

**Adalah** The Legal Center for Arab Minority Rights in Israel  
عدالة المركز القانوني لحقوق الاقلية العربية في اسرائيل  
עזאלה המרכז המשפטי לזכויות המיעוט הערבי בישראל



## **Adalah's Report to**

# **The UN Special Rapporteur on the Right to Adequate Housing NGO Report**

**Re: SPATIAL SEGREGATION IN ISRAEL**

Submitted 3 June 2021  
[Updated December 2021]

**P.O. Box 8921 Haifa 31090 Israel Tel: (972)-4-950-1610 Fax: (972)-4-950-3140**  
חיפה 31090, ס.ב. 8921 هاتف 04-9501610 فاكس 04-9503140  
חיפה 31090, ת.ד. 8921 טלפון 04-9501610 פקס 04-9503140  
**Email: [adalah@adalah.org](mailto:adalah@adalah.org) <http://www.adalah.org>**

## **Background**

Adalah – The Legal Center for Arab Minority Rights in Israel (Adalah) submits this report in response to a call for inputs from March 2021 and questionnaire from April 2021 issued by the UN Special Rapporteur on the Right to Adequate Housing, seeking material to inform his upcoming thematic reports to the UN Human Rights Council and the General Assembly on spatial segregation.<sup>1</sup> Adalah participated in the public consultation with civil society organizations held by the Special Rapporteur on 12 April 2021, and many of Adalah’s remarks were included in his summary report, which is published on the website of the Special Rapporteur.<sup>2</sup>

Adalah (“Justice” in Arabic) is an independent legal center and human rights organization that works to promote human rights in Israel in general, and the rights of the Palestinian Arab minority, citizens of Israel, in particular. Adalah additionally works to defend the human rights of other individuals subject to the jurisdiction of the State of Israel, in particular residents of the 1967 Occupied Palestinian Territory (OPT, comprised of the West Bank, including East Jerusalem, and the Gaza Strip). Adalah’s responses to the Special Rapporteur’s questions are based on its longstanding and ongoing work. Adalah has maintained UN ECOSOC status since 2005.

This report focuses on the main systematic policies and practices of spatial segregation enforced by the State of Israel within the Green Line between Palestinian citizens of Israel (PCI) and Israeli Jews. This report first reviews laws, policies, and practices that created, and continue to maintain, spatial segregation that affects all PCI. The report then considers the specific case of Palestinian Bedouin in the Naqab (Negev), with an emphasis on policies and practices of spatial segregation enforced to maintain separation between the Bedouin PCI and Jewish Israeli citizens in that area.<sup>3</sup>

### **1. Basic Facts: Palestinian citizens of Israel**

During the Palestinian Nakba (“Catastrophe”) of 1948, more than 750,000 Palestinians fled, or were forced to flee, from their homes as Zionist military forces threatened and attacked

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<sup>1</sup> See: [https://www.ohchr.org/EN/Issues/Housing/Pages/CFI\\_Segregation.aspx](https://www.ohchr.org/EN/Issues/Housing/Pages/CFI_Segregation.aspx)

<sup>2</sup> Ibid.

<sup>3</sup> While spatial segregation also exists in the 1967 Occupied Palestinian Territory (OPT) and in the Occupied Syrian Golan Heights, this report does not cover these areas.

Palestinian areas, destroying 500 Palestinian villages. Just 150,000 Palestinians remained in their homeland. These Palestinians became citizens and an involuntary minority group in the newly-established State of Israel (SoI).

Considered a national, ethnic, linguistic, and religious minority under international human rights law (IHRL), PCI today number approximately 1.6 million people, roughly 20% of Israel's population. PCI are a component part of the wider Palestinian people, the majority of whom reside in the OPT or are dispersed around the world; within the far-flung diaspora are millions of refugees. PCI reside primarily in three areas: the Galilee in the north, the Triangle in the center, and the Naqab (Negev) in southern Israel. By religion, PCI include Muslims (83%), Christians (9%) and Druze (8%). All speak Arabic as their native language.

PCI, as non-Jews, have faced institutionalized discrimination from the SoI since its 1948 inception. As a self-defined Jewish state, Israel has made maintaining a Jewish majority a central pillar of its population, settlement, and demographic-engineering policies. Furthermore, the SoI consistently has distributed state resources in a discriminatory manner that favors Jewish Israelis, further disadvantaging PCI as compared to Jewish Israeli citizens. Thus, the SOI has pursued policies of land confiscation, home demolitions, forcible displacement and segregation against PCI continuously for over seven decades. Finally, the SoI consistently has exerted concerted efforts to erase the identity and collective memory of PCI, as well as to limit their rights in multiple spheres.<sup>4</sup>

## **2. Racial segregation as deliberate state policy**

The SoI has pursued policies of segregation since its establishment. Between 1948 and 1966, it imposed military rule on PCI within their own towns and villages, where the majority still live today. Military rule severely limited PCIs' freedom of movement, livelihoods, and political expression. In the larger Palestinian towns (Haifa, Acre, Jaffa, Lydd/Lod and Ramla), the few PCI who remained were concentrated into specific neighbourhoods to facilitate their surveillance and control. The military government also prevented those PCI who were internally displaced persons (IDPs) from returning to their villages, land and property. Simultaneously, the SoI passed numerous laws permitting the transfer of Palestinian land to state ownership or control, and shrinking the areas of Arab towns and villages; in total, it is

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<sup>4</sup> For more details, see Adalah, "Palestinian citizens of Israel: A Primer", 7 July 2019: <https://www.adalah.org/en/content/view/9271>

estimated that the SoI's land expropriation process led to the seizure of between 40% and 60% of the land owned by Palestinians who managed to remain in their place of origin, the PCI.<sup>5</sup> Today, 93% of the total land in the state is controlled by the SoI and major Zionist organizations, and it is classified as "Israel's land." PCI retain ownership of only 3-3.5% of the land in Israel today.<sup>6</sup>

The spatial segregation created by the Israeli military government between 1948 and that regime's formal dissolution in 1966 persists today. The country is *de facto* divided into Jewish and Arab localities, cities, towns and villages, with the exception of the "mixed cities" that include Haifa, Acre, Lod, Ramla and Natzeret Illit. The vast majority, 90%, of PCI live in around 140 Arab towns and villages, while 10% live in the "mixed cities." According to Israel's Central Bureau of Statistics (CBS), of a total of 1,054 towns and villages in Israel, 931 are defined as Jewish (88%).<sup>7</sup> Over the decades, Israel has further entrenched segregation through law and as a national policy and priority, in grave violation of its obligations under international law. Spatial segregation as it exists between Palestinian and Jewish citizens of Israel today is thus a direct result of deliberate, ongoing and explicit state policy.

a. **The Policy of Judaization**

Judaization of the land-space in Israel is a central principle of Zionism and a guiding principle of state land policy. This policy aims to create new Jewish towns and villages, particularly in areas with a Palestinian majority, and serves to entrench control over the land, its use and "demographic balance." While the SoI has established approximately 600 Jewish towns since 1948, it has not created or not permitted the establishment of a single new Palestinian city, town or village in Israel except in specific and rare instances where the state established localities in which to relocate PCI whom it forcibly displaced.<sup>8</sup>

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<sup>5</sup> Oren Yiftachel and Alexander (Sandy) Kedar, "On Power and Land: The Israeli Land Regime" (2000) 16 *Theory and Criticism*: 67-100, 79.

<sup>6</sup> Oren Yiftachel, "Lands, Planning and Inequality: The Division of Space Between Jews and Arabs in Israel," Position Paper, The Adva Center, 2000 (Hebrew).

