Arab workers whatsoever, and Arab citizens of Israel in general and Arab women in particular are scarce at the levels of management and directorship.<sup>32</sup>

#### **ARTICLE 14: Rural women**

##### **A. Forced eviction and home demolitions of rural Bedouin women**

The Committee in its 2011 concluding observations (para. 29) urged Israel to “revoke its policies allowing for and refrain from the practice of force eviction and house demolitions”, and to “review its housing policy and issuance of construction permits” in order to protect the right to adequate housing and the right to family and private life for Arab women in Israel. The Committee also called on Israel (para. 45b) to “respect the Bedouin population’s right to their ancestral land and their traditional livelihood”.

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<sup>27</sup> While Arab children in Israel aged 3 years and under constitute around 23.5% of the age group, only 4.4% of state-recognized daycare centers were located in Arab towns and villages in 2014. Id. p. 49.

<sup>28</sup> Under Article 15a(a) of the Civil Service Law (Appointments) – 1959, which stipulates that government ministers must ensure appropriate representation of both women (amendment dated 1995) and the Arab population (amendment dated 2001). Sawsan Zaher, “Ensuring Appropriate Representation of Arab Women in the Civil Service in Israel,” March 2013: <http://adalah.org/Public/files/English/Newsletter/102-March2013/Sawsan-Zaher-Arab-Women-Civil-Service-03-13.pdf>.

<sup>29</sup> Sikkuy, “Calcalist: The Civil Service Commission resumes publishing reports: The state has failed to integrate Arabs into the public sector,” 9 December 2015: <http://www.sikkuy.org.il/wp-content/uploads/2015/12/Civil-Service-Commission-is-reporting-again-on-Arabs-in-the-civil-service-Calcalist-9.12.15-ENGLISH.pdf>

<sup>30</sup> Id.

<sup>31</sup> Id.

<sup>32</sup> Id. A notable recent hiring is Arab Attorney Mariam Kabha, who was selected to head the Equal Employment Opportunity Commission, making her the highest-ranking Arab woman in the Israeli civil service.

Five years later, however, the state has not only refused to heed these recommendations, but has actively intensified these discriminatory practices against the Arab Bedouin in the Naqab.

#### Case Study: Court-approved eviction of Bedouin village of Atir–Umm al-Hiran in the Naqab

This case provides a stark illustration of Israel’s policy of forced displacement. For over a decade, the state has been trying to demolish this unrecognized village and to evict its 1,000 Bedouin residents in order to expand a man-made forest called “Yatir” and build a new Jewish town called “Hiran” over their ruins.<sup>33</sup> The Israeli Jewish citizens slated to move to the new town are camped in a makeshift trailer park in the Yatir Forest, supplied with electricity, water and even recycling systems, services that have never been provided to the residents of Atir–Umm al-Hiran. In May 2015, the Israeli Supreme Court rejected Adalah’s petition on behalf of the families to cancel the eviction orders against the village; and in January 2016, the Court rejected a motion to reconsider the decision.<sup>34</sup>

The Supreme Court’s ruling is significant because **it legalizes the forcible displacement of citizens from land on which they have been living for 60 years**, while the Court itself acknowledged as non-trespassers. In this case, the Israeli military government moved the community from their ancestral land in 1956 to their current location. The state provided no essential public purpose to move the people again, except for an explicitly discriminatory purpose: to settle Israeli Jews in the area. The ruling gives the state the broadest legal scope for destroying the 35 rural, unrecognized villages throughout the Naqab and displacing these communities.<sup>35</sup> About 90,000 to 100,000 Bedouin citizens live in 35 unrecognized villages and in the 13 newly-recognized villages (legalized since the early 2000s), around half of whom are women and girls. As a result of this decision, tens of thousands of Bedouin women and their families are effectively living under a heightened threat of forced eviction.

The Israeli authorities have **intensified demolitions of Bedouin homes and property** in recent years to ‘encourage’ entire communities to relocate to seven government-planned townships in the Naqab. According to official figures obtained the Negev Coexistence Forum from the Southern Directorate of Land Law Enforcement, **between 2013 and 2015, 2,752 structures were demolished**; of these 62% by owners (“self-demolitions”) and 38% by state authorities. Close to 8% were demolished by the state without a warrant.<sup>36</sup> **“Self-demolitions”** are the direct result of oral threats by state authorities to pressure Bedouin residents into destroying their own homes. Residents are told that unless they demolish their own homes, they will be charged for the costs of the bulldozing and/or eviction, which can amount to tens of thousands of Israeli shekels.<sup>37</sup> In addition to the physical and financial damages, these self-demolitions are emotionally distressing and have a severe psychological impact on Bedouin women and children.<sup>38</sup>

Due to their unrecognized status – even though most existed prior to the state’s establishment or were created by the state itself – the Bedouin residents in the unrecognized villages **cannot acquire building permits or obtain plans for housing**, forcing them to build illegally. In addition, residents of the 13 newly-recognized Bedouin villages continue to find it extremely difficult to obtain building permits or

