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جمعية حقوق المواطنين في اسرائيل

The Association for Civil Rights in Israel



NGO Information submitted by the Association for Civil Rights in Israel (ACRI) to the Committee on Economic, Social and Cultural Rights

For Consideration when assessing the compliance of the State of Israel under the International Covenant on Economic, Social and Cultural Rights

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Introduction

The Association for Civil Rights in Israel [hereafter: ACRI] is pleased to present the Committee on Economic, Social and Cultural Rights [hereafter: Committee] with the following selection of issues relating to Israel's compliance with the International Covenant on Economic, Social and Cultural Rights [hereafter: ICESCR]. The purpose of this document is to provide the Committee with alternative information for its consideration and hereby assist the Committee in preparing the concluding report. This document does in no way represent an exhaustive assessment of Israel's compliance with its obligations under ICESCR, but rather, focuses on a number of key areas, raised by the Committee in the list of issues, that ACRI is especially concerned with.

As will be elaborated and reflected in the data in this report, over the last three decades Israel has developed a policy on economic, social and cultural rights, which is characterized by sharp reduction of budgets allocated to social services and minimizing the state's responsibility for their supply. This policy is found in all aspects and provisions of economic, social and cultural rights and affect housing, education, welfare services, employment and health care issues alike.

These continued policies have grave implications on the social structure of the Israeli society which came to a point of eruption during the summer of 2011 with social protests taking place throughout the country. At last, public pressure was put on the government to achieve social change and equality. However, we have not yet seen significant changes in the governmental social policies, and we expect that economic, social and cultural rights will be on the agenda of the upcoming Knesset session, which starts on Monday, 31 October 2011. It is uncertain how the government will react and it is still early to estimate if the social unrest will result in significant changes in Israel governmental policies.

Executive Summary

The report at hand is structured in accordance with the list of issues prepared by the Committee and is therefore divided into different sections according to the articles of the ICESCR and subsections according to the issues raised by the Committee. The Executive summary will give a brief overview over the issues raised and the implementation (or lack thereof) of the ICESCR by the state of Israel.

Article 1 - Self-determination: The report on hand deals with the right self-determination in accordance to three different issues. Firstly, it is concerned with that unrecognized status of Bedouin villages in Israel's Negev, its implications and the recent Praver report that was recently adopted by the government in order to deal with this issue. However, this report fails to take the special nature and the needs of the Bedouin people into account and

disregards their special connection to their traditional lands. Secondly, the report focuses on the lack of housing solutions for the Arab population and the discriminatory land allocation of Jewish National Fund (JNF) Lands. Thirdly, it deals with the deferral of democratic elections to the Abu Basma council, which denies the Bedouin people in the Abu Basma Council region their democratic participation rights and their self-determination on a local level.

Article 2, paragraph 2: - Non-discrimination: In this section the report is concerned with the marginalized position of Bedouin women in the Israeli society. The report establishes a direct connection between the discriminatory policies against Bedouins in general and the direct effects those have on Bedouin women, especially in regards to access to health services and polygamous practices in Bedouin society.

Article 6 - The right to work: In this section the report deals with two issues. It is firstly concerned with the recent data of unemployment according to occupation, sex and population which establishes that only the elite has profited from the economic growth in Israel and that the job market is still dominated by discriminatory practice. Further, the obstacles of military service and the lack of transportation from Arab towns to big cities both directly impact the Arab population's access to the job market. Secondly, the report focuses on the Palestinians in the Occupied Territories and their right to work and specifically deals with the issue of accessibility of their farmlands due to the separation barrier.

Article 7 - The right to just and favorable conditions of work: In this section, the report deals with the wage differences between men and women, which has not been eliminated and is still substantially high. Further, the report deals with the issue of the complaints to the ombudswoman by foreign workers and underlines the exclusion of care-givers to file a complaint to the ombudswoman.

Article 9 - The right to social security: In this section the focus lies on two issues. First, it deals with the recent reductions of unemployment benefits and the recent policy of restricting eligibility for such benefits. These practices deny benefits to many unemployed people. Second, it establishes that the revocation of residency rights violates the basic rights of the Palestinians living in East Jerusalem.

Article 10 - Protection of the family, mothers and children: In this section the report deals with the denial of legalizing the status of spouses from the Palestinians Occupied Territories and other specific Arab countries and the subsequent denial of the right to family according to the covenant.

Article 11 - The right to adequate standard of living: The report focuses on the three different aspects of the right to an adequate standard of living. Firstly, it establishes that the severity, as well as the depth of poverty has increased in recent years. The report analyses the data with special consideration to the different population groups in Israeli society. The report further establishes a link between the highest poverty rates, found in the ultra-

orthodox and the Arab communities and the lack of labor force of ultra-orthodox men and Arab women. Secondly, the focus lies on the lack of affordable housing for the Israeli population, especially in light of the lack of social housing and the policies on housing assistance that further marginalizes poor households. Lastly, it deals with the special situation in East Jerusalem, specifically with the discriminatory policies of issuing building permits, which make it practically impossible for the Arab population to build on their own lands, and the housing crisis that results from that policy.

Article 12 - The right to physical and mental Health: In this section the report briefly deals with the lack of medical assistance provided to asylum seekers, as well as with the weak position of migrant workers when dealing with health insurance due to dependency on their employers, language barriers and the failure to enforce their rights.

Articles 13 and 14 - The Right To Education: In this section, the report deals with the failure of the state to provide sufficient classrooms and the infrastructure required in schools for Arab Israeli children, and therefore the failure to implement articles 13 and 14 ICESCR without discrimination. Special focus is given to the connection between the lack of classrooms and the high dropout rate of Arab students and to the marginalized position of Bedouin women that leads to the highest dropout rate of Bedouin girls and women among the Israeli society. In addition, this section describes the severity of the lack of classrooms in East Jerusalem and the failure to implement recent court rulings, which acknowledge the state responsibility to provide for free education. Further, this part deals with the situation of the education for human rights in Israel and reluctance of the education system to promote it due, in part, to the false assumption that human rights are connected with political tendencies.

Article 15: Cultural rights: In this section the report is concerned with Israel failure to implement Arabic as an official language and the implications of this failure on guarantying cultural rights for Arabs. Further the report deals with the accessibility of non-Jewish holy sites in East Jerusalem and establishes that the lack of public transportation in and to East Jerusalem fails to protect the cultural rights of the Arab population. Lastly, this section is concerned with the school curriculum of the Arab schools that is not fully guaranteed the cultural heritage of the Arab minority. Special focus is given to the war the Israeli government has declared on the Nakba over the past two years.

Article 1 – Self-determination

Issue 4: The Bedouin Land Rights

Please provide information on action taken to implement the recommendations of the Advisory Committee on the Policy regarding Bedouin towns (the Goldberg Committee), including the settlement of individual and collective Bedouin land claims. In this connection, please indicate how the State party has considered the application of relevant international norms and jurisprudence in the settlement of such claims.

Bedouin Land Rights

The unrecognized status of Bedouin villages in Israel's Negev region has been the leading obstacle to the community's realization of planning and building rights. For decades now, the Bedouin-Arab residents of the Negev have waged a struggle to gain official recognition for their home villages, and today about half of the Bedouin Arabs of the Negev, some 90 thousand people, live in 46 rural villages and ex-urban settlements in this area. Only ten of these have been recognized, and this only in 1996 following a concerted campaign on the part of Bedouin residents and human rights NGOs.

One of Israel's most obvious violations of the right to equality is in the discriminatory planning directed against the Bedouin community. Whereas the government has employed a policy of population dispersal for Jewish settlement in the Negev, its policy towards the Bedouin community has been one of population concentration in as little an area as possible. Over the years, every regional master plan for the northern Negev has entirely ignored the existence of Bedouin villages (with the noted exceptions) and the land rights of their residents, instead designating Bedouin lands as agricultural, or under other headings such as industrial, military, infrastructure. This classification prohibits residential construction in these areas. Furthermore, residents of unrecognized villages cannot legally obtain building permits, and the homes in which they were born and raised and in which they have eventually expanded their families are considered illegal by the state. These homes are perpetually under the threat of demolition and of incurring large fines. With such policies, the Israeli state aims to delegitimize the land rights of the Bedouin community, construing Bedouin residents as squatters rather than as full citizens of the state and as members of a historical and vulnerable community.

Such policies are reflected in the conditions of unrecognized villages. The denial of a legal status to these villages, and the subsequent restriction of their inhabitants' planning and building rights, means that Bedouin residents of the unrecognized villages are, to a large extent, citizens in name only. They are denied their most basic rights – their villages are not connected to the national water supply, electricity grid, or sewage system; essential services such as education, healthcare and welfare services are provided only partially

and then inadequately; and the state refuses to recognize their traditional ownership of their land.

Strikingly, Israel's Third Periodic Report from 2009 to the Committee on Economic, Social and Cultural Rights [hereafter: (Israel) Report 2009/The Third Periodic Report], as well as Israel's Answers to the list of Issues from 2011 [hereafter: (Israel) Report 2011] fail to recognize these residents' legitimate right to water. Rather, citing a Mekorot Report, the Report of 2009 discusses the decline in use of direct water connections due to their "problematic nature" of necessitating water transfer to unrecognized villages. Its section on water concludes with a remark on the "numerous pirate connections to pipelines" in the Negev, whose existence was not authorized by the Water Committee, but whose demand– the human context, need for water – is blatantly absent.¹

Bedouin Rights and International Law

The various UN committees that examine countries' compliance with human rights obligations under international conventions have repeatedly pointed out the human rights violations suffered by the Negev Bedouin at the hands of the Israeli government. From the perspective of international law, to which Israel has committed itself, the treatment of the Bedouin represents a dark stain on a country that considers itself respectful of human rights.

Israel's violation of Bedouin rights runs counter to the norms of international law, which, through a number of international declarations and charters, has singled out for protection the rights of minorities in general and indigenous minorities in particular. Israel is a signatory to many of these, which enshrine minorities' rights to equality, to property, to adequate housing, and to the preservation of their cultural character. Indeed, the Negev Bedouin fit the classic description of an indigenous minority: a distinct population with unique religious and cultural characteristics, organized by traditional social structures and rooted by their way of life to their land, who are subject to new rule by a modern state that threatens their culture and property. Because of their vulnerability, indigenous minorities have been singled out for special protection under international law, and these protections have been enshrined in the *United Nations Declaration on the Right of Indigenous Peoples*. Though the declaration carries no legal obligation incumbent on the State of Israel, it does reflect the international norms regarding the rights of indigenous peoples. These norms, as formalized in the declaration, include the obligation not to forcibly remove indigenous peoples from their lands or their living areas; and not to resettle them without their free, informed consent and

¹ Implementation of the International Covenant on Economic, Social and Cultural Rights, Third periodic reports submitted by States parties under articles 16 and 17 of the Covenant, Israel, 20 January 2009 (E/C.12/ISR/3), [hereafter: **(Israel) Report 2009 / Third Periodic Report**], paras 520 – 522, pp. 109 – 110; Implementation of the International Covenant on Economic, Social and Cultural Rights in Israel; Israel's Replies to List of Issues to be taken up in Connection with the Consideration of Israel's Third Periodic Report concerning articles 1 to 15 of the International Covenant on Economic, Social, and Cultural Rights, (E/C.12/ISR/3), September 2011 [hereafter: **(Israel) Report 2011**], pp. 43 – 45.

without full and fair compensation. The declaration established that states must grant recognition and legal protection to the land, territory, and natural resources belonging to, or under the control of, indigenous peoples.

Israel refuses to recognize the status of Bedouins as indigenous people. The Special Rapporteur on Indigenous Peoples, although acknowledging Israel's position, observes that the Bedouins share many of the characteristics of indigenous peoples, such as a strong connection to their lands and the maintenance of cultural traditions that are distinct from those of the majority populations. Further, the grievances of the Bedouin, stemming from their distinct cultural identities and their connection to their traditional lands, are representing the types of problems to which the international human rights regime related to indigenous peoples has been designed to respond. He therefore considers the Bedouins' concerns to fall within his mandate and them to be protected by the United Nations Declaration on Indigenous Peoples.²

Summary of the Implementation Outline to the Goldberg Report for the Arrangement of Bedouin Settlement in the Negev ("The Praver Report")

In January 2009, following the adoption of Government Resolution 4411, an implementation team led by Ehud Praver was appointed by the Israeli government and charged with the task of formulating a detailed and **implementable** outline plan for the arrangement of Bedouin settlement in the Negev. This was to be done on the basis of the recommendations of the Goldberg Committee Report composed under the directorship of Justice Eliezer Goldberg. On 11 September 2011, the Israeli government approved the recommendations of the Praver Team's Implementation Outline, subject to a number of government amendments. As such, one must read the Implementation Outline together with the text of the government resolution, as detailed below.

From the text of the government resolution, we see that the intention is to arrange the settlement of the Negev Bedouin in a series of successive and integrated stages: a land arrangement anchored in expedited legislation; new planning arrangements; and the creation of a new institutional and administrative framework that will include new enforcement mechanisms. Those mechanisms allow for more homes to be demolished in the future, when only last year over 700 houses were demolished. These would all be implemented in an accelerated, time-bound process, at the end of which all lands whose status is not arranged (either through the implementation outline

² See Report by the Special Rapporteur on the rights of indigenous peoples, James Anaya, Addendum Communications sent, replies received and follow-up, A/HRC/18/35/Add.1, pp. 24 – 31, available under: <<http://www2.ohchr.org/english/issues/indigenous/rapporteur/docs/A-HRC-18-35-Add-1.pdf>>.

or through the courts) by the time of the deadline would be officially registered as state-owned lands. This move, which radically alters the reality of life in the Bedouin villages, was decided with barely any input from the local residents, and as such, it is not implementable in practice.

An examination of the government resolution and the Implementation Outline reveals a long list of problems and design flaws. We would like to present you with our preliminary, and by no means exhaustive, treatment of these two texts, in order to demonstrate the host of problematic issues and question marks which require much deeper examination and consideration. As this document represents only an initial survey, we intend in the near future to compose a complete and detailed analysis of the implementation program, in conjunction with the Regional Council of Unrecognized Villages.

Below are ACRI's brief comments to the published texts of the government resolution and the Implementation Outline:

1. Planning Arrangements – the Implementation Outline establishes a planning policy that diverges entirely from the approach currently practiced and from the approach recommended by the Goldberg Committee Report. In addition, the government resolution and the Implementation Outline run contrary to the understanding, developed in Israel's planning authorities over the past decade, that in order for any new planning to be viable, it must take into account the social, cultural, and functional characteristics of the communities in question. Instead, the Implementation Outline presents a new approach to planning that is based on a singular criterion – location – and seeks to concentrate the Bedouins via the use of population transfer and population concentration. The practical implication of this is that 40,000 Bedouins would be uprooted and evicted from their homes.

Below are a few examples:

A. A substantive change in the discourse and rhetoric – While the Goldberg Report adopted a clear definition of “the unrecognized villages,” the government resolution and the Implementation Outline return to the old rhetorical usage of such terms as “the Bedouin dispersal”, “unorganized settlement”, and “population groups.”