<sup>7</sup> Israel's CBS, Statistical Abstract of Israel 2020, Table 2.16, *Localities and Population, by District, Sub-District, Religion and Population Group*: [https://www.cbs.gov.il/he/publications/doclib/2020/2.shnatonpopulation/st02\\_16x.pdf](https://www.cbs.gov.il/he/publications/doclib/2020/2.shnatonpopulation/st02_16x.pdf)

<sup>8</sup> The SoI established seven Bedouin-only towns in the late-1970s and the 1980s, and recognized 11 Bedouin villages in the late 1990s/early 2000s, all in the Naqab in the south to concentrate Bedouin who were displaced by the state in these areas. In Israel, 47 regional councils govern around 850 rural towns and villages, covering 81% of state land, although they contain only 8% of the state's population. See Israel's CBS, "Localities and other geographical divisions" (Hebrew):

Decades of discriminatory Israeli land and planning policies have minimized the amount of land on which PCI live and may build homes. Since 1948, the land area of existing Palestinian localities has *shrunk*, rather than expanded, as would be expected given the significant natural population growth among PCI during this period. This pronounced contraction in the amount of land held by PCI is a direct consequence of steady and massive expropriation of Palestinian-owned land, as well as the shifting of jurisdictional borders between existing towns and new localities, *inter alia*, for the purpose of making more land available on which to settle Jewish Israeli citizens. For example, as of 2017, the land area of Nazareth, the largest Palestinian town in Israel, with a population of around 76,000, amounts to only approximately 14,000 dunams.<sup>9</sup> In stark contrast, the nearby Jewish town of Afula, with a population of 49,000, occupies over 29,000 dunams. With roughly two-thirds the number of Nazareth’s residents, the land area of Afula is more than double.<sup>10</sup> As a result of discriminatory land planning and housing policies, Palestinian towns and villages in Israel are severely overcrowded and together hold less than 3% of the total land area of the state.

Human Rights Watch recently concluded that Judaization is used by SoI as a way “to ensure Jewish domination,” including:

‘Judaization’ of areas with significant Palestinian population, including Jerusalem, as well as the Galilee and the Negev in Israel. This policy, which aims to maximize Jewish Israeli control over land, concentrates the majority of Palestinians who live outside Israel’s major, predominantly Jewish, cities into dense, under-served enclaves and restricts their access to land and housing, while nurturing the growth of nearby Jewish communities.<sup>11</sup>

**b. The role of Zionist organizations in establishing and enforcing segregation**

The SoI works in close partnership with major Zionist institutions, including the World Zionist Organization (WZO), Jewish Agency (JA), and Jewish National Fund (JNF). Together, the SoI and these groups have dedicated enormous resources to build and develop new towns and villages, especially in the Galilee and in the Naqab, exclusively for housing Jewish Israelis,

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<https://www.cbs.gov.il/he/settlements/Pages/default.aspx?mode=MoazaEzorit>. There are only four Arab regional councils: Al-Batouf, Bustan Al-Marj, and Neve Midbar and Al-Qasoum in the Naqab.

<sup>9</sup> CBS, “Profile of Local Authorities in Israel 2017: Nazareth” (Hebrew):

[https://www.cbs.gov.il/he/publications/doclib/2019/local\\_authorities17\\_1759/243\\_7300.pdf](https://www.cbs.gov.il/he/publications/doclib/2019/local_authorities17_1759/243_7300.pdf).

<sup>10</sup> CBS, “Profile of Local Authorities in Israel 2017: Afula” (Hebrew):

[https://www.cbs.gov.il/he/publications/doclib/2019/local\\_authorities17\\_1759/278\\_7700.pdf](https://www.cbs.gov.il/he/publications/doclib/2019/local_authorities17_1759/278_7700.pdf).

<sup>11</sup> Human Rights Watch, “A Threshold Crossed: Israeli Authorities and the Crimes of Apartheid and Persecution”, 27 April 2021, available at: <https://www.hrw.org/report/2021/04/27/threshold-crossed/israeli-authorities-and-crimes-apartheid-and-persecution>

including for the absorption of new Jewish immigrants to Israel. In some areas, these Zionist organizations function as quasi-governmental agencies *in lieu* of state authorities, and operate exclusively and explicitly for the benefit of Jewish individuals, in accordance with their official mandates. The SoI has made formal agreements with these bodies and has enacted specific laws that legally empower them.

i. **Admissions Committees**

A major tool employed by the SoI to maintain spatial segregation between Jewish and Palestinian citizens is the “admissions committee”. Admissions committees are statutory bodies, authorized by the 2011 Admissions Committees Law (Cooperative Societies Ordinance - Amendment No. 8), that select applicants for housing units and plots of land in hundreds of Israeli Jewish communities in the Galilee and Naqab with almost complete discretion.<sup>12</sup> An Admissions Committee may accept or reject applicants in communities of up to 400 households, based on the arbitrary and discriminatory criterion of applicants’ “social suitability” to the “social and cultural fabric” of a community. By law, admissions committees must include a representative of the Jewish Agency or WZO.

In practice, admissions committees filter out PCI applicants, as well as persons from other marginalized groups, solely on the basis of their race, ethnicity, religion, or other identity, under the guise of their “social suitability”. While the Admissions Committees Law stipulates duties to respect the right to equality and to prevent discrimination, it also empowers these committees to reject applicants deemed “unsuitable to the social life of the community... or the social and cultural fabric of the town.” Thus, the Admissions Committees Law not only grants legitimacy to the exclusion of entire groups, but specifically authorizes the creation of bodies empowered to so discriminate. The law additionally authorizes admissions committees to adopt further criteria determined by individual communities themselves, based on a given community’s “special characteristics.”

These discriminatory provisions led Adalah and other human rights organizations to file petitions against the Admissions Committees Law. On 17 September 2014, in a 5 to 4 decision, however, an expanded panel of the Israeli Supreme Court dismissed the objecting

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<sup>12</sup> The full text of the law is available in Hebrew and English at: <https://www.adalah.org/en/law/view/494>  
These committees also operated prior to the law’s enactment.

petitions.<sup>13</sup> In upholding the law, the Supreme Court held that, “We cannot determine at this stage whether the law violates constitutional rights.” The court’s decision effectively legalized the principle of segregation in housing between Palestinian and Jewish citizens and permitted racist discrimination practices against PCI in hundreds of communities.

The decision to uphold the new law seriously undermined the Israeli Supreme Court’s landmark decision in the *Ka’adan* case delivered in 2000.<sup>14</sup> The Ka’adan family, who are PCI, applied to and were rejected by the admissions committee in the town of Katzir, prior to the enactment of the Admissions Committees Law. In this case, the Jewish Agency (JA), which had established this settlement on “state land” under its control, refused to allocate a residential plot to the Ka’adan family, emphasizing that the JA works solely for the benefit of Jewish citizens. The court ruled that because the community was established on “state land”, the principle of non-discrimination must be maintained, and that a plot of land must be allocated to the Ka’adan family. The Court’s decision to uphold the Admissions Committees Law seriously undermines this principle of non-discrimination and the prior *Ka’adan* ruling that had reinforced it.

Adalah estimates that the Admissions Committees Law applies to 434 communities in Israel that together comprise 43% of towns in the state, and that this law permits these towns to keep their gates shut to PCI. The extensive use of this mechanism, which maintains and entrenches segregation, ranks high among the most direct and severe state violations of the land and housing rights of PCI.

## **ii. The World Zionist Organization (WZO)**

The WZO’s Settlement Division was established in 1967, following a request by the SoI to build settlements in the 1967 OPT with funding from the state budget. Until 1992, the WZO worked as a part of the Jewish Agency’s Settlements Department, but focusing its operations in the OPT, whereas the latter worked only within the Green Line. In 2002, however, the WZO’s Settlement Division expanded its sphere of operations to include the Naqab and subsequently added the Galilee in 2004.

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<sup>13</sup> HCJ 2504/11, *Adalah, et al. v. The Knesset, et al.* (decision delivered 17 September 2014). Adalah press release, “Israeli Supreme Court upholds ‘Admissions Committees Law’ that allows Israeli Jewish communities to exclude Palestinian Arab citizens”, 17 September 2014: <https://www.adalah.org/en/content/view/8327>

<sup>14</sup> HCJ 6698/95, *Adel Ka’adan v. Israel Land Administration*.