<sup>33</sup> Adalah, “Nomads Against their Will: The Examples of Atir-Umm el-Hieran”, September 2011: <http://www.adalah.org/eng/publications/Nomads%20Against%20their%20Will%20English%20pdf%20final.pdf>

<sup>34</sup> (Supreme Court) Appeal 3094/11, *Ibrahim Farhood Abu al-Qi'an, et al. v. The State of Israel* (decision delivered 5 May 2015); and (Supreme Court) Further Civil Hearing 3959/15, *Ibrahim Farhood Abu al-Qi'an, et. al. v. The State of Israel* (decision delivered 17 January 2016). See also Adalah, “Supreme Court refused to reconsider decision to demolish Bedouin village of Atir–Umm al-Hiran and evict all residents, 17 January 2016: <http://www.adalah.org/en/content/view/8729>

<sup>35</sup> Adalah, “The Dangerous Implications of the Atir–Umm al-Hiran Ruling”, updated February 2016: <http://www.adalah.org/uploads/Dangerous-Implications-SCT-Atir-Umm-al-Hiran-updated-Feb-2016.pdf>

<sup>36</sup> Negev Coexistence Forum, “Enforcing Distress: House Demolition Policy in the Bedouin Community in the Negev”, June 2016: [http://www.dukium.org/wp-content/uploads/2016/06/HDR\\_2016\\_ENG-1.pdf](http://www.dukium.org/wp-content/uploads/2016/06/HDR_2016_ENG-1.pdf)

<sup>37</sup> Id.

<sup>38</sup> See Nora Gottlieb, “Reconstruction: The voices of Bedouin-Arab women on the demolition of their homes in the unrecognized villages of the Negev,” *HAGAR Studies in Culture, Polity and Identities* vol.8 (2) 2008: 83-108.

expand their municipal borders due to the state's concerted efforts to minimize the amount of land inhabited by the Bedouin. In contrast, the state retroactively legalizes homes built by Israeli Jewish citizens in the Naqab and continues to allow the construction of homes, even those built without permits or plans.<sup>39</sup> Further, the state's deliberate negligence of the seven government-planned townships have resulted in the highest poverty and unemployment rates in the country, high crime rates, and other social-economic problems that make them undesirable to the residents of the rural Bedouin villages.<sup>40</sup>

### **B. Denial of basic services: Health and water**

The Committee's 2011 concluding observations (para. 39) called on Israel to "take all necessary measures to ensure women's access to health care and health-related services" and to "close the gaps in the infant and maternal mortality rates of Jewish, Israeli Arab, and Bedouin women and children." The Committee also urged the state to "eliminate discrimination against Bedouin women... including in the fields of education, employment and health" (para. 45a). Five years later, however, the state continues to **fail to provide basic services** to Bedouin citizens of Israel living in unrecognized and newly-recognized villages, including health, education, housing, water, sanitation, electricity, public transportation and infrastructure. The state often disingenuously argues that it is difficult to provide services to these remote areas, even though it has consistently supplied Jewish citizens with services and infrastructure throughout the Naqab; some "individual settlements" or single-family farms, which were retroactively legalized by the state, are even located close to Bedouin villages. The aim of this policy is to force the Bedouin to abandon their lands.

This policy has a severe impact on the health of Bedouin women and their families. There are few medical clinics – including mother and child clinics – to provide health services, some of which have been subject to arbitrary closure and only reopened following repeated legal intervention by Adalah.<sup>41</sup> Neither emergency medical services nor public transport connects to or accesses these villages. Almost no specialists such as gynecologists or pediatricians work in the Bedouin villages, and women and their families instead must travel long distances to reach the closest clinics or hospitals in other towns. These structural conditions, among other factors, are the **main contributors to the very high infant mortality rates** among the Bedouin in the Naqab. Overall, the rate of infant mortality among Arab citizens of Israel is 6.4 per 1000 live births, almost **three times** that among Israeli Jewish citizens, which stands at 2.2, according to state data for the year 2014.<sup>42</sup> It is **six times higher** among the Bedouin in the Naqab, where it reached 13.6 in 2010, according to Physicians for Human Rights-Israel, a rate that is comparable to that in many third-world countries.<sup>43</sup>

A particular area of concern is **the violation of the right to water for Bedouin women and their families**, including water for drinking, cooking, cleaning, agricultural use and sanitation infrastructure.<sup>44</sup> None of the unrecognized Bedouin villages are connected to the national water network; residents are

<sup>39</sup> The Negev Individual Settlements-Negev Development Authority Law, Amendment No. 4 (2010) allows for the retroactive recognition of dozens of Jewish individual settlements/farms in the Naqab, which were established without permits and contrary to planning laws.