B. Individual village treatment vs. geographic treatment – Whereas, until today, planning solutions have been offered to Bedouin villages on an individual basis, the government decision offers arrangements for only one specific geographic *area* within whose borders planning solutions will be provided, without any reference whatsoever to the current locations of the existing villages. Furthermore, the first priority among the solutions offered in the Implementation Outline is the transfer of populations into the townships and communities of the Abu-Basma council, either within their current borders or adjacent to them, whereas the establishment of new villages is given lowest priority, and even then only with the approval of a separate government resolution. This

fundamentally contradicts the Goldberg Report (Article 110) which states that the government should “**recognize, insofar as possible, every one of the unrecognized villages**”. Regarding this point, we’d like to once again emphasize that the official recognition of the unrecognized Bedouin villages must be a central principle at the heart of any just and viable solution.

C. Conditions for internal planning – The Implementation Outline states that all internal planning of communities will be designed to ensure compliance with a number of criteria, including: population density, continuity of built-up areas, refraining from leaving areas undeveloped, removing agricultural lands to outside of the village borders, critical mass, “municipal strength”, and more.

These criteria are inconsistent with the principles of equality and distributive justice, and raise serious concerns of discrimination against the Bedouin population in the distribution of land resources, planning, and development when these are compared with those of the rural Jewish sector. Had these same conditions been imposed upon the Jewish sector, entire communities (communal villages, *kibbutzim*, *moshavim*, and outposts) would soon disappear from the map of Israeli settlement.

D. Fixed and defined planning principles – The planning principles as laid out in the Implementation Outline reflect a fixed and defined permanent settlement pattern for all the Bedouin villages, while ignoring the existence of the Bedouin village and the communal living systems within it, with their unique character and needs. In practice, the villages as we now know them will soon disappear. On the basis of these principles, even those villages that are slated to remain in their current locations will find it necessary to evict and transfer portions of their population.

E. Temporary settlement - This definition, adopted by the Goldberg Report, was intended to enable the immediate supply of essential services to the Bedouin population, while certain villages remain in various stages of the planning and zoning process. The Implementation Outline chose not to adopt this principle on the grounds that it might overburden the land regulation and planning process.

2. Conditioning planning on land registration - The government resolution and the Implementation Outline state that the settling of disputed land ownership claims will be a necessary precondition for any planning solutions offered to the residents of the unrecognized villages. This is extremely problematic, as it leaves the local population without the basic infrastructure and living conditions to which all people are entitled. The current reality on the ground allows for the initiation of the planning process for all the unrecognized villages in accordance with the existing communal structure of each village, even before the issue of land ownership is permanently settled.

3. Arranging land ownership under new legislation - The program proposed by the Implementation Outline would settle disputed land ownership claims via a unilateral, roughshod legislative process, which ignores the historic connection of the Bedouin to their lands, a connection that has already been noted and recognized by the Goldberg Report (Article 77) and follows the principles of equality and distributive justice. Instead, the government resolution offers a very tight timetable that coerces the Bedouin into relinquishing their rights to their lands. The government's disregard for the historical rights of the Bedouin and refusal to recognize their proprietary system of land acquisition represents a severe injury to the Bedouin population, their land rights, their right to housing, and their right to preserve their way of life, which is intimately tied to the land.

Furthermore, this lack of acknowledgement violates international human rights norms, specifically the right of indigenous people to retain ownership of their historic lands, to control them, and to make use of them by virtue of their traditional ownership. The Implementation Outline offers "solutions" that are simply not viable for the Arab Bedouin population and continues the long line of Israeli policies aimed at annulling Bedouin rights and appropriating their lands.

Below are a few examples:

A. Personal applicability – According to the government decision, any arrangement of land ownership would only be applicable for persons who submitted a Memorandum of Claim on or before 24 October 1979 and whose claim was neither rejected by the registrar clerk nor by the courts. This contradicts the provisions of both the Implementation Outline and the Goldberg Report (Articles 78 and 89 respectively), which state that any arrangement must be applicable for all Bedouin who submitted claims under the Arrangement of Land Rights Ordinance, even those who were served with government counter-claims and subsequently lost in court. So we see that instead of reaching for a mutually agreed-upon solution regarding the right of the Bedouin to their lands, the government instead seeks to reaffirm the same miscarriages of justice that the Goldberg Report sought to correct.

B. Classification of land – The proposed arrangement of land ownership would apply solely to cultivated agricultural lands and not to uncultivated grazing lands. This distinction flies in the face of the knowledge accumulated in academia over past decades regarding the unique nature of Arab Bedouin agriculture in the Negev. Use of this criterion raises serious suspicion that the government will attempt to define certain agricultural lands that are only farmed seasonally – according to the changing seasons, the nature of the crops and the desert climate – as grazing lands.

C. Cultivated land – The Goldberg Report (Article 85) states that the determination of whether land should be classified as "cultivated"

should depend on how that land was used during the pre-state period. In place of this, the government resolution specifies that the classification of land will depend upon evidence of cultivation close to the time of submission of the original Memorandum of Claim.

D. Geographic applicability – In the second part of the cultivation criterion, the government resolution goes on to say that evidence of cultivation is insufficient; the land in question must also not have been under the control of the state in the past or be under state control today. This completely contradicts the Goldberg Report (Article 71), which recognizes the forced displacement of the Arab Bedouin population to the contracted area known as the *Siyyag* (the “enclosure zone”). Owing to this population transfer, the Goldberg Report recommends that the arrangement of land ownership should also apply to areas outside of the *Siyyag* that were registered as state lands, if no ownership claims regarding said lands were filed at the time (Article 90). The practical significance of the government resolution is that most of the lands in the Negev that were cultivated by the Arab Bedouin before 1948, and which lie outside of the *Siyyag* zone, will be left out of the arrangement.

E. Rates of compensation - Whereas the Goldberg Report recommends that the first 20 dunam (approximately 5 acres) of any proven ownership claim should be compensated at a rate of 100% with each additional dunam compensated at a rate of 50%, the Implementation Outline sets an upper limit for all compensation at 50%, most of which will be monetary and not in-kind compensation of alternative lands. Even for this stipulation to apply, the claimant must comply with a complicated system of requirements, evacuate his land, and agree that the government can make use of it as it sees fit, including allocating it to other individuals.

4. Borders - The government resolution makes it clear that no compensation will be given in the form of land and no settlements will be planned west of Route 40. This contradicts the principle of equality and constitutes blatant discrimination of the Bedouin population. This decision seeks to concentrate the Bedouin population in one specific geographical area, with total disregard for their needs, their wishes, and the realities of life in the Negev.

5. Enforcement - One of the key tools proposed for promoting settlement solutions is enforcement, which means the continued demolition of homes in the Negev as a matter of policy. This is a retreat from the Goldberg Report, which recommended that within the area of the temporary blue lines “gray structures” will be defined, which are not to be demolished until a mutually agreed-upon solution is reached. But under the Implementation Outline there would be no such freeze in home demolitions during the period when settlement is still being arranged. In practical terms, the government resolution establishes a new coordination and enforcement unit under the authority of the Ministry of Public Security that will lead and coordinate all enforcement activity to ensure that the Implementation Outline is properly put

into effect. This is despite the fact that the Israel Police, the Inspection Unit of the Israel Land Administration, the National Unit for Building Supervision of the Interior Ministry, and the Green Patrol all already operate within the Arab Bedouin communities of the Negev, using aggressive force to demolish homes in the unrecognized villages. This new policy will only serve to exacerbate the crisis between the Negev Bedouin and the state.

6. Public participation – The Implementation Outline proposes new arrangements together with new interpretations of existing reports. Despite the far-reaching implications of the outline, the work of the Praver Team was carried out without the participation of the Bedouin community and without their input on decisions affecting their lives, though the Bedouin community tried many times to initiate a dialog on these subjects. When one examines the Implementation Outline, the absence of the principle of public participation becomes glaringly obvious. The lack of public participation in matters so critical to the local population represents a fundamental flaw in the Praver Report. Even when the Implementation Outline was reevaluated, it was a unilateral action that totally ignored the criticism of the Bedouin community to the preliminary published versions of the plan. Public participation is an essential component of any plan, and its lack makes the Implementation Outline's viability seem highly doubtful.

7. Organization - The government resolution reshuffles the Authority for the Arrangement of Bedouin Settlement in the Negev, moving it from the Housing Ministry to the Office of the Prime Minister, and establishes a new enforcement body, also within the Office of the Prime Minister. This is a discriminatory decision, as it chooses to view the Bedouin not as equal citizens with equal rights, whose services are provided through the various normal government ministries similarly to other population groups within Israel.

8. Appointment of a representative of the National Security Council to examine the report - The government's appointment of Yaakov Amidror, a member of the National Security Council, to examine and review the Praver Report only served to widen the gap between the state and its Bedouin citizens. Amidror's appointment reflects the perception that the Bedouin population is a matter of "national security." This is a significant step backwards from the conclusions of the Goldberg Report, which recommended that the matter of Bedouin settlement be handled as a civil dispute between the government and its citizens (Article 72). Amidror's involvement in and signature upon the final version of the Praver Report represents a serious black mark that takes us back to the period of martial law, during which the Bedouin issue was viewed as a matter of national security rather than a civil affair.

9. Summary – The Implementation Outline significantly diverges from the planning approach currently practiced and from that recommended by previous official reports, namely, an approach that takes into account and incorporates the characteristics of the Bedouin way-of-life and the population's unique needs. The Praver Report continues the discriminatory

planning that has been common practice regarding the Bedouin population of the Negev. It utterly disregards Bedouin property rights to their lands and seeks to unilaterally and forcefully impose upon them a “solution” that is discriminatory, unjust, and whose ramifications are the blatant and continued violation of their civil and human rights. Past experience has taught us that any attempt to ignore the will and the needs of the Bedouin population and to impose a forced solution upon them is doomed to end in failure. Therefore, we believe that the Implementation Outline is not implementable. We call upon the government to freeze the implementation of the report, and to work to promote the recognition of all the unrecognized Bedouin villages in the Negev, which should be acknowledged as regular settlements, on the basis of objective planning criteria. We further call upon the government to acknowledge the Bedouin’s property rights to their lands, and to treat the Bedouin residents as equal citizens with equal rights and as full partners in the planning process.

Issue 5: Discrimination in Housing, Planning and Land Allocation

Please provide information on legislation adopted by the state since its previous report, that has affected the disposition of land resource, as well as the subsequent role played by the Jewish National Fund (hereafter: JNF) and the Jewish Agency in the control of such resources so as to ensure that everyone under the jurisdiction of the State party is able to fully enjoy economic, social and cultural rights

The facts provided in the following section cast doubt on the assertion of the State’s Report that the state of Israel is pursuing non-discriminatory policies in housing, planning, and land projects in the Arab sector.

Continued Discrimination in the Allocation of JNF Lands

Negotiations between the state and the JNF are still in progress for completion of a land exchange agreement in the context of land reform. The emerging agreement, however, violates the rights of Israeli Arabs in all matters of allocation, use and enjoyment of these lands. The plan is designed in part to implement the Prime Minister’s program for privatization of land under the land reforms, in which the JNF will trade ownership of land in the Central region to the state in exchange for available and unplanned land in the Negev and Galilee. The agreement stipulates that the State will administer JNF lands ‘in such a way that will preserve the principles of the JNF in relation to its lands.’ This statement directly signifies a continuation of discriminatory policies against Arab citizens in the marketing and allocation of land – even though the Israel Land Authority [hereafter: ILA] or, according to the new law, the Land Authority [hereafter LA] is a public body, obligated to act in a way that preserves equality and fairness and in accordance with the principles of distributive justice. The State’s Third Periodic Report does not mention this land exchange agreement.

The agreement raises concerns that the state will transfer land to the JNF to

which Negev Bedouin have claims, upon which are located unrecognized villages, or which are included in areas slated for resettlement and resolution of the Bedouin land problem. Use of land in the Negev and Galilee for Jews alone will exacerbate the already existing crisis and cause further damage to the Arab population that lives primarily in the Negev and Galilee and that is desperate for development, proper land planning and the equal distribution of land resources.

This policy also contradicts the position of the Attorney General, namely that JNF lands must be managed and administered according to the principle of equality, a position that the Attorney General took in hearings on a petition submitted by ACRI and other human rights organizations against the ban on marketing JNF lands to Arabs. These petitions were filed many years ago and are still pending.

Regarding the continuation of discrimination in land allocation, it should be noted that the current Israel Lands Council contains not a single Arab person as a member. In the absence of fair representation on the ILC, which is the body that makes decisions regarding the allocation of land, there is no guarantee that interests and needs of Arab towns and citizens will be heard and treated with the proper consideration required.

In this context, it should also be noted that the state and the government have done nothing regarding the expressed criticisms directed at them by the Or Commission, which discussed the crisis of land and housing in Arab society, and recommended that the state allocate land to the Arab public 'in accordance with the patterns and principles of equality, as it does with other population sectors.'

A Lack of Housing Solutions and an Increase in Home Demolitions

Over the last year, the state has ramped-up its policy of home demolitions in Arab communities and in the Arab neighborhoods of mixed cities, especially in Ramle and Lod. The government and law enforcement officials have expanded the home demolition policy at a time when no suitable housing solutions exist and no regional planning is in place to allow for legal residential construction within Arab villages and neighborhoods. For the Bedouin villages that were officially recognized a decade ago, no master plans have been adopted that would allow for legal construction within their borders. The recognition was intended to enable the arrangement of municipal planning status for these villages and the houses in said villages, since all of them were constructed without permits. The government further continues to demolish homes in Lod, a city with a serious housing crisis, without providing residents with any housing solutions. The demolitions carried out in Lod several months ago left dozens of residents, including many children, homeless and without any assistance.

The state is not promoting proper planning for Arab communities, and most Arab towns and neighborhoods today do not have updated master plans in effect. Some of these communities have no plans that allow for residential

construction. The process of preparing and approving master plans for Arab towns has typically lasted years and, in some cases, decades. Nevertheless, the government must take several actions to provide minimal answers to the rapidly growing housing needs of the Arab population. For example, the establishing new Arab communities or neighborhoods, undertaking appropriate public housing projects, and implementing alternative assistance programs, as they already exist for the Jewish population. The fact that there are no such government programs has greatly exacerbated the housing shortage in the Arab community and severely limited the housing options available to them. In this context, it should be noted that the territorial jurisdiction of the Arab local councils currently make up less than 2.5% of Israel's total territory. Despite the rapid growth of the Arab population, which has multiplied seven-fold since 1948, the land reserves designated for the Arab population have been reduced by one half since the founding of the state. Since 1948, not a single new Arab community has been established in Israel (except for the Negev townships whose purpose was to remove the Bedouin from their historic lands and concentrate them in population centers), while over the same period hundreds of new Jewish communities have been established.

At the same time that Israel is pushing its policy of home demolitions and refusing to promote housing programs for Arab communities, it is lending support to discriminatory programs and bills that violate the constitutional right of Arab citizens to adequate housing and further limit the housing options available to them. For example, the recent attempts to create more stringent conditions for acceptance into communal settlements. Some have tried to adopt conditions for acceptance into communal settlements that make admission contingent upon accepting and adopting Zionist values. However, the sole purpose of this condition is to keep Arabs out of those communal settlements. Additionally, the Acceptance to Communities Law that was passed this year during the Spring Knesset session, injures, among other population groups, Israel's Arab citizenry. This law gives legal grounds to the exclusionary policies of certain communities in the Negev and the Galilee, justified by what they call "social unsuitability."³

Issue 6: The Abu Basma Council

Please explain why the Knesset has deferred local elections for the appointed Abu-Basma Council. In the light of this deferral, how does the State party ensure that Arab communities participate genuinely and effectively in their own local governance including land-use, planning and public services?