A 2015 amendment to the World Zionist Organization - Jewish Agency (Status) Law (1952) allowed the government to grant the WZO's Settlement Division authority over settlement, land acquisition, as well as the establishment and expansion of development projects in Israel. On 6 September 2017, the Israeli Supreme Court upheld the constitutionality of this new amendment, rejecting a petition brought against it by Adalah and the Association for Civil Rights in Israel (ACRI).<sup>15</sup> The two human rights organizations had demanded the law's cancellation on the grounds that it allowed the government to transfer part of its land-use authorities – core authorities that should rest solely with government – to a private body that acts exclusively in the interests of Jewish Israeli citizens. While noting that the WZO was bound to abide by the principle of equality in its operations, the Supreme Court granted the state in this ruling free license to transfer governmental authority to bodies that in practice implement policies of racial segregation against PCI.<sup>16</sup>

### **iii. The Jewish National Fund (JNF)**

The JNF's Memorandum of Association establishes 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"<sup>17</sup> as the principal goal of the JNF. From 1949 to 1953, the SoI transferred approximately two million dunams of state land to the JNF. This amounts to 78% of the land currently under the JNF's control, or 13% of all the land in Israel, and consists of land appropriated from "absent" Palestinian refugees and internally-displaced PCI. The JNF restricts this land for the exclusive use of Jewish citizens.

In 2004, Adalah and other human rights organization submitted a petition to the Supreme Court demanding the revocation of a policy of the Israel Land Administration (later reconstituted as the Israel Land Authority, both abbreviated here as ILA) and related Ministry of Finance regulation that together permitted the marketing and allocation of JNF lands through bids open only to Jews.<sup>18</sup> Following the petition, on 26 May 2009, the SoI and the JNF signed the "Principles of the Agreement between the State and the JNF," a land-swap deal. According to this agreement, the JNF would cede control to the ILA of fully-developed land in the predominantly Jewish center of the country in exchange for an equal amount of land in the

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<sup>15</sup> H CJ 778/17, *Adalah and ACRI v. Knesset, the Government, the Agriculture Minister, and the World Zionist Organization's Settlement Division* (decision delivered 6 September 2017).

<sup>16</sup> *Ibid.*

<sup>17</sup> From Article 3(a)(1). The JNF's Memorandum of Association 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.

<sup>18</sup> H CJ 9205/04, *Adalah v. The Israel Lands Administration, et al.*



Naqab and Galilee, areas with significant populations of PCI. As a result, all land swapped to the ILA and allocated for housing would be administered by the ILA through bids open to all. The agreement further stipulates, however, the Israeli government's commitment to "preserving the principles of Jewish National Fund, including the ownership of land."<sup>19</sup>

In 2016, a new provision of the ILA Act was enacted that requires for six out of the 14 members of the Israel Land Council (ILC), a governmental body that determines land policies in Israel, to be JNF representatives. Adalah, The National Committee of Arab Local Authorities in Israel (also known as the Arab Mayors' Committee), and other NGOs challenged this new provision, arguing that this compulsory and significant JNF representation on the ILC was illegal because of the inherent conflict between the JNF's Zionist aims and the ILC's responsibility to manage public land resources and determine national land policies for the benefit of all citizens.<sup>20</sup> The petitioners cited from an affidavit submitted by the JNF in the 2004 *Adalah v. The Israel Lands Administration, et al.* case, cited above, which states that, "The JNF is not and cannot be loyal to the entire Israeli public. The JNF's loyalty is reserved for the Jewish people alone - for whom it was established and for whom it acts." As such, the petitioners argued that:

[I]n light of the aforementioned objectives and declarations, the JNF and its representatives cannot truly represent the interests of the entire Israeli public irrespective of nationality and/or religion, as the ILC should operate. The representation given to the JNF on the ILC will allow a body that explicitly practices discrimination and acts on behalf of the Jewish public alone, to take an active and decisive part in shaping significant and essential policies that affect the entire public and specifically the Arab public.<sup>21</sup>

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<sup>19</sup> For more information, see Adalah and ACRI's letter to the Attorney General (AG) against the ILA-JNF land swap deal, dated 9 July 2009, available in English translation at:

[https://www.adalah.org/uploads/oldfiles/newsletter/eng/jul09/Adalah ACRI letter re Israel and JNF land swap\\_july\\_2009.pdf](https://www.adalah.org/uploads/oldfiles/newsletter/eng/jul09/Adalah_ACRI_letter_re_Israel_and_JNF_land_swap_july_2009.pdf)

See also Adalah, *Makan – The Right to the City*, Spring 2006, with excerpts from the Supreme Court petition challenging the ILA's policies concerning JNF-controlled lands, and excerpts from the response by the JNF.

Adalah and ACRI sent a further letter in 2015 to the Finance Minister, the ILA and the AG demanding the cancellation of the ILA-JNF land swap agreement, following the signing of a comprehensive contract between the Israeli government and the JNF in 2015, pursuant to the 2009 agreement. See: <https://www.adalah.org/en/content/view/8724>

The petition was withdrawn in 2016, with many reservations by the human rights organizations, following the AG's announcement before the Supreme Court that Arab citizens of Israel would also be allowed to bid for land controlled by the JNF. See: <https://www.adalah.org/en/content/view/8777>

<sup>20</sup> H CJ 6411/16, *The National Committee of Arab Local Authorities in Israel, et al. v. The Knesset, et al.* (decision delivered 19 June 2018).

<sup>21</sup> *Ibid.*

Despite this inherent evident conflict, the Supreme Court dismissed the petition in 2018 based on its assertion that the mandated 43% JNF presence on the ILC did not amount to a violation of the basic right to equality and dignity. The court ruled that, even if the JNF were acting for Jewish people only, JNF representatives on the ILC are nonetheless expected to adhere to the principle of equality and, therefore, there is no inherent violation of the rights to equality or dignity of non-Jewish citizens.<sup>22</sup>

c. **Conditioning housing rights on the performance of military service**

Another mechanism used by the SoI to discriminate with regard to housing is the granting of enormous benefits to Israeli citizens who perform military service, including preferential mortgage rates. The Absorption of Discharged Soldiers Law – 1994 makes citizens who have completed military service eligible for designated government loans and subsidies, such as student scholarships. PCI are exempted from military service for historical and political reasons, and as a result are excluded from an extensive array of state benefits and programs made available only to citizens who perform military service.

In 2005, Adalah challenged state financial support provided to former soldiers for home mortgages before the Supreme Court, arguing that this support constituted discrimination against PCI.<sup>23</sup> The petition further argued that the SoI's housing benefit policy for discharged soldiers ignored the dire housing shortage facing PCI. Under the challenged governmental policy, the state provides substantial financial support in the form of low-interest governmental loans for home mortgages to Israeli citizens who have completed military or national service. This support, moreover, supplements generous financial support already provided to former soldiers for housing and other benefits under the Absorption of Discharged Soldiers Law. In its decision on the petition, delivered in 2006, the Supreme Court upheld the legality of this support, ruling that it was permissible to grant additional benefits to former soldiers above that afforded in the Absorption of Discharged Soldiers Law, provided that the use of the military

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<sup>22</sup> 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>

<sup>23</sup> HCJ 11956/05 *Suhad Bishara, et al. v. the Ministry of Construction and Housing* (decision delivered 13 December 2006).

service criterion is justified under the circumstances. The Court’s decision thus allowed the use of a criterion that severely discriminates against PCI with regard to housing.<sup>24</sup>

An additional project awarding housing benefits to those who perform military service was announced in December 2020. This project offers discounted homes on state land in Natzeret Illit exclusively to a group of career military personnel, almost all of whom are Jewish. According to the Israeli military’s housing authority, it has already completed 6,000 such housing units nation-wide through a housing development project developed on state land, and other similar projects are in the pipeline. The construction of new neighborhoods to benefit those who perform military service takes place via a network of agencies that includes the military’s manpower division, the ILA, and local municipalities, with plots earmarked for career military personnel organized into registered associations. At least 18 such active associations currently operate around the country. In February 2021, Adalah sent a letter to the Attorney General (AG) and other relevant governmental authorities demanding the termination of these projects and associated land allocations due to their illegal and discriminatory nature.<sup>25</sup> Adalah emphasized that neighborhoods established in this manner violate the right to equality and human dignity, lack legislative authority, and breach basic legal principles prohibiting residential segregation and discrimination in land allocation, and more specifically the allocation of state land.

As noted above, the military service criterion is already incorporated into existing legislation – the Absorption of Discharged Soldiers Law – that grants army veterans and reservists significant housing benefits. Thus, the cumulative effect of additional housing programs that also employ military service as a criterion for eligibility constitutes further discrimination against PCI. Rather than fulfilling the evident need for affordable housing programs to benefit the country’s citizenry as a whole, these laws and government actions widen housing availability gaps between Jewish Israelis and PCI, worsening the acute housing shortage in Palestinian towns and villages, and further entrenching pervasive spatial segregation.