<sup>40</sup> Negev Coexistence Forum, "Accessibility of public and private services in Arab localities, and institutionalized discrimination against Arab public sector employees in the Negev," 2013: [www.dukium.org/eng/wp-content/uploads/2011/06/racial-discrimination\\_English\\_2013.pdf](http://www.dukium.org/eng/wp-content/uploads/2011/06/racial-discrimination_English_2013.pdf)

<sup>41</sup> See Adalah, "Health Ministry Reopens Mother & Child Clinic in Unrecognized Village of Wadi al-Nam," 24 November 2011: <http://adalah.org/eng/Articles/1580/Following-Adalahs-Petition:-Ministry-of-Health-in>

<sup>42</sup> "In Israel, infant mortality rate 3 times higher among Arabs," *The Times of Israel*, 6 April 2016: <http://www.timesofisrael.com/in-israel-infant-mortality-rate-3-times-higher-among-arabs/>

<sup>43</sup> Dan Even, "Israeli Bedouin Women Lack Access to Prenatal Care," *Haaretz*, 24 April 2011: <http://www.haaretz.com/israeli-bedouin-women-lack-access-to-prenatal-care-1.357807>

<sup>44</sup> Negev Coexistence Forum, "Damaging the Right to Water of the Residents of the Unrecognized Bedouin Villages", 10 December 2014: [http://www.dukium.org/eng/wp-content/uploads/2011/06/water\\_position\\_paper.pdf](http://www.dukium.org/eng/wp-content/uploads/2011/06/water_position_paper.pdf)

instead compelled to purchase and transport water from private suppliers, in what is an extremely expensive and time-consuming process. The water is stored in metal tanks and containers for days on end, exposed to inclement weather and the accumulation of algae, resulting in unsanitary conditions that pose a real health risk. Further, many of the newly-recognized villages have only one central water connection station in their communities, and so residents are forced to lay pipelines and infrastructure at their own expense in order to bring water to their homes. **The Israeli Supreme Court has refused to recognize the equal right to water of Bedouin citizens in unrecognized villages.** In February 2013, the court rejected a petition to connect the village of Umm al-Hiran to the national water network, ruling that the village's current source of water – bought from a private citizen 4 kilometers away and at exorbitantly high prices – constituted “sufficient access”.<sup>45</sup> The decision contradicted a 2011 landmark ruling by the court that all citizens of Israel, regardless of their legal status, possess the right to “minimal access” to water, though it did not clarify what constituted minimal access.<sup>46</sup> In effect, the court did not acknowledge Bedouin citizens’ right to be provided with water by the state, due to their residence in unrecognized villages, thereby sanctioning the violation of Bedouin women’s basic rights.

## **ARTICLE 16: Discrimination in marriage and family relations**

### **The Citizenship and Entry into Israel Law (Temporary Order) – 2003**

This flagrantly discriminatory law continues to ban family unification in Israel, with certain exceptions, between Palestinian citizens of Israel and their spouses who are residents of the OPT and certain Arab and Muslim countries classified by Israel as “enemy states”, based entirely on the spouse’s nationality. In June 2016, the law was extended again and is valid until 30 June 2017. In its 2011 Concluding Observations (paras. 24 and 25), the Committee called on Israel to reconsider its policies “with a view to facilitating family reunification of all citizens and permanent residents.” Numerous other UN human rights treaty bodies, including the HRC, the CRC, the CERD, and the CESCR have repeatedly criticized the law, and called on Israel to revoke it and to facilitate family unification.<sup>47</sup>

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<sup>45</sup> (Supreme Court, Civil Appeal) CA 2541/12 *Salib Abu al-Qian v. The Government Authority for Water and Sewage* (decision delivered 20 February 2013). See also Adalah, “Supreme Court refuses water to unrecognized Bedouin village Umm el-Hieran,” 25 February 2013: <http://adalah.org/eng/Articles/1924/Supreme-Court-Refuses-Water-to-Unrecognized-Arab>

<sup>46</sup> (Supreme Court, Civil Appeal) C.A. 9535/06, *Abdullah Abu Musa'ed, et al. v. The Water Commissioner and the Israel Lands Administration* (decision delivered 5 June 2011).

<sup>47</sup> In 2014, the UN Human Rights Committee called on Israel to “revoke the law” (para. 20 (CCPR/C/ISR/CO/4); in 2013, the UN Committee on the Rights of the Child (CRC) expressed concern that thousands of Palestinian children are deprived of their right to live and grow up in a family environment with both of their parents or with their siblings and that thousands live under the fear of being separated because of the severe restrictions on family reunifications.“ The CRC also recommended that Israel revoke the law (para. 49 and 50 (CRC/C/ISR/CO/2-4); in 2012, the CERD also called on Israel to revoke the law, and to “facilitate family reunification of all citizens irrespective of their ethnicity or national or other origin” (para. 18 (CERD/C/ISR/CO/14-16). The CESCR also called on Israel in its concluding observations in 2011, “to guarantee and facilitate family reunification for all citizens and permanent residents irrespective of their status or background, and ensure the widest possible protection of, and assistance to, the family” (para. 20 (E/C.12/ISR/CO/3).