The 2003 establishment of the Abu Basma Regional Council, which followed the 1996 recognition of ten Bedouin villages in the Negev, represented a significant achievement for inhabitants of unrecognized Bedouin villages. Within its jurisdiction, the Council includes ten rural communities with a

³ The issue will be more extensively dealt with in issue 23.

population of 30,000 residents, but additionally provides municipal services (education, welfare, and environmental protection) to 40,000 Bedouin residents in nearby, unrecognized Negev villages. The State's Report makes several references to the Council, among whose duties it lists ameliorating the infrastructure of all Bedouin villages.

Indeed, the Negev Bedouin had hoped that the recognition of their villages and the establishment of the Abu Basma Regional Council would constitute a real change in Israel's policy toward them. Yet in the end, the story of the Abu Basma Council reflects the policies Israel has continued to use to stifle the expression and existence of its Bedouin population. Since its founding in 2003, the council's significance has been persistently undermined by the absence of democratic elections due to their recurrent postponements by the government. As a result, the council has been administered by an (appointed, Jewish) representative of the Interior Ministry throughout its seven-year existence. This situation denies residents their constitutional right to elect their own local representatives and from exercising their right to run for office, and thus is a direct extension of the government's general policy of excluding the Bedouin Negev population from the decision-making processes that affect their daily lives, culture, and land.

The first democratic elections for the Abu Basma Regional Council, which were twice previously postponed, were scheduled for December 8, 2009, six years after the council's establishment. But instead of organizing local elections, the Interior Ministry chose to advance an extreme amendment to the law, which would grant the Minister of the Interior authority to postpone said elections indefinitely. This latest amendment, formulated in general terms, was specifically directed at the elections in Abu Basma, and had practical ramifications for Abu Basma only. This "Abu Basma Law" underwent an accelerated legislative process and less than a month and a half later, on November 26, 2009, took effect.

This amendment violates one of the foundational principles of democracy, which requires regular, periodic democratic elections with fixed dates known in advance. The violation of this principle carries with it additional injury to a long list of constitutional human rights, first and foremost among them the right to elect representatives and to be elected, as well as the right to equality. These rights are enshrined in Israel's Basic Law: Human Dignity and Liberty. The new amendment injures the constitutional right to equality, because though it purports to be cut of a general cloth, in actuality it applies only to the residents of Abu Basma. This discrimination against Abu Basma residents has extremely suspect motives and denies them a right that is enjoyed by all other citizens of state.

In response to a petition submitted by local residents, ACRI, Adalah, and several other organizations, on February 9, 2011, the Supreme Court ruled that elections for the Abu Basma Regional Council are to be held on December 4, 2012. Following this ruling, the petitioners decided to forego hearings on the constitutionality of the law itself, in hopes that the law will be amended once again by the Knesset in the future. It remains yet to be seen

whether the elections for the Abu Basma Regional Council will finally be held as currently scheduled, or whether they will be postponed yet again.

The court stated that the Ministry of Internal Affairs should make extensive efforts to register the residents of the villages and take proactive actions to accelerate the process of elections. The state's claim, that there is not enough democratic representation, as only 20% of the Bedouins are registered, only suggests that the state needs to ensure the registration of the Bedouins, as well as ensuring that elections can be held, within the given time frame.⁴

The situation of the Abu Basma villages is far from what it is described in the Israeli report of 2011.⁵ Firstly, the residents of these villages are unable to receive building permits and therefore most of the villages cannot build permanent houses. Although outline plans are formulated, the Abu Basma council connects the issue of land ownership claims to the issue of planning and services. This implies that the residents, in order to receive permits, need to sign a contract with the state that puts down in writing their willingness to give up claims of landownership. So far none of the residents were willing to sign such a contract, as they are afraid of losing the rights to their lands. As a consequence no house permits were issued in the Abu Basma villages. Secondly, the villages are still not connected to electricity. Only public buildings such as schools etc are connected to electricity, while private houses are still left without it.

Even though the council allegedly achieved many positive outcomes, it is important to remember that Bedouins were insufficiently involved in these decisions. Because of the lack of elections, no Bedouins were able to serve in office, and no Bedouins could elect the council. Therefore the basic idea of a local administration has been undermined, as the decisions are made not by the locals but by the government representatives. ACRI together with Adalah wrote a letter to the Director of the Interior Ministry, Amram Kalaji, to draw attention to the fact that the steps taken since the court rulings are insufficient and to ask for a detailed plan on the further steps that the Ministry intends to take in order to ensure that the elections will be held in December of 2012.

Article 2 paragraph 2 - Non-discrimination

Issue 8: The Marginalized Position of Bedouin Women

Please provide information on measures taken to address the marginalized position of Bedouin women with regard to various economic, social and cultural rights, especially those living in unrecognized villages.

⁴ Israel Report, 2011, p. 25.

⁵ Israel Report, 2011, pp. 26 - 27.

Bedouin women in Israel represent the most disempowered group among Israel's poorest and most neglected minority population. Already belonging to the most vulnerable sector of the Palestinian national minority, they face serious discrimination related to their society's social perceptions of the status of women, social rules and customs. Indeed, their precarious situation is expressed in high poverty rates, financial dependence, and lack of education: more than 90% of Bedouin women are unemployed, over 77% of teenage girls residing in unrecognized villages drop out of school,⁶ and some 60% of women over the age of 35 are illiterate.⁷ 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 direct and indirect discrimination because 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. The rate of polygamy among the Bedouins is 30% and increasing. Although polygamy is a criminal offence the law is not enforced among the Bedouins.

Furthermore, the frequent demolitions of designated 'illegal buildings' have a disproportionate impact on women, who do not play any role in the decision-making process of building a home without a license. Bedouin women face a double impact from house demolitions: usually their homes are their only space for public and private activities, and no alternative accommodations are provided to them by the Israeli State institutions after their houses have been demolished.⁸

Bedouin women in particular suffer from the discriminatory policies that Israel continues to direct towards the Bedouin community. Of fundamental significance is the unrecognized status of most of the Bedouin villages, which has disproportionate consequences for the women's access to education and health, as well as for their civil status rights. All of which additionally contribute to a fertile ground for the practice of polygamy, which in itself acutely harmful to women.

The measures taken by the Government, such as organizing business workshops and granting scholarships, to empower the Bedouin women are only but the first steps of recognizing their weak status in society. In order for Bedouin women to achieve equality, to fully enjoy their economic social and

6 'The Status of Palestinian Women Citizens of Israel', submitted to the Committee on the Elimination of Discrimination against Women, prepared by the Working Group on the Status of Palestinian Women Citizens of Israel, December 2010, [hereafter: **The Status of Palestinian Women, 2010**], pp. 37 – 38: Estimation of a dropout rate of 77% among female teenage Bedouins in the naqba, available under: < http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/WomenCitizens_of_Israel_for_the_session_Israel_CEDAW48.pdf>; See also Sarab Abu Rabia-Queder, 'Between tradition and modernization: Understanding the problem of Bedouin', in: *British Journal of Sociology and Education* (February 2006), pp. 3 – 17: Over 60% dropout among the whole female Bedouin population, at p. 5, available under: < <http://www.bgu.ac.il/social/british-journal.pdf>>.

⁷ *The Status of Palestinian Women, 2010*, pp. 38 – 39.

⁸ *The Status of Palestinian Women, 2010*, p. 13.

cultural rights and to achieving a better standard of living, it is crucial for the government abandon its discriminating policies against Bedouins in general and to specifically recognize the unrecognized villages.⁹

Health

As the primary child caregivers, and as women in general, Bedouin women are especially affected by limited access to healthcare and clinics in the Negev, and particularly in unrecognized villages. According to a report by the Israeli Health Ministry, the infant mortality rate of Arab Palestinian citizens of Israel living in the Negev is the highest in Israel, and a lack in infant welfare personnel leads to less pregnant women and infants receiving the care and guidance they need.¹⁰ Indeed, over half of six-month-old Bedouin infants suffer from anemia, as opposed to 10% of Jewish infants. As they grow older, Bedouin children suffer disproportionately from growth disorders, nutritional deficiencies, and underweight conditions that could cause serious damage: 9% of Bedouin children under the age of five suffer from growth delays and 4.4% are underweight, with Bedouin girls suffering sevenfold from growth problems and ten times more from weight problems than boys. Arab Bedouin citizens of Israel living in unrecognized villages are in much poorer condition than those living in permanent communities: children born in unrecognized villages have a lower average weight at birth, are 2.4 times more underweight at the ages of six and seven-years-old and have a lower vaccination rate than Arab Palestinian Bedouin children citizens of Israel living in permanent communities. Concerning Bedouin women with disabilities or illnesses residing in the Negev, the situation is problematic. The lack of adequate health services in the region and the lack of public transportation, together with the traditional Bedouin culture that objects to women's mobility in the public sphere, make it difficult for Bedouin women to seek appropriate medical attention.

The State's third periodic Report duly notes improvements in the health of Bedouin infants and details special projects the state instituted to improve the health and health care services to Bedouin Arabs in a two-page-long section on the subject.¹¹ Yet the overly optimistic tone adopted by the Report masks the critical realities facing Bedouin women and children in their quest for their right to adequate healthcare and helps soften the sharp disparities between the health circumstances of the Bedouin community and the rest of Israel. Furthermore, the state rejects the role the illegal status of these villages plays in these inequalities. This correlation, with the status of the villages barring vital investment in health infrastructure in the villages, is put forth in a 2008

⁹ Israel Report, 2011, pp. 38 – 40, p. 44.

¹⁰ Ministry of Health, Health Office – Southern District, 'The State of Health of Bedouin Babies and Children up to the Age of Six in the Permanent Communities and in the Unrecognized Villages in the Negev', December 2008, available in Hebrew under: < <http://www.health.gov.il/download/pages/bedouinKids251208.pdf>>; See further: Physicians for Human Rights, 'The Bare Minimum – Health Services in the Unrecognized Villages in the Negev, April 2009, available under: < [http://www.phr.org.il/uploaded/PHR%20-%20Bare%20Minimum%20-%20Health%20Services%20in%20the%20Unrecognized%20Villages%20\(3\).pdf](http://www.phr.org.il/uploaded/PHR%20-%20Bare%20Minimum%20-%20Health%20Services%20in%20the%20Unrecognized%20Villages%20(3).pdf)>.

¹¹ Israel Third Periodic Report, 2009, paras 530 – 540, pp. 111 - 112.

Physicians for Human Rights report, 'Ana Huna – Gender and Health in the Unrecognized Villages of the Negev', whose grim conclusions the State's Report disputes.¹²

Polygamy

A lack of financial security, and a conflation of poor educational, health, and living conditions contribute to the continual low social status retained by the majority of Bedouin women in their community. For instance, the shortage of high schools and classrooms has caused the local patriarchy to increase its supervision of women. In such a disempowered context, the practice of polygamy has thrived within many family structures, with the practice increasing by one percent a year in the last two decades to today characterize 20-36% of Bedouin households. While the State's Report discusses the establishment of a center for the welfare of Bedouin women, which encompasses a variety of social services with the aim of helping and protecting women including their health, polygamous relations – which induces low self-esteem, anxiety, depression, problematic family functions, and is characterized by higher rates of domestic violence, poverty, and family conflict – is not broached.

On an international level, although the International Convention on the Elimination of Discrimination against Women has not addressed Polygamy directly, the CEDAW states that polygamy violates the sixth section of the international convention relating to the right of women to equality with men in marriage and family life. The CEDAW moreover considers polygamy to be a financial and mental burden laid on women and their children; therefore it requested from states that have ratified the convention to limit and ban this practice.

In theory, Israeli law likewise forbids polygamy and considers it a criminal offense. Article 176 of the penal code of the year 1977 states that the maximum penalty in a polygamy case is five year imprisonment. However, this law is not implemented when it comes to the Bedouin population. The authorities claim inability of tracking down the incidents of polygamy in the tight-knit Bedouin community, due to the lack of the official registration of plural marriages with the Ministry of Interior. However, various data demonstrates that the state and its institutions are not adopting a serious approach towards reducing this phenomenon. In fact, the State is capable of detecting cases of polygamy even if the other marriages aren't registered in the Ministry of Interior. For example, through the National Insurance Institute, which invests much effort to obtain data about all wives in order to reduce their eligibility for different kinds of pensions. Women in polygamous marriages are deprived of the guaranteed minimal income pensions and instead receive lower incomes allocated to 'extended families'. In other words, the State recognizes polygamy to lower the costs of pensions provided by the National Insurance Institute but refuses to implement its penal law.

¹² Ana Huna: Gender and the Right to Health in the Unrecognized Villages in the Negev, PHR, 27. 7. 2008.

Article 6 – The Right to Work

Issue 10: Obstacles to Employment in Israel

Please provide up-to-date information on employed persons by occupation, sex and population group since 2005. Please also elaborate upon steps taken to address the following reported obstacles to employment by the Arab Israeli population:

- The use of the military service criterion;*
- The limited employment opportunities in towns and villages;*
- The shortage of State-run day-care centres for children;*
- A near absence of public transportation from towns and villages to central cities.*

Employment, Unemployment and Underemployment

As the 2009 State's Report notes, unemployment in Israel declined between the years 1999 and 2007 and it continued to do so dropping from 7.5% in 2009 to 6.6% in 2010.¹³ However, it should be noted that the unemployment rate does not reflect the participation in the Israeli employment market. The unemployment rate is measured according to the number of jobseekers who actively sought employment during the four weeks preceding the survey. Accordingly, any person who did not work but did not seek employment, for whatever reason, is not included in the statistics.

The actual rate of participation in the workforce in Israel is much lower – approximately 57.5% of the population is taking part in the workforce, according to Bank of Israel data.¹⁴ This is well below the average participation rate in the workforce in developed countries, which averages 66.1% according to OECD figures.¹⁵ As a result, the supply of jobs is limited relative to the demand. This problematic and permanent situation has led to grave consequences in the form of poverty and low salaries among the population participating in the workforce (those employed and unemployed persons actively seeking employment), since there is increased competition for each position.

The State's Reports extensively alludes to the rapid growth experienced by the Israeli economy in recent years, and attributes to it the drop in unemployment. However, this growth has been disproportionately enjoyed by the economic elite of Israel. The average monthly salary of top executives in the twenty-five largest companies of the Tel Aviv Stock Exchange climbed

¹³ Dr. Shlomo Swirski and Ety Konor-Atias, 'Workers, Employers and the Distribution of Israel's National Income Labor Report: 2010', 1.5. 2011, Employment, Adva Center (Tel Aviv: Adva Center, 2010). [hereafter: **Swirski/Konor-Atias, Adva Center 2010**] Available under: <<http://www.adva.org/default.asp?pageid=1002&itmid=646>>.