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<sup>24</sup> Adalah press release, “Supreme Court Rejects Adalah’s Request for a Second Hearing on Decision Finding that the Granting of Enormous State Loans for Home Mortgages to Former Soldiers Does not Discriminate against Arab Citizens”, 27 October 2007: <https://www.adalah.org/en/content/view/6536>

<sup>25</sup> Adalah press release, “Adalah: Construction of new neighborhoods exclusively for Israeli military personnel is illegal residential segregation”, 1 March 2021: <https://www.adalah.org/en/content/view/10252>

d. **Constitutionalizing Segregation: The Basic Law: Israel – The Nation-State of the Jewish People**<sup>26</sup>

In July 2018, Israel’s legislature, the Knesset, passed primary legislation that deliberately entrenches segregation and enshrines it as a constitutional principle. Article 7 of The Basic Law: Israel – The Nation-State of the Jewish People (JNSL) reinforces the legal framework supporting ethnic and religion-based segregation within the state.<sup>27</sup> The JNSL establishes a constitutional order based on systematic racial supremacy, domination, segregation, and demographic control that amount to clear breaches of absolute prohibitions under international law. The JNSL declares an intention to racially discriminate against Palestinians in the most fundamental aspects of their lives – citizenship, property, housing and land, language, and culture – and justifies imposition of an inferior status and exclusion from the body politic for Palestinians by the sovereign in their homeland.

Article 1 of the JNSL determines that the “Land of Israel” is the historical homeland of the Jewish people, that the State of Israel is the nation-state of the Jewish people and that the realization of national self-determination in the State of Israel is the exclusive prerogative of the Jewish people. They alone possess the collective right to govern and control the territory and its inhabitants, and they alone may allocate rights to non-Jewish residents, including citizenship and residency rights. Under the law, all of former mandatory Palestine is declared the “historical homeland” of the Jewish people – and theirs alone – and they exclusively hold the right to self-determination in this territory. The JNSL thus strips Palestinians who have lived in the territory from time immemorial, irrespective of whether they are citizens of Israel or residents of the OPT, of any right to national self-determination in their homeland.

Regarding land and housing, Article 7 of the JNSL provides that, “The State views the development of Jewish settlement as a national value and will act to encourage and promote

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<sup>26</sup> The full text of the law in English is available from the Knesset’s website at:

<https://main.knesset.gov.il/EN/activity/Documents/BasicLawsPDF/BasicLawNationState.pdf>

<sup>27</sup> Adalah filed a petition against the Basic Law on 7 August 2018 to the Israeli Supreme Court on behalf of all of the Arab political leadership in Israel – the High Follow-Up Committee for Arab Citizens of Israel, the National Committee of Arab Mayors, the Joint List parliamentary faction. HCJ 5866/18, *The High Follow-Up Committee, et al. v. The Knesset, et al.* (case pending). There are 15 different petitions against the law pending before the Court. See Adalah’s designated website page for comprehensive information on the law:

<https://www.adalah.org/en/content/view/9569>

its establishment and consolidation.”<sup>28</sup> Within the Green Line, the law is likely to be used to promote the establishment of new, exclusively-Jewish towns in areas where PCI are most concentrated, including in the Naqab and Galilee. Indeed, the JNSL empowers the SoI itself to act directly as a Zionist settlement movement, akin to the long-standing role of the Jewish Agency, the WZO and JNF. In other words, by direct legislation, this law enshrines the principle of “separate and unequal” between Jewish and Palestinian citizens in the SoI.<sup>29</sup>

Article 7 also legitimizes previously-described mechanisms of segregation, such as admissions committees, benefits associated with military service, and quasi-governmental Zionist organizations performing governmental functions in lieu of state authorities. Similarly, the JNSL may provide additional constitutional backing for other discriminatory budgeting policies that prioritize the channeling of public funds to Jewish over Palestinian communities, including those that incentivize Jewish Israeli individuals to relocate to areas like the Naqab and Galilee, to consolidate a Jewish demographic majority within these areas.

Article 7 also contradicts a preexisting constitutional principle established in Israeli Supreme Court jurisprudence from the above-discussed *Ka’adan* case, in which the Court held it impermissible to discriminate between Jewish and Palestinian citizens in the use and allocation of state-controlled land. While this principle has not been implemented in practice on the ground, the new JNSL basic law fundamentally undermines it by legislating segregation as a binding constitutional norm.

In November 2018, four UN Special Rapporteurs notably expressed “deep concern” that the JNSL is “discriminatory in nature and in practice against non-Jewish citizens and other minorities and does not apply the principle of equality between citizens, which is one of the key principles for democratic political systems.”<sup>30</sup> The Special Rapporteurs also called on Israel to:

Provide further information on Article 7, and particularly whether it will or not contribute to potential segregation on the basis of ethnicity or religion, and

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<sup>28</sup> Adalah position paper, “The Illegality of Article 7 of the Jewish Nation-State Law: Promoting Jewish Settlement as a National Value”, March 2019:

[https://www.adalah.org/uploads/uploads/Position\\_Paper\\_on\\_Article\\_7\\_JNSL\\_28.03.19.pdf](https://www.adalah.org/uploads/uploads/Position_Paper_on_Article_7_JNSL_28.03.19.pdf)

<sup>29</sup> When read together with Article 1 of the JNSL, Article 7 gives State authorities the constitutional tools to further dispossess Palestinians from their land, and to expand the illegal settlement enterprise in the occupied West Bank, including East Jerusalem, and in the occupied Syrian Golan Heights. The article gives legal justification to the establishment and retroactive legalization of the settlements and gives existing annexations and laws constitutional backing; indeed, the annexation of the West Bank was a major driving force behind the law.

<sup>30</sup> See: <https://www.adalah.org/en/content/view/9626> and [https://www.adalah.org/uploads/uploads/4\\_UN\\_Spec\\_Rapp\\_communication\\_02112018.pdf](https://www.adalah.org/uploads/uploads/4_UN_Spec_Rapp_communication_02112018.pdf)

whether it is an endorsement to develop Jewish settlements, including in the Occupied Palestinian Territory, in direct violation of international law.<sup>31</sup>

Similarly, the UN Committee on Economic, Social and Cultural Rights (CESCR), in addition to its Concluding Observations to the SoI, issued on 18 October 2019, also expressed “deep concern” about JNSL’s “possible discriminatory effect,” urging the SoI to amend or repeal it in order “to eliminate discrimination faced by non-Jews in enjoying the Covenant rights, particularly rights of self-determination, non-discrimination and cultural rights.”<sup>32</sup> The UN Committee for the Elimination of Racial Discrimination (CERD), in its own Concluding Observations to the SoI, issued on 12 December 2019, also determined that the JNSL discriminated against non-Jewish people throughout Israel and the OPT and violated the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).<sup>33</sup>

As previously noted, Adalah petitioned the Israeli Supreme Court on behalf of the Palestinian political leadership in Israel in August 2018, arguing that the JNSL violated both IHRL and international humanitarian law (IHL).<sup>34</sup> In December 2020, an expanded panel of 11 Supreme Court justices convened for hearings on a series of 15 petitions filed against the JNSL; during the hearings, Israel’s AG failed to address any of the violations of international law raised in Adalah’s petition. On 8 July 2021, in a 10-1 decision, the Israeli Supreme Court upheld the JNSL.<sup>35</sup>

The SoI has repeatedly attempted to portray the JNSL as merely declarative legislation that will not have a discriminatory impact on the lives of PCI. A lower court decision from 2020 reveals a different reality, however. In that case, involving an Arab family seeking state-funded transport to school for their children from the Municipality of Karmiel (a Jewish majority town with a significant percentage of Palestinian residents), the Magistrates’ Court explicitly relied on Article 7 of the JNSL to rule that Karmiel was a “Jewish city” and not required to establish an Arabic-language school within its jurisdiction or fund transportation of Arab children to schools in surrounding communities. Indeed, the court expressed concern that such measures would provide incentives for Arab families to move to Karmiel, which could in

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<sup>31</sup> Ibid.

<sup>32</sup> UN Committee on Economic, Social and Cultural Rights, Concluding Observations on Israel, E/C.12/ISR/CO/4, 18 October 2019, para. 16 and 17.

<sup>33</sup> UN Committee on the Elimination of Racial Discrimination, Concluding Observations on Israel, CERD/C/ISR/CO/17-19, 12 December 2019, para. 13 and 14.

<sup>34</sup> HCJ 5866/18 *High Follow-up Committee for Arab Citizens of Israel v. The Knesset*, decision delivered 8 July 2021. See also Adalah press release, “Israeli Supreme Court upholds the racist and discriminatory Jewish Nation-State Law”, 8 July 2021: <https://www.adalah.org/en/content/view/10379>

<sup>35</sup> Ibid.

turn “alter the demographic balance and damage the city’s character.” Notably, while the Haifa District Court upheld the Magistrate Court’s decision, it also sharply criticized the lower court’s reasoning and reliance on the JNSL. Nevertheless, this case reveals the potentially harmful consequences of the JNSL on the ground.<sup>36</sup>

e. **The Kaminitz Law**

The SoI and planning authorities in Israel historically neglected Palestinian localities; for decades, outdated master plans for many such localities have failed to address the need for new housing units created by population growth. Discriminatory planning policies, the shrinking of the land areas held by Palestinian localities, and the dearth of public land within them, inhibit development, construction and enjoyment of the right to housing by PCI.

Given the growing housing crisis and difficulties in obtaining building permits due to outdated and inadequate master plans, including insufficient designated zones for, many PCI construct homes without official permits as a matter of practical necessity. According to the Arab Center for Alternative Planning, 15-20% of homes in Palestinian towns and villages in Israel were constructed without permits, placing between 60,000 and 70,000 structures at risk of demolition.<sup>37</sup> As of July 2015, 97% of the 1,348 judicial demolition orders in force in Israel were issued against structures located in Palestinian localities.<sup>38</sup> By contrast, according to a case review conducted by Human Rights Watch, planning authorities responded to building needs in Jewish localities by providing sufficient land and zoning permissions to facilitate their authorized growth.<sup>39</sup>

A 2017 amendment to the Planning and Building Law – 1965, also known as the Kaminitz Law, exacerbated housing insecurity faced by PCI.<sup>40</sup> The amendment aimed to increase the “enforcement and penalization of planning and building offenses.” While on its face, this amended law appears equally applicable to all citizens, in practice it has a disparate impact on PCI because it does not account for decades of systematic discrimination in state

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<sup>36</sup> Adalah Press Release, “Israeli court relies on Jewish Nation-State Law in racist ruling: Municipal funding of school busing not required for Arab kids as it would encourage Arab families to move into ‘Jewish city’”, 30 November 2020: <https://www.adalah.org/en/content/view/10191>

<sup>37</sup> As cited by Human Rights Watch, “Israel: Discriminatory Land Policies Hem in Palestinians”, 12 May 2020: <https://www.hrw.org/news/2020/05/12/israel-discriminatory-land-policies-hem-palestinians>

<sup>38</sup> See: <https://law.acri.org.il/en/wp-content/uploads/2017/02/2017.2.5-keminitz-law-position-paper-eng.pdf>

<sup>39</sup> Op. cit. Human Rights Watch.

<sup>40</sup> Adalah press release, “Knesset ‘adding insult to injury’ with approval of Kaminitz Law,” 12 April 2017: <https://www.adalah.org/en/content/view/9074>

land planning and allocation against PCI, which long ago created a severe housing shortage in Palestinian towns and villages throughout Israel.

Guided by the Kaminitz Law, the Israeli Justice Ministry approved new administrative regulations in June 2018 for imposing unprecedentedly high fines of up to NIS 300,000 (US\$ 92,000) per offense for violations of the law. In addition, this amendment may also subject homeowners to criminal charges.<sup>41</sup> Kaminitz-related fines also harm industrial and commercial projects in Palestinian towns and villages, because decades of inadequate, and in some instances, non-existent, planning in Palestinian localities has left PCI with no alternative but to develop industrial and commercial structures outside the official zoning system and policies, often in areas designated for agriculture. Moreover, these industrial and commercial enterprises provide the primary income source for many families and constitute a major tax revenue source for many local authorities.

The harsh enforcement mechanisms mandated by the Kaminitz Law thus specifically penalize PCI for planning and building offenses, since the law pays no regard to the housing crisis that the SoI created, and allowed to intensify for decades, in Palestinian towns and villages, given the often-insurmountable obstacles to obtaining building permits and the decreasing the amount of land available to PCI for housing. Thus, within the wider planning regime context, the Kaminitz Law adds to systematic preclusion of expansion and development for Palestinian localities in Israel. In the Bedouin unrecognized villages in the Naqab in particular, the entirety of this planning regime adds to other draconian and discriminatory policies, such as the state's denial of basic services, including connections to state drinking water and electricity networks, to create an insecure and intolerable living environment. Together, these factors coerce many Bedouin to abandon their homes and land and relocate to specifically-designated, racially-segregated recognized villages and townships.

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<sup>41</sup> Adalah and NCF, "Violations of the ICERD against the Arab Bedouin citizens of Israel living in the Naqab/Negev desert," 12 September 2019: <https://www.adalah.org/uploads/uploads/NCF%20&%20Adalah%20-%20UN%20CERD%20Naqab%20Submission%2012.9.19.pdf>



## **Palestinian Bedouin citizens of Israel**

### **a. Background**

The Palestinian Bedouin community, which possesses a distinct way of life and other special characteristics, constitutes an integral part of the Palestinian minority in the SoI and of the Palestinian people as a whole. These Bedouin communities have lived in the Naqab for centuries.

The SoI policy in the Naqab has been, and continues to be, guided by Zionist mythologizing of the area as a vast empty desert where Israeli Jewish citizens can settle and make “bloom”. In support of this myth, the SoI mischaracterizes the Bedouin as fully nomadic, refusing to recognize specific Bedouin tribes’ relations to specific areas of land, while forcibly relocating and urbanizing them, rejecting their land ownership and rights and initiating legal action to confiscate and register Bedouin land as “state land.”

Following the mass expulsion of Bedouin from the Naqab during the Nakba, the SoI forcibly relocated the remaining Bedouin into a specifically designated area called the *Siyag* (fence). The SoI placed the Bedouin, along with all other PCI, many of whom also had been forcibly displaced, under military rule for 18 years, until 1966. Two main policies of the SoI towards the Bedouin continue to the present day: (i) denying historical Bedouin land rights, and instead labelling the Bedouin as trespassers; and (ii) forcibly displacing and urbanizing the Bedouin, by concentrating them into a limited number of urban/semi-urban townships and recognized villages.

An estimated 258,500 Palestinian Bedouin citizens of Israel (30% of the population of the Beer Sheva District) today live in in the Naqab in three types of settlements:<sup>42</sup> seven government-planned urban townships, 11 recognized villages, and 35 villages that the SoI has refused to recognize (“unrecognized villages”). By forcibly relocating the Bedouin to urban areas and refusing to recognize those villages that have managed to remain despite concerted SoI efforts to the contrary, the SoI not only denies historical Bedouin land rights and destroys their way of life, but goes so far as to label these citizens trespassers on their own land.

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<sup>42</sup> Israeli CBS, Localities and Population, by District, Sub-District, Religion and Population Group (2.15), 31 December 2017.

The Bedouin in the Naqab register the highest levels of poverty in Israel. According to the Israeli National Insurance Institute, the poverty rate among Bedouin families stood at 58.5% in 2016. This figure actually underestimates actual poverty levels, however, because approximately 90,000 Bedouin living in “unrecognized villages” are simply excluded from the SoI’s data collection and official statistics as a matter of policy. These villages do not appear on any official maps and the SoI refers to them variously as “illegal”, “unauthorized”, “unregulated” villages or “clusters”, and to their inhabitants as “diaspora”, “criminals” and “trespassers” on state land.

Most unrecognized villages contain little or no health or educational facilities, no basic infrastructure, including connections to the national electricity grid, paved roads, or sewage systems. These villages also lack adequate connections to the water network. Due to the unrecognized status of their villages, residents are precluded from voting in municipal elections and thus have no representation in local government. Denial of basic services forms an integral part of the SoI’s policy of forced displacement. In making living conditions in the unrecognized villages so difficult, the SoI aims to coerce their inhabitants to abandon their ancestral land and relocate to the cramped state-established townships and to the recognized villages.