¹⁴ Bank of Israel, Main Israeli Economic Data, available under: <http://www.bankisrael.gov.il/deptdata/mehkar/indic/eng_g01.htm>

¹⁵ OECD (2011), 'Society at a Glance 2011 - OECD Social Indicators', available under: <<http://www.oecd.org/els/social/indicators/SAG>>

from being 49 times higher than the average monthly wage in 2000, to being 94 times higher in 2009. Indeed, today's Israeli economy is characterized by sharply increasing economic inequality and persisting socio-economic disparities among its various minority groups. According to the CBS, low-income employed Israelis (earning two-thirds of median income), who made up 25.9% of employees in 2009, earned 7.7% of the national income, while the top 1 % of Israeli wage-earners enjoyed 8.7% of the national income. Three quarters of the Israeli labor force earn salaries less than one-third of high-tech salaries.¹⁶

According to figures from the National Insurance Institute, presented in the Adva Center report,¹⁷ in 2008 approximately 60% of employees in the Israeli market earned less than NIS 6,389, which is 75% of the average salary – NIS 8,518. Moreover, 40% of employees earned less than half the average salary. The salary pyramid shows that over 70% of workers earn less than the average market salary.¹⁸

These figures explain why, in present-time Israel, work does not necessarily mean an end to poverty. It has emerged that the average “profile” of a poor person in Israel is not necessarily that of someone who is unemployed, as might be expected, but rather an employee with post-secondary education. The National Insurance Institute report for 2009 shows that working families account for as much as 49% of the total poor population. In the majority of families that joined the circle of poverty, the head of the household was employed.¹⁹

Economic disparities in Israel still fall along the many ethnic, national, geographic, and gender lines in Israeli society. Mizrahi and Ashkenazi Israelis continue to face differing employment realities, with the average salary of second generation Mizrahi individuals employed in urban areas 40% lower than that of an Ashkenazi employee. This disparity becomes significantly steeper when drawn between Jewish and Arab Israelis, with an Arab worker earning on average 30% less than Mizrahi Israelis and around half of what the average Ashkenazi Israeli makes. While the State's Report notes that unemployment has decreased among recent immigrants from the former Soviet Union, only a select number have actually thrived economically, mostly those who have entered the high tech fields. Instead, recent Russian immigrants continue to be over-represented in the lower echelon of wage earners and under-represented among that of high wage earners. Ethiopian Israelis face considerably worse realities: the majority are poor and hold menial jobs, and even those graduating with university degrees find it difficult

¹⁶ Swirski/Konor-Atias, Adva Center 2010.

¹⁷ Swirski/Konor-Atias, Adva Center 2010. The quoted figures available only in full Hebrew report.

¹⁸ Dr. Shlomo Swirski, 'Move to the front of the train', available only in Hebrew under: <<http://www.haokets.org/2011/08/14/הרכבת-לקדמת-עוברים>>.

¹⁹ National Insurance Institute, Poverty and Social Gaps, Report 2009, p. 21, available under: <http://www.btl.gov.il/EnglishHomepage/Publications/Poverty_Report/Documents/poverty_report_2009.pdf>.

to get a job in a discriminating labor market and many end up working in NGOs and government departments focused on their community.²⁰

Women continue to be over-represented in some fields and highly under-represented in others. They constitute 76% of education service employees, 72% of health service employees, and 85% of welfare and social service employees.²¹ However, they are underrepresented in civil services and in the Israeli government, with only 23 female members in the Knesset (less than 20%) and three in the government ministries (10%).

The distinctions in employment along social cleavages are also translated to type of employment. In 2007, 66.6% of male non-Jews held positions in skilled and unskilled work in agriculture, manufacturing, and construction, compared to 33.4% of total Jews. In the academic, professional or managerial sectors, only 14.7% of male non-Jews held positions while a total of 38.7% of total Jews did.²² These differences were less drastic, though still very present, for women.

Rapid economic growth, largely fueled by high-tech exports, reaped important benefits for central Israel (in and around Tel Aviv), to the neglect of Israel's periphery. Particularly overlooked in this respect have been Arab-Israelis. As the State's Report notes, while there was a very slight decrease in unemployment among Arab-Israelis, unemployment in the Arab sector remains high. According to CBS, in 2007 all but one of the forty-seven towns claiming a higher than average unemployment rate are Arab-Israeli. Arab poverty is attributed to low participation of Arab women in the labor force and to the deficiency of Arab participation in the high-tech and service industries. Bank of Israel governor Stanley Fischer points to discrimination as a significant factor to these persisting inequalities.²³

Not enough has been done by the government to address this disparity, which is perpetuated by persisting discriminatory institutions and practices. The points below elaborate on this issue.

Steps taken to address obstacles to employment by the Arab Israeli population

"Military Service" as a Criterion for Employment

"Military service" as a criterion in job requirements effectively precludes Israeli Arabs from many jobs, since the vast majority of the Arab population does not

²⁰ Dr. Shlomo Swirski, 'Israel in a Nutshell - A Different Introduction to Present Day Israeli Society and Economy', Adva Center (Tel Aviv: Adva Center, 2011), [hereafter: **Swirski, Israel in a Nutshell, Adva Center 2011**] available under: <<http://www.adva.org/uploaded/Israel%20in%20a%20nutshell.pdf>>.

²¹ Swirski, Israel in a Nutshell, Adva Center 2011

²² Adva Center, 'Occupation, by Ethnic Group and Gender', Table Social Gaps (Tel Aviv, 2007), available under: <http://www.adva.org/Uploaded/Occupation_continent_select,%202006_2.pdf>.

²³ Tani Goldstein, 'Fischer: Haredi, Arab poverty up 50%', Ynet, 23 March 2011, available under: <<http://www.ynetnews.com/articles/0,7340,L-4046296,00.html>>.

serve in the army or in national service. The military service requirement makes it impossible for Arab citizens to enjoy equal opportunity in employment. It also runs counter to the provisions of Israel's labor laws, especially the Equal Employment Opportunity Act, 1988, which prohibits discrimination in hiring practices on the basis of, amongst other criteria, religion and/or nationality.

The military service requirement is found in many want ads for a wide variety of jobs that bear no resemblance or relevance to military training. This contravenes Israeli case law, which has already determined that preferential hiring on the basis of military and/or national service when such service has no bearing whatsoever on the nature of the work constitutes illegal "bypassing" discrimination against the Arab minority in Israel. Indeed, setting a discriminatory employment condition, such as military service, is a criminal offense under Israeli law but the State of Israel – specifically, the Labor Law Enforcement Division of the Ministry of Industry and Commerce – has not done enough to enforce the prohibition on this condition.

Recently, there have been several attempts to legalize the use of this criterion, through proposed legislation that would, for civil service jobs, give preference in hiring to veterans of the military. In May 2011, a bill sponsored by Yisrael Beiteinu party came up for first reading in the Knesset. In hiring people for civil service positions, this legislation would establish priority for those who had served in the military or the police (including National Service) despite the fact that military service has no bearing whatsoever on the character or nature of civil service work. In response, ACRI published a position paper stressing that the bill violates the rights of all those applicants who are exempted by law from military service – principally the Arab population – by denying them equal opportunity for employment in the civil service. If that were not enough, the bill runs totally counter to Article 15a of the Civil Service Law (Appointments), 1959, which establishes an affirmative action obligation for hiring Arabs for civil service positions. This article was enacted more than a decade ago as a means to achieving greater equality between Arabs and Jews in the service of the state. It imposes a positive obligation on the state: to work towards fair representation of its Arab citizens, including Druze and Circassian, among civil service employees. Needless to say, the affirmative action obligation was instituted to correct the historical discrimination against the Arab population, one manifestation of which was the under-representation of Arabs in the civil service.

The State's Report dedicates an entire section on state efforts to achieve appropriate representation for Arab citizens in the civil service. However, the proposed legislation now before the Knesset would harm the chances of Arab applicants to be accepted into the civil service; would render meaningless the state's obligation to achieve fair representation; would overturn the worthy goals of and the purpose behind Article 15a of the Civil Service Law; and would perpetuate the discrimination against and the disenfranchisement of Israel's Arab citizenry. It should be emphasized that bills of this type are especially injurious to Arab women, who are severely under-represented in the civil service, both in comparison to Arab men and to women in general.

Laws of this sort would only further the isolation of Arab women, preventing them from integrating into the civil service and the Israeli workforce in general.

Israel argues that equality can be achieved through National Civil Service, which makes the servant eligible for financial benefits equal to a non-combatant.²⁴ Arab citizens however only rarely serve in the National Civil Service for various reasons. It should be recalled that Arab citizens – like haredim and people with disabilities – are exempt from military service by law; neither are they obliged to perform alternative National Civil Service service. More importantly however, a democracy does not present its citizens with conditions for enjoying basic rights, and does not discriminate among citizens.

The Limited Employment Opportunities in Towns and Villages

As reported by the State's Report, much of the economic growth characterizing the last few years of Israel has been fueled by the high-tech industry. However, this field involves only a segment of Israeli society, as it employs just 10 % of the Israeli workforce and is concentrated to the center of Israel.²⁵ Most Arab-Israelis reside in the periphery of Israel, and a low rate of college graduation among their community further restricts them from participating equally in the high-tech boom.

According to Tsofen, an NGO that promotes employment of Arabs in the high-tech industry, only 2% of 80'000 development and researchers workers in Israel are Arabs, although they are 20% of the Israeli population and 10% of the University graduates in science. Tsofen further estimates that there are five medium-sized high-tech companies and several dozen start-ups founded by Arab entrepreneurs in Nazareth and the industrial zones in Nazareth Illit, Tefen and Gush Segev, and another start-up company in the Bedouin village of Hura in the Negev.²⁶ Compounding this problem, the high-tech and service industries in turn benefit disproportionately from the country's economic growth, to the neglect of traditional 'low-tech industries' upon which many Arab-Israelis depend for their livelihoods.

The Shortage of State-Run Day-Care Centers for Children

Contributing to unemployment in Arab communities is the under-employment of Arab-Israeli women, with only 18.7 percent of Arab women currently employed, compared to 56% percent of Jewish women. While some government ministers accredit this figure to social and cultural preferences, most experts dispute this simplification and note the unemployment of 11,000

²⁴ Israel Report, 2011, pp. 72 – 74.

²⁵ Swirski, Israel in a Nutshell, Adva Center, 2011.

²⁶ Tani Goldstein, 'Arab high-tech-blooming in Galilee', ynetnews.com, 21 April 2011, available under: <<http://www.ynetnews.com/articles/0,7340,L-4057013,00.html>>; see also Tsofen, High-Tech in Arab-Community, available under: <http://www.tsofen.org/?page_id=153&lang=en>; Ala Agbaria, 'Take Arabs for hi-tech, New minds – even if they never crawled through mud in Lebanon – could bring next million', ynetnews.com 7. March 2006, Available under: <<http://www.ynetnews.com/articles/0,7340,L-3270414,00.html>>

Arab women who hold a university degree.²⁷ One factor to consider is the shortage of state-run day-care centers for children.

Despite the State Report's optimistic appraisal of growing government support for day-care centers in Arab localities, a shortage of state-run day-care centers continues to obstruct many Arab women from seeking employment. The government has taken important steps in the last few years in supporting day-care centers in general, with the 2011-2012 proposed budget dedicating 50% more in subsidies for day care centers. However, currently, government-subsidized facilities are much less accessible to Arab women than they are to Jewish women, with only 6% of Arab preschoolers enrolled in approved day care centers, even while they constitute more than 27% of their age group in Israel.²⁸

Inadequate Public Transportation from Arab Towns and Villages

The lack of transportation services to Arab localities has been a serious impediment to Arab mobility and, therefore, to Arab employment and livelihood. Arab rural women, many of whom don't drive, have been the main casualties of this unequal access to transportation. Following a lengthy campaign by a variety of women's rights groups, the Transportation Ministry decided in July 2010 to begin providing public transportation to Arab villages, with new bus lines planned to run to Arab localities in North and Central Israel. The Ministry acknowledged that these services would significantly increase employment opportunities, especially for Arab rural women. However, public transportation fares are planned to rise due to an increase in fuel taxes outlined in the 2011-2012 national budget. This will be particularly felt by lower-income citizens, including Arab-Israeli citizens, who are already more dependent on public transportation than middle and upper class Israelis.

There is also a serious lack of public transportation in the Bedouin community in the Negev. Unrecognized villages are particularly hard hit, as they aren't provided with access roads or other municipal infrastructure. While the government emphasizes the improvement in the southern and northern recognized Bedouin villages,²⁹ most of these villages still lack the needed infrastructure and fair and equal public transportation; the unrecognized villages on the other hand, where tens of thousands of Bedouins live, still don't have any public transportation solutions.

Issue 12: Obstacles to Employment in the West Bank

Please indicate how the state party ensures the right to work of (a) Palestinians in the west bank whose agricultural land

²⁷ See, The Status on Palestinian Women 2010.

²⁸ Women's Budget Forum, 'Shortage of Childcare Facilities: A Key Obstacle in the Way of Employment Opportunities for Arab Women', NGO (Tel Aviv, 2010), available under: <
<http://www.wbf.org.il/Uploaded/Meonot%20-%20English.pdf>>

²⁹ Israel Report, 2011, pp. 87 – 89.

has been rendered inaccessible by the construction of the barrier and the State party's permit system. [...]

It needs to be preliminarily remarked that Israel, in its Replies to the issues of 2011, refers whenever asked about the rights of the Palestinians living in the Occupied Palestinian Territories to Question 2. The state claims that the CESCRC does not apply to the Occupied Territories due to the Conventions territorial character.³⁰ This interpretation however, is seriously flawed. Israel bears the responsibility of ensuring human rights to all the people under its control and jurisdiction. It is due to the military control and occupation, and the dependence of the Palestinians on the military in many aspects of their lives, that Israel bears the responsibility of ensuring human rights to the residents of the Occupied Territory.

Restrictions on Palestinians' access to their farmlands

Throughout the Occupied Territories, Israel employs an extensive policy of limiting the access of Palestinian residents to their agricultural lands, including farmland adjacent to Jewish settlements – a policy employed against a backdrop of settler violence directed at the Palestinians and their property. Moreover, by applying a strict but selective legal regime in the Territories, Israel has greatly limited Palestinians' access to those lands isolated from them by the Separation Barrier, which was built within occupied territory.

Denial of access to lands due to settler violence

The serious injury suffered by Palestinians because of denied access to their farmlands is compounded by the fact that the state authorities have been impotent in dealing with criminal acts perpetrated by Israeli settlers against them. Unfortunately, this is not a new phenomenon. Law enforcement authorities have been charged with solving this problem since the seventies. Decades have passed, numerous reports have been written, and yet the “helplessness” displayed by the authorities in combating violent and criminal acts against local residents continues, creating severe injury to Palestinians' right to personal security, in the protection of their physical integrity, their right to property, and their way of life.

Hundreds of such incidents have been witnessed each year, including violent assaults against Palestinian residents, trespassing, theft, the intentional burning of olive groves and other agricultural fields, the felling of trees, taking over of land, and more. Additionally the phenomenon of "price tag" incidents - acts of random violence perpetrated by settlers as a means of collective reprisal and a form of “protest” against various political developments, including the dismantling of unauthorized outposts, etc. - has emerged.

Each year, violence of this sort escalates, intentionally, during the plowing season and the olive harvest, as a means of blocking Palestinians' access to

³⁰ Israel Report 2011, pp. 4 - 5.

their lands, causing injury to the Palestinians' livelihood and as a way of demonstrating the perpetrators' hold over the land.

As a result the Palestinian's access to their farmlands is largely prevented for two different reasons. First, the army does not allow them free passage to their lands, requiring prior coordination of every entry. Farmers often face difficulties and prolonged delays in coordinating permitted entries so that they can work their lands. Some of the Palestinian agricultural lands have been engulfed as enclaves within the built-up area of settlements or are within settlement jurisdiction. Consequently Palestinian access to these lands has been cut off completely, and there is a growing fear that the settlers will take over these lands.