Many unrecognized villages have been slated for demolition by the SoI. None of the homes in these villages are deemed “legal”. Many homes even in recognized villages also are considered “illegal,” since these villages have yet to be fully planned, years after gaining recognition on paper. Instead, the SoI has diverted its resources toward supporting the establishment of new Jewish towns and villages, as well as so-called ‘individual farms’ in the Naqab, occupied by single Jewish families and covering vast tracts of state land. Some of these individual farms occupy land appropriated from Bedouin villages, as do a variety of national “development” projects that have further added to the forcible displacement of Bedouin families and the appropriation of their land.<sup>43</sup>

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<sup>43</sup> See Adalah and the Negev Coexistence Forum, “Violations of the ICERD against the Arab Bedouin citizens of Israel living in the Naqab/Negev desert”, 12 September 2019: <https://www.adalah.org/uploads/uploads/NCF%20&%20Adalah%20-%20UN%20CERD%20Naqab%20Submission%2012.9.19.pdf>

## **b. Segregation in the Naqab**

In perfectly opposed juxtaposition to the state's unrelenting efforts to concentrate the Bedouin population in a limited number of designated townships and recognized villages, the SoI has invested enormous resources into Judaizing the Naqab. In addition to the 235 (as of 2019) Jewish towns, *kibbutzim*, and *moshavim* communities that already exist in the southern district,<sup>44</sup> state authorities continue to develop plans for new Jewish localities.<sup>45</sup>

Spatial segregation in the Naqab should not be mistaken for positive state measures to protect and preserve the cultural rights of the Bedouin as a minority or indigenous people. On the contrary, urban solutions imposed on the Bedouin by the SoI destroy the traditional Bedouin way of life and serve only to further its own policy of concentrating the maximum number of Bedouin on the minimum possible area of land. This displacement and urbanization is undertaken without the Bedouin's participation, consultation or consent in the decision-making process. Indeed, these 'solutions' have been forced on the Bedouin population following intensive legal efforts to evict them and demolish their homes. Critically, the Bedouin are denied access to any other housing options outside the segregated township and recognized village spaces to which the SoI assigns them.

### **i. The Bedouin Authority**

The Bedouin Authority serves as one of the main tools of segregation in the Naqab. In July 2007, the Israeli Government established the Bedouin Authority as "an authority to regulate Bedouin settlement in the Negev". In its decision no. 1999, updated in September 2017, the SoI specified its functions, main powers, and organizational structure.<sup>46</sup> The Bedouin Authority exercises broad powers spanning diverse aspects of lives of the Bedouin in the Naqab, from controlling their land to matters of education, employment and welfare, among others. The

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<sup>44</sup> Israel's CBS, Statistical Abstract of Israel 2020, Table 2.16, *Localities and Population, by District, Sub-District, Religion and Population Group*:

[https://www.cbs.gov.il/he/publications/doclib/2020/2.shnatonpopulation/st02\\_16x.pdf](https://www.cbs.gov.il/he/publications/doclib/2020/2.shnatonpopulation/st02_16x.pdf)

<sup>45</sup> An example is Government Decision No. 3782 for the establishment of new Jewish towns in the area of Mevo'ot Arad that would require the demolition of a number of Bedouin villages, dated 30 October 2011 (in Hebrew): [https://www.gov.il/he/Departments/policies/2011\\_des3782](https://www.gov.il/he/Departments/policies/2011_des3782)

<sup>46</sup> See the Government's decision of 15 July 2007 to establish the Bedouin Authority, updated 18 September 2017 (in Hebrew): [https://www.gov.il/he/departments/policies/2007\\_des1999](https://www.gov.il/he/departments/policies/2007_des1999)

Bedouin Authority is empowered to operate in all of the recognized Bedouin townships and villages, in addition to the unrecognized villages.

Since its establishment, the Bedouin Authority has functioned on the ground as a distinct governmental institution that deals exclusively with Palestinian Bedouin. While other citizens and their municipalities engage directly with governmental agencies and ministries, Palestinian Bedouin in the Naqab and their recognized municipalities must engage directly with the Bedouin Authority, which has a say in all governmental decisions relating to the Bedouin. In and of itself, this separation poses a danger to equal rights and treatment, even more so in light of the rationale behind the Bedouin Authority's establishment. According to the decision, the authority's main purpose is "arranging Bedouin settlements in the Negev", which in practice entails taking all necessary steps to forcibly displace and evacuate the population of the unrecognized villages.

The Authority and its leadership operate within the same framework that guides the Sol's overall policy towards Palestinians in the Naqab. This framework starts from the assumption that Palestinian Bedouin are "invaders" of the land and "trespassers" whom the state must evict from state land and concentrate in limited designated areas. In 2017, Yair Maayan, Director of the Bedouin Authority, made openly racist comments against the Bedouin community, clearly revealing his views. In a recording obtained by the Israeli news site *Maariv Online*, Maayan referred to the residents of Bir Haddaj, a recognized village, as thieves of state land.<sup>47</sup> The German *Süddeutsche Zeitung Magazin* similarly quoted Maayan referring to the Bedouin as "thieves". According to the magazine, he stated that, "Traditional land acquisition agreements are worthless.... Instead of putting these thieves in jail, we will give them a piece of land as a gift. It is a good deal and if the Bedouin refuse, the police will force them."<sup>48</sup> Maayan's statements are alarming, given that he is the official in charge of a governmental body that governs most aspects of Bedouin lives in the Naqab.

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<sup>47</sup> Yasser Okbi, "Did the Director General of the Bedouin Development and Settlement Authority in the Negev call the Bedouin 'thieves'?" *Maariv* (Hebrew), available at: <https://www.maariv.co.il/news/israel/Article-580229>

<sup>48</sup> *Süddeutsche Zeitung Magazin*, no. 12, 24 March 2017, p. 18, available in German at: [https://www.obert.de/fileadmin/user\\_upload/text/pdf/Israel\\_SZ\\_Magazin.pdf](https://www.obert.de/fileadmin/user_upload/text/pdf/Israel_SZ_Magazin.pdf)

In January 2019, the Bedouin Authority announced a plan to evict 36,000 Palestinian Bedouin citizens for purposes of “economic development projects” and the expansion of military training areas.<sup>49</sup> These plans include, but are not limited to, the following:<sup>50</sup>

- **An industrial zone in Ramat Beka** encompassing an area of 11,283 dunams. This plan endangers the homes of thousands of Bedouin in the Naqab from the villages of Abu Qrinat, Umm Mitnan, Wadi el-Mashash, Wadi al-Na’am, Sawaween, and Abu Tlul. Tellingly, when the lack of adequate alternative housing solutions was raised in the context of objections raised to the plan, the responsible planning authorities referred the question to the Bedouin Authority, but then simply adopted the Bedouin Authority’s position as their planning position, without further investigation.
- **Extending Road 6 highway** further south, over an area of approximately 21,000 dunams, threatening thousands of Bedouin homes in the villages of Al-Mas’adiya, El-Zrin, Khirbet al-Watan, Bir al-Hamam, Wadi Al-Khalil, Khashem Zane, Sawaween, al-Shabi, Wadi al-Na’am, and Wadi el-Mashash.
- **Establishing military training zones** in the Naqab by clearing tens of thousands of dunams, including the land of villages al-Baqiya’a, Western Al-Bat, and other residential areas north of Road 31 up to the town of Arad.
- **The Beer Sheva-Arad railway**, slated to stretch over approximately 4,700 dunams, limiting possibilities for the development of Kuseife, Ar’ara, and Al-Fur’a, endangering homes in unrecognized villages al-Za’arura, Ghaza, al-Mazra’a, Katamat and Al-Bhira and cutting off 16 access roads to these villages. The planning committee recently rejected Adalah’s objection to this plan, and a subsequent motion to appeal was also rejected.
- **The Dimona-Yeruham railway**, planned to stretch over 3,400 dunams, threatening the homes of residents of the unrecognized village of Rakhma.