Secondly, the army fails to adequately protect the Palestinian farmers, and as a result, many are unwilling to approach their lands for fear of violent attacks or damage to their property. In 2004, ACRI petitioned the Supreme Court demanding that Palestinian farmers be allowed full access to their agricultural lands throughout the year especially during periods requiring intensive work in the fields, and demanding that Palestinians and their property be protected from settler violence in accordance with the obligations of the Military Commander of an occupying force toward the residents of a protected area.

In 2006, the Supreme Court accepted the arguments of the petitioners and ruled that the Palestinian farmers have the right to access their fields at any and all times, and that it is the duty of the Military Commander to ensure and protect that right.³¹ Similarly, the ruling established a duty to protect Palestinian-owned trees and agricultural fields as well as agricultural equipment, which have also been the target of violence by settlers.

However, several years after this ruling, Palestinians' right to freely access their lands has not been fully realized, and the authorities continue to tolerate settler violence, which effectively prevents the Palestinians from accessing their lands. Moreover, in recent years there has been a troubling increase in incidents where Palestinian crops have been vandalized, including damage to olive trees. Owing to the partial implementation of the court's ruling, and to the continuous infringements on the rights of, and the financial damage to the Palestinian population stemming from lack of access to their fields and damage to their property, ACRI and other Israeli human rights organizations have appealed on numerous occasions to the Military Commander of the West Bank, demanding that he station military units at known friction points on a regular basis, in order to protect Palestinian residents from settler violence. These requests have been denied, the Commander claiming that in light of priorities, the army was currently doing an adequate job in protecting the Palestinian population.

The Separation Barrier and the regime limiting access to land

In 2002, Israel began building a system of fences and barriers, the vast majority

³¹ HCJ 9593/04 Murar v. Military Commander in Judea and Samaria, ruling from 26.6.2006

of which were built within the West Bank on Palestinian land and therefore in violation of international law.

As a result of this system, a series of enclaves were created between the Separation Barrier and the Green Line, which have become known as the "seam zone". The seam zone was subsequently declared by the Military Commander a "closed military zone" allowing Israelis and foreigners free passage, while denying Palestinians – including those residing in the area or owning farmland there – entry to those lands unless they received special, one-off dispensation permits. This legal regime, which conditions the Palestinian entry to their own lands on these special permits, has been named "the permits regime".

The approximately 6500 Palestinians who live in these enclaves, as well as the tens of thousands of Palestinians who rely on these lands to make their living, have become subject to a rigid bureaucracy that effectively prevents most of them from access to these lands, from transporting goods and farm equipment in and out, from hiring additional laborers, etc. This has severely damaged the source of their livelihood, their daily routines, and even their access to rescue services in cases of emergency. The permits regime has made these residents totally dependent on the goodwill of the Military Commander, who has the power to grant or revoke permits at will.

A series of 66 gates, built into the Separation Barrier, provides passage to and from the seam zone only for those Palestinians holding entry permits. In most cases, these gates are only opened briefly during the day. The vast majority of these gates is closed most of the year and is opened for special permit holders solely during the plowing season and the olive harvest.

In two separate Supreme Court petitions filed in 2003 and 2004, ACRI and HaMoked - Center for the Defense of the Individual sought the revocation of the permits regime.³² The petitions argued that the permits regime constitutes an illegal judicial entity, in that it discriminates on the basis of ethnicity and nationality between Palestinian residents – whose passage into the seam zone is limited or prohibited – and Israelis and foreign residents, whose free passage does not depend upon their holding a permit. The petitioners further claimed that permits regime is illegal because it subjugates Palestinians to a bureaucracy whose true purpose is to evict them from their lands in the seam zone. In addition, it was claimed that the permits regime was instituted to achieve an illegitimate end, namely the dispossession of protected residents from their lands and the under international law illegal annexation of territories that were not being used solely for security purposes, as it had been claimed by the State of Israel. For example, data presented by the state during petition hearings demonstrated that in recent years there has been a drastic reduction in the number of permits granted to Palestinian residents. At the same time the territory of the seam zone has been expanded by 30%, the number of permits issued to farmers in the zone has plummeted by 83%. The data further showed

³² HCJ 639/04 ACRI v. Military Commander in Judea and Samaria, and HCJ 9961/03 Hamoked – The Center for the Defense of the Individual v. The Government of Israel (rulings on both petitions handed down on 5.4.2011)

that the vast majority of the permit refusals (between 90%-98.8%) were issued because the applicants lacked an inherent connection to the land and not because of security concerns (between 1.2% -10%).

On 5.4.11, the Supreme Court rejected the petitions, ruling that the closure of the seam zone was legal and that, aside from a few minor procedural adjustments, the permits regime itself was legally valid. The court's ruling gives legal endorsement to policies aimed at dispossessing Palestinian residents of their lands. It authorizes and institutionalizes systemic discrimination on the basis of nationality, and allows for the continued injury to the local population, which according to international law should enjoy special protection.

Implications of restrictions for Palestinians' ability to achieve an adequate standard of living

The Palestinian economy relies predominantly on agriculture and in particular on the seasonal growing of olives. Olive farming brings in over \$100 million dollars a year to the Palestinian economy.³³ Olive growing is typified by intensive agricultural work several times a year during fixed periods, namely: the plowing, pruning, and olive harvest seasons. As such, the strictures imposed upon Palestinian farmers, limiting access to their olive groves during these crucial seasons can mean the loss of an entire year's crop and income. Israel's policies have severe implications for the Palestinian agricultural economy and for those who depend on it for their livelihood. The closure of agricultural lands through the Separation Barrier and the selective and rigid permits regime has resulted in high unemployment in those villages whose agricultural lands lie within the seam zone, and the economic situation in these villages has taken a severe turn for the worse.³⁴

As a result of the above, many villages currently rely on part-time, voluntary assistance from international and Israeli volunteers during the olive harvest, since their extended family members who traditionally helped out at harvest time are sometimes denied access to the lands or are fearful of harvesting olives alone.

Israel's policy of restricting access to Palestinian farmland impacts directly on Palestinians' right to work and the right to an adequate standard of living. Indirectly, it affects their ability to realize a number of other basic rights, including the right to freedom of movement, freedom from occupation, the right to livelihood, property, dignified existence, family life, education, development, and health.

³³ It is estimated that 45% of agricultural land in the OPT is planted with around 10 million olive trees and provides employment and income for around 100,000 families of olive oil producers, not including their workers. 'The Road to Olive Farming, Challenges to Developing the Economy of Olive Oil in the West Bank', Oxfam, 2010 [hereafter: **The Road to olive Farming**], p.7.

³⁴ The Road to Olive Farming, p.19.

Article 7 - The right to just and favorable conditions of work

Issue 13: Wage Differences Between Men and Women

Please provide up-to-date information on the wage differences between men and women by sectors, and indicate what measures have been taken to ensure equal pay for work of equal value.

Significant gaps in employment and employment benefits subsist between male and female workers in Israel, as stated in the State's Reports. In 2009, the average salary of an Israeli woman amounted to only 66% of that of the male worker, with the national monthly salaries of women constituting 60% of those of males, and their hourly wages 80% those of males.³⁵

In 2009, a decline in the wage gap was documented. However, this was not a result of any actual improvement in the hourly pay of women but instead of the global financial crisis, which saw a reduction in the average pay of men. Indeed, the current government policies purported to address the wage gap between male and female workers leave much to be desired, and instead several policies even threaten to further undermine equal employment rights. For instance, because women make up two-thirds of public employees and are overrepresented in the fields of health, education, and welfare, the cuts that are done every year in the state budgets of social services disproportionately impact women workers and their salaries.³⁶

In Israel, discrimination in the workforce is facilitated by particularly poor labor inspection services. In a response to a query advanced by ACRI, the Ministry of Industry, Trade and Labor gave the total of full-time supervisors as 48, with 61 students 'helping out' part-time. These employees are given the responsibility to supervise the enforcement of labor laws for a 2.8 million workforce. This is significantly below the OECD requirement of having one inspector for every ten thousand workers.³⁷

Equal Employment Opportunities Commission

The Israel 2011 report devotes considerable space to describing the important activities of the Equal Employment Opportunities Commission (EEOC), which is the only governmental body in Israel responsible for promoting equal opportunities, combating discrimination in the workplace, and enhancing enforcement in this field. The EEOC certainly undertakes very impressive work relative to the resources it receives, but this work is nevertheless partial against the background of the needs and the level of inequality and discrimination that typify the Israeli workplace.

³⁵ Swirski, *Israel in a Nutshell*, Adva Center, 2011.

³⁶ Yael Hasson, 'Through a Gender Lens', Adva Center, 2011, available under: <http://www.adva.org/default.asp?PageID=1002&ItemID=645>

³⁷ OECD, 'OECD Reviews of Labour Market and Social Policies: Israel' 2010 [hereafter: **OECD Review 2010**], p. 94.

To the best of our knowledge, the EEOC currently has a staff of just four permanent attorneys, as well as two legal interns, a research director, and an administrative director.³⁸ The EEOC does not have any representatives in Israel's Southern District, which is annexed to the Jerusalem District for this purpose. The office in Haifa and the national office do not have any legal interns. The EEOC does not have a national legal advisor, and there is just a single staff position for research. There is no staff position for training and information functions. Most of the positions are filled by attorneys, who effectively function as regional commissioners in Tel Aviv, Jerusalem and Haifa.

Given this limited deployment of personnel, the ability of the EEOC to perform its functions in a broad and meaningful manner is obviously extremely limited. Understaffing impairs the Commission's ability to undertake research, promote awareness among employers, respond to numerous requests, and pursue legal proceedings as necessary.

The EEOC was established over three years ago and has already secured considerable achievements in both the legal and the public arenas. Despite this, the government of Israel has not increased the resources available to the EEOC since its establishment. This severely impedes the ability of the EEOC to address the scope and depth of discrimination in the Israeli workplace.

In its annual report for 2010, the EEOC presented a proposed administrative structure designed to provide a firm basis for its operations. The proposal advocated additional 16 staff positions, which would bring the total number of positions to 24, as compared to just eight at present.³⁹ The government of Israel takes pride in the EEOC's work, but regrettably has failed to provide the necessary budgets and personnel to enable the Commission to perform its tasks.

In addition to the problem of resources, a further substantive problem relates to the EEOC's powers of enforcement. In principle, the EEOC enjoys powers of enforcement relating to all employers in the Israeli economy, including the civil service. However, the manner in which the EEOC exercises its authority is different in the case of civil service employers.

The EEOC operates under the auspices of the Ministry of Trade, Industry and Employment, and accordingly forms part of a government ministry. Due to this status, governmental bodies have argued that the EEOC is not empowered to submit suits against the state in its capacity as an employer. This subject was brought before the attorney general, who in February 2009 issued an interim decision stating that the EEOCs authority to submit suits would not be used against government ministries. The attorney general ordered that an

³⁸ Website of the Equal Employment Opportunities Commission, business card, <<http://www.moital.gov.il/NR/exeres/12EE5456-C20B-4B5E-B30C-033870368B0E.htm>> (Hebrew).

³⁹ Equal Employment Opportunities Commission, Annual Report 2010, p. 36, <http://www.moital.gov.il/CmsTamat/Rsrc/PDFPublish/shivion_report_2010/index.html> (Hebrew).

instruction be prepared as soon as possible regulating the EEOC's work in this context. To date, no such instruction has been prepared, and a temporary internal procedure currently regulates the operations of the EEOC in cases when its position differs from that of the relevant government ministry. According to the procedure, any unresolved disagreement between the EEOC and a government ministry is brought before the deputy attorney general, who serves as an arbitrator for this purpose.

The attorney general also determined that the exercising of the EEOC's authorities against local authorities and government companies requires the approval of the Ministry of Justice. The submission of indictments against private employers also requires prior authorization from the Ministry of Justice.

The obvious result of this situation is that the EEOC is dependent on the Ministry of Justice, since it effectively does not enjoy legal autonomy. In practical terms, the need to consult on every case and to receive prior authorization before submitting a claim in some cases, and the inability to submit suits against government ministries all impair the EEOC's ability to perform its function. The EEOC was established by law with the goal of enforcing equal opportunities in employment in both the public and private sectors. Restricting the authority of the EEOC to work professionally and independently with government ministries thwarts this purpose.

The two obstacles to the EEOC's work described above, in the field of resources and in terms of authority, impair the effectiveness of its work. Despite these limitations, the EEOC has achieved the almost impossible task of securing significant advances in equal opportunities, both by raising awareness among employers and through legal tools. Nevertheless, and as explained above, its work is partial against the background of the achievements that could be secured in this field by a strong and independent body. A policy based on a commitment to workers' rights and to promoting substantive equality in the workplace clearly requires greater investments in this field. The body responsible for this work must be given the full budgets and authorities required in order to perform this important task.

Issue 14: Complaints to the Ombudswoman for the Foreign Workers

Please provide information on the number and nature of complaints received by the Ombudswoman for the Complaints of Foreign Workers, on a yearly basis, as well as action taken after referral to the Ministry of Industry, trade and Labor.

Exclusion of Migrant Care-Givers from the Protection of the Ombudsman on the Rights of Migrant Workers

In a recent legislative amendment to Israel's Foreign Workers Law of 24.3.2010, the Israeli parliament voted in favour of excluding migrant care-givers from the protection of the ombudsman on the rights of migrant workers.

It is within the Ombudsman's authority, inter alia, to handle complaints from migrant workers about their working conditions, to file civil lawsuits against offending employers and to intervene in pending cases. This legislative amendment results in the Ombudsman's authorization to handle complaints by migrant workers employed in the construction, agriculture and industry sectors only. Migrant care-givers are not eligible to lodge complaints against their employers, except for cases of trafficking for slavery and forced labor or in cases of sexual abuse or violence. All other violations of their rights – such as matters concerning minimum wage, overtime pay, working hours, wage withholding, overall working conditions, housing conditions, health and safety, passport withholding, etc. – are not within the jurisdiction of the Ombudsman.

While the law remains silent on the reasons for this exclusion, statements by ministers in the Israeli Government as well as by officials in the Population, Immigration and Border Control Authority and the Ministry of Industry, Trade and Labor (MOITAL) reveal the reasoning behind it. In a response letter of 2/6/2009 to Israeli NGOs, the MOITAL minister, Fuad Ben Eliezer, stated that "the decision not to apply the authorities of the Ombudsman on the rights of migrant domestic care-givers, except for cases where there is suspicion for trafficking in persons, slavery or forced labor or sexual harassment, stems from the fact that in the care-giving sector there are two weak populations the government should defend: the first, the population of the migrant workers employed in this sector; the second – the population of permit holders – the employers." The statement by the MOITAL minister reflects a populist and dangerous sentiment that has unfortunately become well accepted with Israeli policy makers. It is believed that assisting elderly and disabled care patients entails infringing upon the rights of their workers and denying them access to justice in cases where their rights are violated. Excluding a particularly vulnerable group of workers from the protection of a central institution in charge of enforcing their rights reflects an entirely misguided understanding of the State's role in enforcing the rights of migrant workers, and thwarts the goals this institution was intended to accomplish.

The amendment is blatantly discriminatory against women, since migrant workers in construction, agriculture and industry – the sectors where the ombudsman will be free to operate – are overwhelmingly male; Migrant workers in the care-giving sector, on the other hand, are overwhelmingly female. The de facto consequence of this exclusion is hence a "men's only" ombudsman. Excluding care-givers from the Ombudsman's protection also serves to reinforce biased notions that women performing care work are not "real" workers entitled to equal treatment and protection.

The organizations Kav LaOved, ACRI and Hotline for Migrant Workers have filed a petition to the High Court of Justice in May 2011, requesting to disqualify this discriminatory legislation.⁴⁰ On 6 October 2011, the Supreme Court has rejected the petition. It ruled that there is a relevant difference between migrant caregivers and migrant workers in other fields of work, which justifies their exclusion from the supervisor's mandate, and that "the need to

⁴⁰ HCJ 4007/11 Lianghi v. the Knesset.

protect foreign workers does not mean causing harm to any other weak group, nor does it mean that the protection of the rights will be done while shutting one's eyes to other public and human interests."

The court has also rejected the claim that the exclusion of caregivers from the supervisor's mandate is tainted with gender discrimination: 'We have also found it hard to accommodate the claim that this constitutes discrimination against women [...] The reason for the distinction is rooted in essential differences between the private employers in the care-giving sector vis-à-vis other sectors, and has nothing to do with gender distinctions.'

Article 9 – The right to social security

Issue 18: Unemployment Benefits

Please clarify why, since 2002, the number of persons eligible for unemployment benefits has reportedly been reduced by half, and why, in 2007, only a quarter of the unemployed were entitled to unemployment benefits.

Reductions of Unemployment benefits

Over the past decade, stricter conditions have been introduced for eligibility for unemployment benefits, denying unemployment benefits to many unemployed persons; at the same time, the sum of unemployment benefits has been reduced. According to figures provided by the National Insurance Institute, just before the stricter criteria for receipt of unemployment benefits were introduced, a little less than half of all unemployed persons were eligible for unemployment benefits (in 2003). One year after the stricter conditions were introduced, this figure fell to just one-fourth. In 2010, approximately 27% of unemployed persons were eligible for unemployment benefits.⁴¹

Some examples of the ongoing erosion of unemployment insurance in recent years:⁴²

- **Eligibility was restricted to a period of 4 years:** In 2000, it was decided that a person under the age of 40 will be eligible for only two periods of unemployment, in the second of which the period of eligibility was reduced to 80% of the number of days and 85% of the sum of unemployment benefits.
- **Period of work required as a condition for receiving unemployment benefits was doubled:** At the end of 2002, it was decided that the period granting entitlement to receive unemployment

⁴¹ National Insurance Institute, 'Recipients of Unemployment Benefits in 2010', Periodic Surveys, (2011), available under:

<http://www.btl.gov.il/Publications/survey/Documents/seker_231.pdf> (Hebrew).

⁴² Ibid.

benefits will be extended from 6 to 12 months, out of a consecutive period of 18 months preceding the period of unemployment.

- **Period of eligibility for unemployment benefits was reduced:** The period of payment, which was previously either 138 or 175 days, depending on age and family status, was reduced and now ranges between 50 to 175 days.
- **Unemployment benefits for young people were cut by approximately 25%.**
- **Unemployment benefits during vocational training were decreased:** The eligibility of an unemployed person during vocational training was reduced to just 70% of the level of the unemployment benefits.
- **Requirement to offer unemployed persons work commensurate with their education and training was restricted:** In 2008, it was decided that after a period of between 2 to 4 weeks, the Employment Service can send unemployed persons under the age of 35 to any work, even if it is not commensurate with their training and education. If the individual refuses the position offered, they will be denied unemployment benefits.

Income Support Payments

Income Support Payments is the final safety net for a family that has no other source of income in Israel. Over the years, this benefit has become very modest and does not permit families left without any assets or other sources of income to live in dignity or to enjoy nutritional security.

The watershed in this respect was the Budget Arrangements Law for 2003. The Supplementary Income Law established, with its enactment in January 1982, payment of benefits on two levels – an increased rate and an ordinary rate. The ordinary rate was approximately 80% of the increased rate. The introduction of two rates sought to reflect the principle that the level of the benefits should be adjusted according to the period of time in which the claimant is expected to face distress. The ordinary rate was intended for claimants who were part of the workforce, but who had encountered temporary distress for a period not exceeding two years. The increased rate was intended for those whose distress is not temporary. In April 1992, the eligibility was also extended to include single-parent families in which the single parent is divorced or single, even if they had not been in the system for two full years. The Reduction of the Dimensions of Poverty and Income Gaps Law of 1994 increased the level of the benefits and established that a claimant aged 46 or above, who was found eligible for the benefits, would receive the increased rate even if he or she had been in the system for less than two years.⁴³

⁴³ National Insurance Institute, 'Annual Survey 2004' (2005), available under: < http://www.btl.gov.il/SiteCollectionDocuments/btl/Publications/SkirotShantiot/AnnualSurvey2004/skira_2004.pdf > pp. 121-125 (Hebrew).

The Budget Arrangements Law for 2003 abolished the entitlement to receive the increased rate of Income Support Payments for claimants aged 46-54, as well as the transition from the ordinary rate to the increased rate for those who had been in the system for two years. The ordinary rate was reduced by up to 20%, depending on the composition of the family, while the increased rate for single-parent families was reduced by 23%. The benefits for new claimants aged 46-54 was reduced by up to 32%, depending on the composition of the family. Single claimants under the age of 25, as well as childless couples where both partners were under the age of 25, became eligible for only 80% of the ordinary rate, with certain exceptions established in the law.⁴⁴

In addition, the parameters for the income test were changed. Among other changes, the level of income from work or pension not included in determining eligibility was changed; the level of offsetting of benefits was reduced by a varying percentage according to the composition of the family; and the level of income preventing eligibility was reduced according to the level of the new benefits.⁴⁵

Changes were also introduced to the employment test. Until January 2003, some individuals were required to report to the Employment Service in order to find work, while others were exempt. Exemptions included mothers of children aged 7 or under and widows with children of any age. However, even among those who did not enjoy such exemption, the Employment Service implemented varying rules regarding the dates of reporting, based on the individual's ability to be integrated in the labor market. As of January 2003, the Employment Service is no longer authorized to define a claimant for supplementary income as temporarily or permanently unplaceable. The main amendment regards mothers of young children: Prior to this legislation, mothers whose youngest child had not yet reached the age of 7 were exempt from the employment test. After the amendments, mothers are exempt only until their child reaches the age of 2, and the position of widows was brought into line with that of mothers of young children.⁴⁶

These administrative changes, introduced under the cloak of the Budget Arrangements Law, had grave ramifications.⁴⁷ Of 125,000 families who received benefits in mid-2002, some 103,000 faced a cut in their benefits or were denied benefits altogether. Of those families denied benefits, 80% were single-parent families.⁴⁸ The average reduction in the benefits was NIS 620 a month for families affected, equivalent to 29% of the benefits provided prior to

⁴⁴ National Insurance Institute, 'Annual Survey 2003' (2004), available under: <
[http://www.btl.gov.il/Publications/Skira_shnatit/%202003-2002תשנ"ג/2003-2002/Pages/default.aspx](http://www.btl.gov.il/Publications/Skira_shnatit/%202003-2002תשנ)>
(Hebrew), [hereafter: **National Insurance Institute, Annual Survey, 2003**], pp. 152-154

⁴⁵ Ibid, p.154.

⁴⁶ Ibid, in footnote 41, p. 158.

⁴⁷ See Amir Paz-Fuchs, 'The Welfare Reform, between Capitalism and Patriarchy: The Budget Arrangements Law, 5763-2003 and the Cut in Supplementary Income Benefits for Young Unemployed Persons and Single Mothers', *Work, Society and Law* pp. 339-361 (2004) (Hebrew).

⁴⁸ National Insurance Institute, Annual Survey 2003, p. 159. See also: Knesset Research and Information Center, Background Paper: Supplementary Income Bill (Amendment of Restrictions on Eligibility for Benefit), 5764-2004, author: Liat Rosso (in Hebrew).

the legislative changes. The legislation led to an immediate saving of approximately NIS 800-850 million per year in supplementary income payments.⁴⁹

In addition to the reduction of the benefits, the government decided in 2002-2003 to cut or cancel ancillary benefits. Automatic discounts in municipal taxes, public transport, and television fee were cancelled for new recipients. Discounts in payments for visits to physicians were cancelled, and the level of rent assistance for all recipients was also reduced.⁵⁰

Issue 20: Revocation of Residency Rights of East Jerusalem Palestinians

Please describe the impact of the revocation of residency rights of Palestinians living in East Jerusalem on their right to social services.

The Israeli law authorizes the Interior Ministry to revoke the permit of a resident (native or immigrant) who left the country for a period of seven years or more, or who acquired citizenship or permanent license in another country, and thus had supposedly severed ties with Israel. The majority of Palestinians in East Jerusalem are permanent residents of Israel, and the ongoing policy of revocation greatly infringes on the basic human rights of tens of thousands who wish to leave Jerusalem for studies, work or marital purposes. In recent years there has been a sharp increase in revocation of residency, and 2008 set a record with 4,577 revocations. Almost one half of the total revocations of permits since the annexation of Jerusalem in 1967 occurred between the years 2006 to 2008. This sharp increase indicates a deliberate policy to reduce the number of Palestinians living in the city. The Interior Ministry regularly revokes residency permits without giving prior notice and without holding a hearing to allow for residents to make their argument. In this manner, residents discover only after the fact that they may no longer return to their indigenous.

In a petition submitted to the High Court of Justice, HaMoked (Center for the Defense of the Individual) and ACRI demanded that the Interior Ministry stop revoking permanent residency permits held by residents of East Jerusalem.⁵¹ The human rights organizations further requested that the law be amended to provide special protection clauses for those who reside in areas that were annexed by the State of Israel – today East Jerusalem and the Golan Heights – so that they could leave and return at their own free will. The petitioners demand that the Entry into Israel Regulations be amended to stipulate that a visa and permit for permanent residency granted, following the annexation of a territory to the State of Israel, will not be revoked, even if a resident had left the country for prolonged periods of time or became a citizen of another country. Thus, a distinction would be made between immigrants who had

⁴⁹ National Insurance Institute, Annual Survey 2003, p. 159.

⁵⁰ National Insurance Institute, Annual Survey 2003, p. 160.

⁵¹ HJC 2797/11 Qarae'en v. Minister of the Interior (April 2011), available in English under: <http://www.hamoked.org/files/2011/114270_eng.pdf>.

acquired status in Israel for reasons such as marriage to an Israeli citizen, who would still be required to continuously prove that their center of life is here, and between residents of East Jerusalem and the Golan Heights who would be allowed to leave and return at their own will, as is acceptable among citizens who are never under threat of revocation of status.

The petition was submitted in the name of Mahmoud Qarae'en, a 26-year-old resident of Silwan in East Jerusalem. Qarae'en must conduct his life knowing that any choice which means leaving Jerusalem for a protracted period of time - be it for residential or familial reasons or for the purpose of studying or working - may eventually cost him his residency permit. Acquiring citizenship or other residential status in a foreign country would involve the same punishment, meaning the loss of status and with it the loss of the possibility to return to his family, home, city and birthplace.

To make matters worse, even a decision to relocate to an area near Jerusalem that is considered Occupied Territories by the Israeli authorities can be interpreted by the Interior Ministry as a step of immigration, as if the Jerusalem resident had intentionally left the country. Many Palestinians, and in particular women who marry West Bank residents, lose their status this way. They reside only a few miles from their place of birth, to which they may no longer return. The Interior Ministry is basing this policy on the 1988 High Court ruling in the 'Awad case', in which the justices ruled East Jerusalem residents may have their status revoked due to "transference of center-of-life", as is the common approach toward foreigners who had acquired residency permits but later chose to leave the country.

It is crucial that Israel stops revoking the residency permits of Palestinians from East Jerusalem, and moreover quits denying them the right to return to their homes in order to achieve its demographic goals.

Article 10 – Protection of the family, mothers and children

Issue 21: Entry into Israel Law and Family Reunification

Please indicate whether the State party is planning to revoke the Citizenship and Entry into Israel Law (Temporary Provision) 5763-2003 and take alternative measures that would guarantee and facilitate family reunification for all citizens and permanent residents. In addition, please provide information on the number of requests for entry into Israel received on a yearly basis since 2003, and specify the number of those that have been denied entry and the reasons why.

Since May 2002, Israel has prevented – first by government decision and since 2003 by law – legalization of the status of Palestinians in Israel, even if they are spouses or children of Israeli citizens and residents. Although the avowed purpose of the law is security, decision makers have clarified more

than once that the intent is demographic – to prevent Palestinians from having legal standing in Israel. Although the law permits spouses and children above a certain age to hold a temporary residence permit without social rights, it does not allow legalization of their status on a permanent basis. And since 2007, Israel has placed an absolute prohibition on legalizing the status of family members who are citizens of Syria, Lebanon, Iran, or Iraq and – from 2008 – also Gaza Strip residents.

The law, while ostensibly enacted for security purposes, disproportionately harms the right to family life solely on the basis of nationality and ethnic origin. The law additionally undermines the principle of equality as it prevents Arab citizens and residents whose partners reside in Arab states or the Occupied Territories from realizing their right to a family life. In May 2006, the High Court of Justice rejected petitions against this law,⁵² asserting in a majority ruling that these orders are temporary despite the harm they cause. Subsequent petitions against extending the validity of this law are pending.⁵³

Article 11 - The right to an adequate standard of living

Issue 22: Poverty and the Governmental Policy toward it

Please provide up-to-date information on the number of households that live below the national poverty line, in the State party, including in the Occupied Palestinian Territories, disaggregated by population group. Please also provide detailed information on public expenditure to fight poverty in particular for the most marginalized and disadvantaged groups in society, and indicate its effect on reducing the extent and depth of poverty.

In 2009, the poverty line was NIS 2,270 for an individual living alone and NIS 3,630 for a couple. The State's 2009 Report optimistically predicts a decline in poverty rates, noting the slight decline in the incidence of poor families in Israel in both 2006 and 2007, as well as a reduced poverty rate among individuals and children. However, in 2009, the national poverty rate came out to 20.5% - *three full percentage points higher* than where it was ten years ago, and higher than the previous year. In 2009, there were a total of 435,100 poor families in Israel, including 1,775,800 individuals among whom 850,300 children. The incidence of poverty among children *likewise* increased – by 2.3 percentage points, to 36.3%.⁵⁴

⁵² HCJ 7052/03 Adalah v. The Minister of the Interior.

⁵³ HCJ 466q07 Galon v. Attorney General, consult further: Section 20 of the Report on Israel by the CERD of March 2007, CERD/C/ISR/CO/13, available under: <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/424/79/PDF/G0742479.pdf?OpenElement>>.

⁵⁴ National Insurance Institute, 'Poverty and Social Gaps: 2009', Annual (Jerusalem: National Insurance Institute, 2010), <http://www.btl.gov.il/English%20Homepage/Publications/Poverty_Report/Pages/oni2009.aspx> [hereafter: **Poverty and Social Gaps, 2009**], p. 5.

The severity (that is a combination of effects of the incidence of poverty and the depth of poverty, with greater weight attributed to poorer people) and depth (that is, the average distance of poor people's income from the poverty line) of poverty both increased sharply – the former rising by 12.2% in 2009 (twice as fast as its average growth rate in the previous decade) and the latter from 34.2% in 2008 to 35.5% in 2009. The economic crisis is an important factor in the worsening situation of poverty in Israel, and accordingly families participating in the labor market (and mainly those already near the poverty line) were more highly impacted.