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<sup>49</sup> Adalah press release, “Israel announces massive forced transfer of Bedouin citizens in Negev”, 30 January 2019: <https://www.adalah.org/en/content/view/9677>

<sup>50</sup> Adalah has challenged most of these plans before Israeli planning authorities and Israeli courts, often together with Bimkom – Planners for Planning Rights in Israel. Some of these objections and cases remain pending. See Adalah’s joint report with NCF for more details: “The Negev Coexistence Forum and Adalah: Violations of the ICERD against the Arab Bedouin citizens of Israel living in the Naqab/Negev desert”, 12 September 2019: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fNGO%2fISR%2f37260&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCERD%2fNGO%2fISR%2f37260&Lang=en)

- **A high-voltage power line**, extending across 18,200 dunams and endangering the homes and land of thousands of Bedouin in the villages of al-Ser, Wadi al-Na'am, and Wadi al-Mashash.
- **A planned phosphate mine plan in Sde Barir and Zohar South**, covering 26,000 dunams, endangering the homes of thousands of Palestinian Bedouin in the village of Al-Fur'a and in the unrecognized villages Al-Zarura, Ghaza, and Katamat, including by creating sanitation and health hazards that will adversely impact residents of these villages. On 11 October 2021, the Supreme Court ruled on petitions, including a petition filed by Adalah, that the construction of the phosphate mine in Sde Barir must be reconsidered based on the results of a new environmental impact survey.<sup>51</sup> Although the Court's ruling means that the plan may be cancelled in the future, the decision's immediate implications on the development of the recognized village Al-Fur'a remain unanswered.
- **Eviction procedures** currently at various stages of completion in the villages of Ras Jrabah (evacuation orders for the expansion of Dimona. Adalah represents the villagers in this pending case) and evacuation warnings in the villages of al-Baqiya, Elbat Elgharbi, and Elsir.

These so-called 'development plans' have all been deliberately planned to take place on, or near, Bedouin village land. Not only do these plans directly induce displacement of the Bedouin, but the affected communities – in both recognized and unrecognized villages – are not included as beneficiaries of these plans. For example, a new master plan that seeks to double the length of a railway connecting Beer Sheva to Dimona (and, in future, continuing to Eilat), does not include any station accessible to Bedouin villages, while adversely affecting these villages through home demolition and displacement, pollution and other health risks.

In the context of, and in response to, these plans, the Bedouin Authority initiated the construction of "refugee displacement camps" in 2019 designed to house tens of thousands of Bedouin citizens, whom the state plans to "urgently" evict from their homes in unrecognized

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<sup>51</sup> H CJ 512/19 *Younes Dhabsha v. The National Council for Planning and Building* (decision delivered 11 October 2021). Adalah submitted the petition to the Supreme Court on 21 January 2019, together with 168 residents of Al-Fur'a, the Regional Council of Unrecognized Villages of Negev (RCUV), the Association for Civil Rights in Israel (ACRI), Bimkom - Planners for Planning Rights, and Physicians for Human Rights-Israel (PHR-I), challenging the master plan. See Adalah's press release, "Israeli Supreme Court rules that construction of phosphate mine in Bedouin village in the Naqab will be considered only after examining health risks", 17 October 2021: <https://www.adalah.org/en/content/view/10438>

villages across the Naqab, without offering them any reasonable or permanent housing solutions.<sup>52</sup>

In two plans brought before Israel's Southern District Planning and Building Committee in 2019, the SoI revealed that it aims to transfer the residents of unrecognized Palestinian Bedouin villages to temporary structures (mobile or modular) for a period of up to six years.<sup>53</sup> The sole evident purpose of these plans is to clear the land, without regard for the rights or welfare of the population and with the blatant aim of displacing Bedouin citizens, negatively affecting thousands of families, including women, children and the elderly. The temporary structures and housing arrangements described in these plans would create numerous problems because they offer no security of tenure or guarantee of adequate habitability, space, physical safety, employment opportunities, health-care services, schools, childcare centers, or other social facilities and services.

The state's plans additionally adopt a policy of ethnic segregation and discrimination in relation to geographical and local planning. They establish coercive mechanisms regarding housing and distribution of land resources, accompanied by arbitrary determination by the state of new locations of residence for those displaced on a segregated basis and according to ethnicity. These plans will create "temporary" residential islands for the Bedouin for the sole racist purpose of evacuating areas earmarked by the state for exclusive development and use by non-Bedouin, Jewish, inhabitants.

These plans clearly reveal two separate and unequal planning systems in the Naqab for Israeli Jewish and Palestinian Bedouin citizens of the state. One system is based on a planning system that works for the benefit, well-being, and future development needs of Israeli Jewish citizens and communities and places them at the center of the process. The second practically amounts to a displacement system masquerading as a planning system that seeks to displace and transfer of tens of thousands of Bedouin citizens to temporary housing camps, takes no account of these citizens' current or future needs, and operates without even consulting them.

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<sup>52</sup> Adalah position paper, "The Illegality of Israel's Plan to Transfer Palestinian Bedouin Citizens of the State into 'Refugee Displacement Camps' in the Naqab (Negev)", December 2019: [https://www.adalah.org/uploads/uploads/Adalah\\_Position\\_Paper\\_Refugee\\_Displacement\\_Camps\\_December\\_2019.pdf](https://www.adalah.org/uploads/uploads/Adalah_Position_Paper_Refugee_Displacement_Camps_December_2019.pdf)

<sup>53</sup> Governmental Plans no. 652-0767921 and 624-0765792 – "Temporary Residential and Public Building Solutions for the Bedouin Population in the Negev", from 2019.

Although these plans are yet to progress beyond the planning stage, they remain pending, and various other local master plans in the Naqab contain similar provisions describing construction of temporary housing for displaced Bedouin.

## **ii. The Yoav Police Unit**

The “Yoav Unit” constitutes another highly militarized policing tool for the enforcement of segregation in the Naqab. According to an Israeli police report, the Yoav Unit was specifically established in 2011 to “assist in the enforcement and implementation of policy regulating Bedouin localities in the Negev.”<sup>54</sup> This quasi-military police unit has been tasked almost exclusively with enforcing land use and construction regulations in Bedouin communities in the Naqab region, including Bedouin ‘invasions’ of public lands and use of public lands without a ‘lawful permit,’ as defined by Israeli state authorities. Armed Yoav Unit officers carried out the deadly 2017 home demolition raid in the unrecognized Bedouin village of Umm al-Hiran that resulted in the shooting death of 50-year-old mathematics teacher Ya’akub Abu al-Qi’an.<sup>55</sup>

The Yoav Unit conducts relentless interrogations intended to coerce Bedouin citizens whose homes are earmarked for demolition into either destroying their own homes or accepting a settlement from the state, generally resulting in the forcible displacement of these Bedouin to a new location and demolition of their homes.

In a letter sent on 5 November 2020, Adalah demanded that the Israeli authorities act to dismantle the Yoav Unit, due to the guiding role race and ethnicity plays in its operations.<sup>56</sup> While a 2016 Israeli police report identified two population groups engaged in illegal construction – namely the Israeli Jewish agricultural kibbutzim and moshavim communities, and the Bedouin community – the police only established the Yoav Unit to respond to this phenomenon, and charged it solely with targeting the Bedouin.

The establishment of a dedicated police unit for the purpose of ‘law enforcement’ among a specific population group, based on its ethnicity and employing racial profiling, violates Israel’s obligations under ICERD and ICCPR. Moreover, the Yoav Unit was

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<sup>54</sup> “Israel Police Annual Report 2013 – In Accordance with the Freedom of Information Law”, 1998, p. 52.

<sup>55</sup> See <https://www.adalah.org/en/content/view/10125>

<sup>56</sup> Adalah press release, “Adalah demands Israel abolish paramilitary police unit that uses racial profiling to target Bedouin citizens”, 7 December 2020: <https://www.adalah.org/en/content/view/10193>



established in the absence of primary authorizing legislation. Indeed, with the establishment of the Yoav Unit, the SoI has institutionalized two separate, parallel ‘law enforcement’ operations in the Naqab, organized according to ethnic/racial affiliation of the populations under their jurisdiction. The first, intended for the general Israeli population follows general enforcement-related laws. The second, which specifically targets Bedouin citizens, uses evictions and home demolitions as levers to apply pressure on the Bedouin community. The Israeli police admitted as much in a response dated 10 December 2019 to a letter sent by Adalah requesting information about the Yoav Unit and its authorities. The Ministry of Public Security, in its own response, dated 29 December 2020, rejected Adalah’s request to dismantle the Yoav Unit, arguing, “This is a designated unit established with authority and there is no reason for its cancellation or the cessation of its activity.”<sup>57</sup>

### **iii. The destruction of Bedouin villages to establish or expand Israeli Jewish Towns**

#### **The case of Umm al-Hiran**

The unrecognized Bedouin village Umm al-Hiran in the Naqab provides an illuminating example of the state’s systematic policy of maintaining spatial segregation between Jewish and Palestinian citizens with respect to land and housing.