Nevertheless, these figures stand in stark contrast to the rest of the member countries of the OECD. A 2011 OECD report reveals that Israel's poverty rate is more than twice as high as the rest of the OECD countries, that its income gap between the ninth and lowest decile one and a half times as high, and that the disparity between the overall standard of living and that of the poorest decile is three times as high as the OECD average ratio.⁵⁵

According to the Israeli National Insurance Institute, contributing to this increasing rate of poverty is a lack of investment in the Arab sector, very low participation of ultra-Orthodox men and Arab women in the labor force, the creation of many jobs that are only part-time, and the growing prevalence of perm-temp employment agencies. Indeed, the Arab and ultra-Orthodox community have extremely high poverty rates. The highest rate of poverty is found within the ultra-Orthodox community in Israel, 56.9% of the families, where there is an extremely low rate of participation of men in the labor force, community families instead subsisting largely on state subsidies. The poverty rate significantly increased in the Arab sector, from 41.2% in 2001 to 53.5% in 2009. Of the 15,000 families newly designated as living under the poverty line, 14,300 of those were Arabs.⁵⁶

It is furthermore instructive to look at poverty rates by age, gender, and region. In 2009, the poverty rate among the elderly was lowered by 9,300 individuals. However, such figures hide the worsening circumstances of those remaining in poverty, with the depth of poverty among the elderly increasing from 23.0% in 2008 to 24.8% in 2009, and its severity likewise increasing. The incidence of poverty among children throughout Israel has also risen significantly, and families with 1-3 children were particularly affected, with a poverty rate increasing from 17.8% in 2008 to 20.2% in 2009. The rate and severity of poverty also increased among individuals having completed 9-12 years of education. There is a higher poverty rate among Israeli women than men (in 2009, 20% of women were poor in contrast to 18.8% of men). Both the depth and rate of poverty decreased for immigrants. Finally, poverty rates fluctuate considerably by region. In the Central district, poverty rate increased from 11.3 % to 13%, while in the southern district the rate was fixed at 23.6%. Poverty rates decreased in the Jerusalem district from 23.7% to 22.7%.

⁵⁵ OECD, 'Society at a Glance 2011 - OECD Social Indicators' (2011), available under :<www.oecd.org/els/social/indicators/SAG>.

⁵⁶ Poverty and Social Gaps, 2009, p. 8.

Among Arab residents of the Jerusalem District, 75.3% are poor, a statistic which rises to 83.1% when considering only Arab children.⁵⁷

Public Expenditure and Diminishing Poverty

The State of Israel does not have a comprehensive policy for addressing the acute problem of poverty, and no government plan has been determined for reducing poverty levels in recent years. In fact, the opposite is the case. Over the past three decades, Israeli governments have conducted an economic policy that advocates the cutting and privatization of social services, which are intended to provide a firm foundation for assisting weakened populations and to help them in improving their situation. Israeli governments have dramatically reduced their involvement in the fields of housing, health, education, welfare, and employment, and have deliberately shifted the center of gravity to the private market. The governments have argued that they should not intervene in market forces, which will act in the best manner to meet public and economic interests.

The situation deteriorated to a full-scale social crisis, which erupted in the summer of 2011 in a mass movement that took to the streets, holding demonstrations on an unprecedented scale against the government's social and economic policies. Tent cities were established in dozens of cities to protest against the lack of social justice in all fields, from housing to the cost of living and from health to education.

A single, clear line connects all the different protests relating to social rights: the policy of budget cuts and extreme privatization that has been implemented for three decades, and particularly over the past decade. This policy has not been accompanied by the establishment of any alternatives, and Israeli citizens have been left without any genuine possibility to cope with the grave damage to their social human rights. This policy has led to the dwindling of social services, intensified social gaps, and brought poverty levels to an unprecedented high in Israel.

ACRI has warned for years that the Israeli government has abandoned its responsibility for the welfare of Israeli residents. The complaints and material accumulated in our offices reflect the danger of social explosion. The current policy has caused grave social damage that is masked by the nation's strong economy. As stated above, today one in four residents of Israel lives below the poverty line, as does one in every three children. Income gaps are wider than ever before. This reality violates the common social goals of Israeli citizens and threatens Israeli democracy.

In recent years, welfare policy in Israel has focused on creating incentives to participate in the workforce (mainly by significant cuts in social benefits). However, participation in the workforce does not necessarily free Israelis from poverty: In Israel, employment is no longer a guarantee against poverty. In 2009, the incidence of poverty increased among working families from 12.2%

⁵⁷ Poverty and Social Gaps, 2009, p. 5.

in 2008 to 13.4%. At the same time, working families made up 49% of the entire poor population, a significant increase from 46.3 % the previous year. In 2009, transfer payments, including direct taxes, removed 47% of recipients and 13.4% of children from poverty. As it stands, this is one-half of the effect these had in 2002 (prior to cuts in benefits), as well as much lower than the average impact transfer payments have for the remainder of the OECD member states.⁵⁸

Transfer payments

Further to the details above regarding cuts in transfer payments, it is important to distinguish between the different types of transfer payments, as their impacts vary on the incidence of poverty. Old-age pension benefits are by far the most effective, extricating 55% in 2009 from economic poverty. In that year, unemployment benefits lowered by 47% the incidence of poverty, a significant improvement from 2008. However, income support payments helped only 17% of recipients move out of poverty, and very low child allowance resulted in helping only 6% of recipients.⁵⁹

While the State's Reports submits that the April 2007 raise of the minimum wage contributed significantly to a reduction in poverty of that year, later statistics nuance this conclusion. On the effectiveness of the minimum wage, the National Insurance Institute reports that the minimum wage (along with child allowance) is not enough to extricate a single mother with two children, a couple with one breadwinner, or a couple with more than three children and 1.5 full time positions, from poverty.⁶⁰

Nevertheless, overall the impact of transfer payments on diminishing poverty increased in 2009 from 20.2% to 23.3%.⁶¹ These public expenditures do not help Israeli society uniformly. In fact, the impact such policy measures have on reducing poverty declined among the Arab population from 13.5% in 2008 to 11.4% in 2009 (this number comes to 47% among Jews).⁶² The population's characteristics are explanatory factors: it is a very young population, and many families have large numbers of children.

In light of these statistics, the policy to encourage participation in the workforce in Israel should be changed. Rather than directing benefit recipients to any job, their employment horizons should be extended and nurtured. Yet the government has failed to increase investments in the workforce or to implement proactive policy designed to enhance the job market and increase the number of decent positions available in Israel.

⁵⁸ Ibid, p. 21.

⁵⁹ Ibid, pp. 18-19.

⁶⁰ Ibid, p. 4.

⁶¹ Ibid, p. 21.

⁶² Ibid, p. 29.

The Wisconsin Plan

Instead of adopting policy such as that outlined above, Israel introduced a pilot From Welfare to Work program (Official name: Lights to Employment Program), better known as the “Wisconsin Plan”. The plan was implemented over a five-year period ending in April 2010. However, this plan did not offer any genuine solutions in this field. On the contrary: the supplementary income recipients referred to the plan were almost all poor and belonged to the weakest population groups in Israel – immigrants, minorities, residents of the peripheral areas, people with disabilities, the elderly, and so forth. In comparison to similar programs in other countries, the Israeli plan was far-reaching in the extent of privatization. Contractors enjoyed the authority to deny benefits to participants and received economic incentives for doing so.⁶³

Participants in the plan reported humiliation, harassment, threats and intimidation, illustrating the range of problems created by privatization. Almost 29% of supplementary income claimants in the areas where the plan was implemented dropped out from the scheme. Moreover, no competition was created between the private companies in Israel, which operate as monopolies, and accordingly were also ineffective in cost-benefit terms.⁶⁴ In the final analysis, even sympathetic studies examining the plan showed that it failed to improve the economic condition of most of the participants.⁶⁵ For example, only 28% of those referred to the plan were working at the time of its closure. These failings led to the decision by the Knesset not to extend the plan.⁶⁶

Despite these findings, the government has continued to promote the plan without making any substantive changes. The proposed bill “Integration of Benefit Recipients in Work (Temporary Provision) 5771-2010”, which was presented for discussion by the Knesset on August 3, 2011, still includes the profound privatization of the state’s authority to assist recipients of supplementary income – a process that directly influences the possibility for the weakest members of society to be integrated in the workforce. Moreover, the authority to determine eligibility for income support payments – the last safety net for families that have no other income – is also privatized.

As in the case of a proposed bill that sought to extend the plan throughout Israel in April 2011, which was rejected by the Knesset Labor Affairs Committee, the proposed bill grants sweeping powers and governmental authority to clerks in private corporations to refer participants to work,

⁶³ ACRI, 'Responding to ACRI Appeal, State Doesn't Renew Welfare-to-Work Plan', <<http://www.acri.org.il/en/?p=719>>.

⁶⁴ ACRI, Community Advocacy, Rabbis for Human Rights and The Mizrahi Democratic Rainbow, 'No, Mr. Secretary', 2009, available only in Hebrew under: <<http://www.acri.org.il/he/wp-content/uploads/2011/08/wisconsin-lo-adoni-hasar.pdf>>.

⁶⁵ National Insurance Institute and Brookdale Institute, 'Monitoring of persons that were referred to the Lights to Employment Program', 2011, available only in Hebrew under: <http://brookdaleheb.jdc.org.il/_Uploads/PublicationsFiles/Full-Report-Orot-with-Executive-Summary.pdf>.

⁶⁶ ACRI, 'Responding to ACRI Appeal, State Doesn't Renew Welfare-to-Work Plan', <<http://www.acri.org.il/en/?p=719>>.

determine an individual program occupying some 30-35 hours a week, demand medical and other information, and deny supplementary income to participants. The authority to deny income support payments in the proposed bill includes the involvement of public officials only in a minority of instances. Even in these cases, it is obvious that the decision will be made on the basis of the recommendation of the corporate clerks, since they alone determine the personal plan and supervise its implementation, rather than by the public officials.

As was the case in the rejected proposed bill, the current proposal also establishes an arbitrary scope of 30-35 hours a week for the program, even if there is no need for these hours for the purpose of integration in work or vocational training. In most cases, this allocation of hours artificially expands the number of hours of vocational training, and the purpose becomes to “trap” the participants rather than to advance them. For example, there is no reason why a person requiring vocational training of 25 hours a week should be required to waste more of their time, and more public funds, simply in order to fill in the missing portion of the quota.

As in the rejected proposed law, the current proposal does not recognize the right to services supporting work, and merely provides for the vague possibility that the private company may offer such services. Services supporting work, which include such programs as vocational training, subsidies for travel expenses, and child care expenses, are intended to reduce the obstacles preventing participation in the workforce. Such services are essential in order to realize the objective of the law. Until this right enjoys appropriate recognition in law, the plan will not be able to offer a real alternative for work in a manner that permits a dignified existence. Instead, it serves only to replace the benefit with low-paid work, and most of the income received is used to cover the expenses created by joining the workforce. In light of all these failings the Knesset has to date refused to approve the new proposed bill.

The Employment Service

Over recent decades, the budget of the Employment Service has been slashed and its authorities reduced. In 1992, for example, the requirement for employers and employees to use the Employment Service was abolished, and private placement companies were also allowed to operate.⁶⁷ In 2004, against the backdrop of the cuts in the Employment Service’s budget and authorities, the Wisconsin Plan was launched, with the intention of drawing benefit recipients into the workforce, and funding for the Employment Service was cut to a bare minimum.

The vast majority of government resources were directed at the Wisconsin Plan rather than the Employment Service. The average budget per jobseeker in the Wisconsin Plan was NIS 9038, compared to only NIS 236 in the

⁶⁷ ‘Structural Changes in the Employment Service’, background paper for discussion, Knesset Research and Information Center (2003) (Hebrew).

Employment Service. The average budgetary ratio between the Wisconsin Plan and the Employment Service was 31:1 in “favor” of the Wisconsin Plan. An official in the Employment Service processes 420 jobseekers, compared to 50 jobseekers per official in the Wisconsin Plan.

Although the Knesset closed down the Wisconsin Plan in 2010, the plan budgets were not transferred to the Employment Service. In 2009-2010, drastic budget cuts were imposed on the Service, and it did not receive any budgets for placement-supporting tools. The budget was cut again this year, this time by NIS 50 million,⁶⁸ and again no budget was provided for placement-supporting tools. The Psychological Counseling Service for jobseekers was shut down. Support for travel expenses and incentives for those remaining in work placements were ended. The entire budget for workshops for jobseekers and vocational training vouchers was cancelled. The cuts mean that the Employment Service has no real possibility to perform its function.⁶⁹

The budget of the Employment Service in Israel is very low in OECD standards – 0.02% of the GDP, compared to an average of 0.4% in the OECD countries (5% of the average). The rate of jobseekers per placement officers in Israel (1:346 in 2008) is much higher than in most OECD countries (1:29 in Finland, 1:39 in Germany and 1:37 in Ireland). Only one-fifth of the 520 employees of the Employment Service who are placement officers have undergone training as employment consultants.⁷⁰

In recent years, vocational training programs have been slashed and government expenditure on vocational training has dropped and is now very low compared to the OECD average.⁷¹ Despite this, every year the government seeks to cause further damage to the Vocational Training Division, encouraging the trend toward meager training that cannot rescue people from poverty. In 2009, the budget of the Employment Service for vocational training vouchers was NIS 9,985,000, while the budget for jobseekers was NIS 2,000,000. In 2010, not a single shekel was allocated for these two items.

Anti-Social Governmental Policy

Other social services, which have been neglected by the state in the past years, have a great impact on poverty as well.⁷² The fact that no new affordable housing units were built, but only designated big flats in rich areas, further alienates poor people and creates homogenous living areas. The amount of rent assistance was cut in half in 2003 and further decreased 30% since then. This leaves many poor people in worse situation.

⁶⁸ Knesset Labor and Social Affairs Committee, discussion dated August 12, 2011.

⁶⁹ Selected data, Employment Service (2010).

⁷⁰ OECD Review 2010, p. 103.

⁷¹ OECD Review 2010, p. 104.

⁷² For details see at "ACRI Presents: What Happened to Us?"
<<http://www.acri.org.il/en/?p=3004>>.

The budget for public health services has declined 40% since the late 90ies. There has been a steady increase in private expenditure and private health care due to the cuts in financing the health care system. The middle class has been forced to pay a lot of privatized health services, while the poor population cannot afford those expenditures and chooses to forgo important medical treatment. One third of Israel's population forgoes dental care and over 50% of elderly people miss all their teeth.

The small budget for public education is evident when looking at teachers' salaries and the bellow average student achievements in the international PISA test. Private expenditure on education is already at 25%. The Israeli education system fails to unite poor and rich population but rather creates two different education systems within the public education system. As a result, poor students do not enjoy equal opportunities and this further reinforces the existing socio-economic stratification.

Welfare services have been largely privatized and the huge difference in services in the different cities and municipalities can easily be detected. Furthermore, water utilities have been privatized. Since 2010 water prices have gone up about 40-50% per household due to the privatization of water utilities and the lack of state support.