The residents of Umm al-Hiran have endured a long history of eviction and displacement at the hands of the SoI.<sup>58</sup> Until 1948, this Bedouin tribe had lived in the area of Khirbet Zubaleh, which they had cultivated for centuries and that is today occupied by the Jewish locality of Kibbutz Shoal. In 1956, the Israeli military’s regional governor relocated the residents of Umm al-Hiran to Wadi Atir, within the *Siyag* area, where they settled and rebuilt their community. Yet, despite the fact that these forcibly displaced PCI fully complied with the Israeli Military Governor’s relocation order, the state did not grant this newly appointed village recognition. For close to five decades, and despite the state’s consistent refusal to recognize the village, the state allowed the village and its residents to remain, maintaining the status quo. However, in the early 2000s the land on which the village stands was earmarked for a new and exclusively Jewish settlement, to be named Hiran. In 2003, the state issued demolition orders against all of the homes in Umm al-Hiran, despite the villagers’

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<sup>57</sup> Correspondence on file with Adalah.

<sup>58</sup> See: Adalah report, “Nomad’s Against their Will” (2011) available at: <https://www.adalah.org/uploads/oldfiles/eng/publications/Nomads%20Against%20their%20Will%20English%20pdf%20final.pdf>

continuous residence there for nearly five decades, following their forcible transfer from the Khirbet Zubaleh area. The state offered the people of Umm al-Hiran no option but to relocate to the government-planned Bedouin township of Hura.

On 5 May 2015, concluding 13 years of litigation by Adalah before land planning committees and at various levels of the court system on behalf of the people of Umm al-Hiran aimed to prevent their forced displacement, the Israeli Supreme Court issued its final decision in the case. The Court's ruling allowed the SoI to carry out its racist plan to demolish the village, for the sole purpose of establishing the new Jewish town of Hiran on its ruins.<sup>59</sup> The Court recognized that the residents were not illegal trespassers – as had been claimed by the state but successfully refuted by Adalah with documents gathered from Israeli state archives. However, the Court nonetheless ruled that, because the village's residents were living on "state land," the state could retake that land to use for whatever purpose the state saw fit. In its (2-1 majority) ruling, the Court acknowledged the state's announced intention to demolish the Bedouin village in order to build a town "with a Jewish majority."

The court's ruling in the Umm al-Hiran case legitimized the demolition of an entire Bedouin village and the displacement of all of its inhabitants to make way for the establishment of a Jewish town. This case starkly illustrates the segregationist land and housing policies pursued by the SoI in the Naqab. Despite the Supreme Court's claim in the ruling that, "The planned town will not prevent [those from Bedouin villages] from living there and anyone who wishes to live in Hiran is entitled to do so," and the state's repeated assurances to the Court that Hiran would accept all new residents, irrespective of religion or ethnic background, in actuality, the state continues to prioritize Jewish citizens. Adalah previously uncovered a set of by-laws for the 'cooperative association of Hiran', which had been built as an outpost while inhabitants waited to move into the new town. The by-laws specified that only Orthodox Jews, to be selected through an admissions committee, would be permitted to live in the new town. These by-laws were subsequently amended in response to Adalah's intervention. However, according to the by-laws, the cooperative association of Hiran continued to feature an 'admissions committee' to screen and select applicants for land and housing plots in the town,

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<sup>59</sup> Supreme Court Appeal 3094/11, *Ibrahim Farhood Abu al-Qi'an, et al. v. The State of Israel* (decision delivered 5 May 2015). A subsequent request by Adalah and the community for a second hearing was denied in 2016. See also Adalah position paper, "The dangerous implications of the Israeli Supreme Court's decision to allow the forced displacement of Atir-Umm al-Hiran for the remaining unrecognized Bedouin villages in the Naqab (Negev)," July 2015, updated February 2016: <https://www.adalah.org/uploads/Dangerous-Implications-SCT-Atir-Umm-al-Hiran-updated-Feb-2016.pdf>

in violation of law. The first official bid for plots of land in Hiran was published in December 2021, including plots reserved for “locals”. In response to Adalah’s inquiry, the Israel Land Authority (ILA) responded that the residents of the outposts were to be considered “locals” for the purposes of the bid because of their “special link” to the area, according to the ILA.<sup>60</sup>

### **The Case of Ras Jrabah**

The planned forced displacement of Umm al-Hiran, sanctioned by the Supreme Court, may soon be replicated in Ras Jrabah, another unrecognized village in the Naqab. In eviction lawsuits filed in May 2019, the ILA demanded that the Court order the evacuation of Bedouin families in Ras Jrabah for the purpose of expanding the adjacent city of Dimona, and to “use the land for the public good.” Adalah represents 127 residents in 10 eviction lawsuits filed against them by the SoI.<sup>61</sup> Adalah submitted defense arguments in November 2019, arguing that the residents had lived in Ras Jrabah for generations, well before Dimona was established, and that any attempt to portray these residents as “invaders” or “trespassers” was fictitious. The cases are pending.

In another glaring example of systematized spatial and racial segregation, Israeli authorities intend to evict the residents of Ras Jrabah from their homes and to resettle them in a government-planned Bedouin town. Dimona serves as the urban center for the people of adjacent unrecognized village Ras Jrabah, with many of the villagers employed in Dimona and accessing medical, bank, and postal services there. The responsible planning authorities have not even considered the possibility of including the residents of Ras Jrabah within the planned new neighborhood of Dimona. Moreover, officials from the Bedouin Authority, whom the ILA has made responsible for finding residential solutions for the Bedouin community, have stated that its work is confined to identifying solutions within the Bedouin townships, and that the Bedouin Authority has no authority to propose housing options in Dimona.

The planned evacuation of Ras Jrabah and forcible transfer of its residents forms part of the government’s wider forced displacement plans and efforts to resettle and concentrate the Bedouin in the Naqab in segregated government-planned Bedouin towns. If carried out as

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<sup>60</sup> Response addressed to Adalah from the Israel Land Authority, 28 December 2021; on file with Adalah. Adalah continues to follow developments in the case.

<sup>61</sup> Adalah press release, “Court to hear Adalah’s defense arguments against evacuation of 500 residents of Ras Jrabah”, 14 June 2020: <https://www.adalah.org/en/content/view/10032>

planned, this action will provide yet another instance of SoI evacuating an entire Bedouin village and forcibly transferring its occupants, in this case to make way for the expansion of a majority-Jewish city in which the Bedouin are barred from residing.

### **Recommendations**

Based on the foregoing, Adalah urges the UN Special Rapporteur on the Right to Adequate Housing to:

1. Raise serious concerns about segregation between Jewish and Palestinian citizens of Israel in communications to the highest levels of the Government of Israel, emphasizing that many of its practices, policies and laws violate the State of Israel's human rights treaty obligations, including under the CERD, ICCPR, CESCRC, as well other conventions.
2. Share these serious concerns with other relevant mandate holders and invite them to join your communications and reports relating to these issues.
3. Urge the Government of Israel to immediately halt and reverse multiple serious and systematic violations of international human rights law in relation to, e.g., the Jewish Nation-State Basic Law, state denial of recognition to Bedouin villages in the Naqab, state empowerment of Zionist organizations to operate with quasi-state powers, the Admissions Committees Law, and chronic overcrowding in Palestinian towns and villages in Israel.
4. Urge the Government of Israel to cancel all laws, policies and practices that permit and entrench segregation, including those detailed in this report.
5. Undertake a country visit to Israel in order to investigate and witness myriad segregationist practices, policies and laws operating in Israel first-hand.
6. Include the grave concerns about segregation in Israel raised in this report in your reports to UN bodies.