The cuts of budgets and the privatization of state social responsibilities are problematic, as private companies don't have social welfare as their goals, but care about profits. In that way, the state avoids the responsibility of providing structures for the enjoyment of economic, social and cultural rights and deteriorates growing number of residents to lower economic situation that ends up too many times under the poverty line.

Issue 23: The Housing Crisis and the Lack of Affordable Housing

Please provide Information on measures taken to ensure affordable housing, including through the increase in public housing units, and to address the lack of regulation of the private rental market [...]

Absence of a Constitutional Right to Housing

Though Israel is a signatory to the International Covenant on Social, Economic and Cultural Rights, it has never taken the step of anchoring the right to adequate housing in its set of Basic Laws. Israel's Supreme Court has interpreted the right to human dignity – enshrined in the Basic Law: Human Dignity and Liberty – to include the protection of having a roof over one's head. However, the Supreme Court ruled that the right to human dignity protects only the minimal conditions necessary for existence and in no way imposes an obligation on the state to ensure adequate housing, with all the considerations that that entails.⁷³ In order to guarantee the right to affordable

⁷³ HCJ 366/03 Commitment to Peace and Social Justice and ACRI v. Minister of Finance (2005)

housing, Israel must promote the passage of the Basic Law: Social Rights or to enshrine the right to adequate housing in constitutional legislation.

Lack of housing policy

Israel has no clear, published housing policy, and the government largely prefers to take a stance of ambiguity in all areas touching upon the housing issue. For example, regarding housing assistance for disadvantaged populations, all policy making has been set through internal regulations at the Ministry of Housing, rather than through legislation. Among these regulations, there are fixed rules regarding the eligibility for public housing assistance, the eligibility for rent assistance allocations, and the conditions. These rules directly affect the lives of hundreds of thousands of Israeli citizens. The state is in need of a clear and transparent housing policy that is anchored in law and subject to public scrutiny, in order to ensure an effective right to housing to its people.

Lack of regulation of the private rental market

Israeli law does not provide minimal protection to tenants, although private rental apartments are providing a roof to 25% of the households in the country. Rental contracts are freely negotiated without any obligating regulations, and tenants' right to legal security of tenure is not guaranteed. In many cases contracts include draconian conditions and landlords maintain a right to evacuate the tenant for any reason with a very short notice. Renters that belong to minority groups are often exposed to discrimination when looking for an apartment to rent. In addition, there is no insurance protecting the tenants from sharp and frequent rent increases. Israel must provide legal security of tenure to tenants, and ensure their ability to live with dignity. Regulation must balance between the rights of landlords and tenants.

Drying the Public Housing system out

Over the last two decades, very few apartments have been added to the public housing system, despite the sale of more than 26,000 such apartments to their residents between 1999 and 2008. Over 2 billion shekels have accumulated in a special fund generated from the sale of these apartments. In the Public Housing Law (Buying rights) (1998), this fund was earmarked for renewing the reservoir of available apartments in the social housing system, but the law was repealed and none of it has been utilized for this purpose. Today, there are less than 66,000 social housing apartments, and the waiting list for such apartments is typically several years long and practically an insurmountable obstacle for most families. Additionally eligibility conditions have become more stringent in light of the severe shortage of public housing. Only those families with 3 or more dependent children or with wheelchair-bound disabled people meet the eligibility criteria. Often many of those eligible are nevertheless directed toward renting on the private market, though, as noted hereinafter, the rental assistance allocations they receive are not tailored to the rental prices in each region, and the private rental market remains unregulated and unsupervised. The state has failed to build new

social housing. Moreover, it has failed to present alternatives to reducing the stock of public housing units. It must accept its responsibility to provide the necessary facilities, especially in light of the growing population of eligible residents.

Unsatisfying Rental Allowances

The right to rental allowances is not protected by law but by an internal decision of the housing ministry. Currently 137,000 households are entitled to rental allowances. Over the last decade Israel has sharply cut the budget for this goal. In 2002 the government cut the allowances by half. Since then the budget was not updated and rental prices went up. The result was an additional erosion of up to 30%. The average rental allowances are around 700 NIS and the maximum is 1,250 NIS (with some exceptions). The cuts have reduced the number of households entitled to rental allowances by 30% between 2001 and 2009. Singles under the age of 55, for example, are not entitled to assistance.

Israel prefers rental allowances to public housing, this entails that the household gets to freely choose its place of residency. However, as allowances are fixed and are not based on real rental prices in different areas, many families are marginalized, and can find a place to live only in poor or peripheral areas. In addition, since the rental market is not regulated at all, many families face problems dealing with landlords or sharp rent increases, which force them to move frequently. Furthermore, rental allowances can only be used for renting in cities or towns with rental market of bigger than 5%. This rule affects mainly Arab families wishing to rent in small towns and villages. Due to the lack of developed rental markets in small towns and villages of the Arab population in Israel, they are deprived of rental assistance.

Israel must protect the right to rental allowances in a law, and budget it according to needs. The allowances must be correlated to real rental prices in different areas of the country to avoid marginalization of eligible families. Israel must furthermore extend the eligibility criteria, especially to include singles and people wishing to rent in small towns or villages to the program of rental allowance.

The dissatisfactory treatment of homeless people

Israel's existing policy toward the homeless focuses exclusively on "street dwellers" who live out in the open, and who generally exhibit a characteristic range of personality disorders.⁷⁴ However, there is no policy regarding the homeless who live in temporarily constructed or dilapidated housing – people who lived "normal" lives before and lost the roof over their heads – other than general aid which doesn't adequately address their dire need. Furthermore, very few specific or designated policies exist regarding prevention and prior intervention to homelessness. Most available aid is given only after the person

⁷⁴ See, Israel Third Periodic Report 2009, paras 438 – 445, pp. 97 - 98.

has been turned out onto the streets. The number of homeless shelters is small, there are no appropriate shelters for families with children, and there is no enforcement of existing regulations regarding the homeless. The state must adopt a broader definition of homelessness that reflects the reality of today. Furthermore, it must provide appropriate shelter with respect to the different needs of the homeless people, as well as adopt policies that are concerned with preventing homelessness or prior intervention in cases of homelessness.

Discrimination is not combated

Israeli law does not explicitly prohibit discrimination in the private housing market, and the state does not actively combat the phenomenon of discrimination in the rental or sale of apartments and in admission to certain residential complexes. Following the Ka'adan petition to the Supreme Court, it is now forbidden to employ discrimination on public land marketed by the state. Nevertheless, the state protects certain practices that, in effect, enable discrimination. For example, in communal villages, the state allows admissions committees to accept or reject residency candidates on the basis of vague parameters such as "social suitability", which constitute a basis for discrimination. A number of such villages have amended their charter statements to include that the community has an identity consistent with Jewish Zionist values – a tool used to exclude Arab candidates.

Recently the Knesset passed the Acceptance to Communities Law, which legalizes this discriminatory practice for communal villages. Although article 6c(3) of the law forbids the rejection of candidates on the basis of nationality, race, religion, sex or disability, the law effectively enables those committees to reject anyone they don't see fit due to the vague criteria applied. ACRI fought against this law together with the Abraham Fund Initiatives in the High Court Justice of Israel, as this bill allows for a legal discrimination of minority groups based on the vague parameters of 'social suitability'. The law violates the constitutional rights of different minority groups; first and foremost the Arab population but it also includes people of Mizrahi origin, the elderly, immigrants, people with lesser economic means, same-sex partner families, single-parent families, people with mental disabilities, people with specific political opinions, and/or people with different standards of religiosity. In June 2011 the Court issued an Order Nisi, and gave the Knesset 60 days to explain why this law is not unconstitutional, before it passes its final decision on the issue. The state response was not submitted yet.

Discrimination in housing issues can also be seen in the cities. There is no law that forbids private landlords to discriminate against buyers or renters. Further, there is vagueness whether the laws prohibit discrimination by housing corporations. The Tel Aviv District Court has ruled in ACRI's petition that a developer who won a tender for a residency project, built on state land in the heart of a mostly-Arab neighborhood in Jaffa, is allowed to market and sell apartments of that project exclusively to religious Jews. Though the Justice Ministry established that it is forbidden for developers to discriminate in this way, it nevertheless defended the tender in court. The Appeal on this

ruling was rejected by the Supreme Court, arguing that it was too late to cancel the tender. The Court, however, added that the decision of the Israel Land Authority to add a section to its tenders, which enforces developers to sell apartments without discrimination, is an adequate measure.

The state must ensure that all elements of direct and indirect discrimination with relation to the admission to communal villages and residential compounds are eliminated.

Lack of inclusionary housing policy

In recent years, a growing number of Israeli citizens have found it increasingly harder to secure affordable housing for themselves in the main cities or in some specific neighborhoods in the cities. The lack of affordable housing marginalizes medium and low income families and causes concentration of poverty in the cities. The government has failed to take adequate measures to ensure affordable housing for the general population, and to actively work to encourage housing for mixed social strata, aimed at reducing social gaps and preventing the concentration of poverty. By the end of 2009, the Knesset amended legislation obligating the state to allocate land for affordable housing, legislation which, to date, has not been implemented.

A number of local municipalities have started to promote affordable housing initiatives, though not under the regulation of law. Most of these have been only partially implemented, and only with the agreement of the developer. Those plans were stopped by the ministry of justice that claimed that localities have no authority to intervene in prices of new apartments according to planning laws. Only recently, the state announced that a law for affordable housing will be presented by the government over the coming parliamentary session. The state must promote inclusionary housing policy to ensure that every neighborhood offers adequate housing to households with different incomes and it must further grant local municipalities the authority and tools to advance affordable housing. Israel must use public land to ensure that adequate percentages of the new apartments are affordable to medium and low income households.⁷⁵

Bypassing planning procedures

The Israel Report of 2011 refers to the Planning and Construction Procedures for the Acceleration of Construction for Housing Purposes Law 5771-2011 that was approved by the Knesset on 3 August 2011. The purpose of this law is to set temporary arrangements and additionally the establishment of a special planning institution, National Housing Committees.⁷⁶ ACRI warns that none of these National Committees are committed to or promoting social interests or equality. The law bypasses the actual building law and gives additional authority to the committee without being concerned with democratic

⁷⁵ Generally consult: the Housing Coalition, '10 Key points to Promote Affordable housing', available under: < <http://www.acri.org.il/en/wp-content/uploads/2011/08/ACRI-10points-Affordable-Housing-ENG-web.pdf>>.

⁷⁶ See, Israel Report, 2011, pp. 116 ff.

procedures. It for example does not provide a platform for public discussions with the building hierarchy and completely excludes public participation. The law addresses the issue of affordable housing but it will still be necessary to enact an actual set of rules to guarantee an effective regime of affordable housing.

Issue 25: Building and Planning Policies in East Jerusalem

Please indicate what measures the State party is planning to take to review its housing policy and the issuance of construction permits in East Jerusalem, in order to prevent demolitions and ensure the legality of construction in those areas?

The State's Report critically fails to provide any context for the frequency of illegal construction in Arab East Jerusalem. Indeed, the Report only notes the number of Arab illegal constructions to 'explain' the disproportionate number of home demolitions being carried out in East Jerusalem. Nowhere is there an attempt to explain the incidence of illegal buildings itself, and such an omission reflects the delegitimization, as well as neglect of the basic needs of the Palestinian population in East Jerusalem.⁷⁷

Indeed, since its annexation to Israel in 1967, the Arab population of East Jerusalem has increased by more than 450%, from 66,000 residents in 1967 to 303,429 residents at the end of 2009 (according to the Municipality of Jerusalem's population registry). This increase obligates Israeli authorities to continue developing East Jerusalem in order to ensure the right of all citizens to decent housing. However, for many years urban planning in Arab East Jerusalem was not a significant priority for State and municipal authorities, and today there exists almost no legal avenue for issuing building permits for new structures for the Arab population. The outline plans that began to be prepared for Palestinian neighborhoods starting in the 1980s saw the continuation of discriminatory building policies, with the plans designating 40% of the area as "open landscape areas", on which construction is forbidden. In the local plans that were approved prior to the end of 1999, only 11% of the land in East Jerusalem (excluding 24,000 dunams of land, expropriated by the Israeli government) was available for construction for the Palestinian population.

Furthermore, significant bureaucratic obstacles for construction exist for the residents of East Jerusalem. Municipal authorities impose long and tedious procedures, many of which involve high costs, on permit seekers. Some limitations apply specifically to Palestinian residents; others, though identical to those required in West Jerusalem, are often beyond the financial reach of most East Jerusalem residents. In twenty percent of the residential-zoned area of East Jerusalem, construction is delayed by "re-plotting," a process designed to insure that future buildings correspond with true ownerships and match development plans, as well as provide a fair allocation of lands for

⁷⁷ See, Israel Third Periodic Report, 2009.

public use. For nearly twenty years little progress has been made, partly due to the large numbers of East Jerusalem landowners and the difficulty of producing land title documents. Until approval is granted, the land cannot be sold, nor can construction take place. As is the case with the demarcation plans existing in the West Bank, construction is allowed primarily in built-up areas, which leads to extreme population density. Data from the Jerusalem Institute is showing that the average population density in East Jerusalem in 2009 was 1.9 persons per room, nearly twice that of West Jerusalem.

In order to cope with the needs arising from the natural increase in population, residents of East Jerusalem are often forced to build without permits. It is estimated that of the 19,900 units built in Arab neighborhoods of East Jerusalem between 1967 and 2001, only 3,100 building permits were issued. In contrast, Israel has since 1967 built 50,197 housing units in Jewish neighborhoods built in East Jerusalem on lands confiscated from Palestinians. When such structures are eventually built, the municipality imposes a range of penalties on the owners ranging from fines to demolition orders. Because of the slow pace of the city's bureaucracy, the end result is often the demolition of a structure which has stood and been occupied for many years.

No implementation of recent policy recommendations

A 2010 State Comptroller's report recommended that alternative measures be considered, aside from home demolitions, which would encourage lawful and deter illegal construction. *Inter alia*, the report recommended that master plans include the participation of the public, in a manner that meets the needs of the public. In response to the report, the Mayor of Jerusalem sent a letter to the Prime Minister of Israel, dated October 13, 2010, outlining his strategy for dealing with illegal construction in East Jerusalem, including three main principles: the preparation of new updated outline plans for various neighborhoods; the adoption of a policy to delay further house demolitions in areas undergoing new planning arrangements; and after the approval of said new outline plans, an extensive program to arrange legal status for those buildings already existing within the confines of those plans. However, since publication of this letter, not one outline plan has been approved for a single neighborhood. Moreover, of those outline plans already in various stages of preparation, none have been prepared with public participation and none have taken into account either the immediate or long-term needs of the public they are supposed to serve.

Consequence of the illegal constructions: No access to water

A direct consequence of discrimination in the field of planning between Jewish and Arab neighborhoods is the lack of fresh water supply. Section 157 of the *Planning and Building Law (1965)* prohibits the connection of water mains, electrical grids, and telephone networks to buildings without permits. Since many buildings in East Jerusalem are built without permits, they remain without access to these basic services, and tens of thousands of East Jerusalem residents suffer from the lack of a regular water supply. Based on data from the Water Company of Jerusalem, about half the population is not

officially connected to the water system. They are left with no choice but to rig makeshift connections to water mains or to homes that are legally connected to the water network, or to make do with stored containers of fresh water. Furthermore, the work to lay down water mains or to replace and upgrade existing mains is very slow in East Jerusalem.

Article 12 – The right to physical and mental health

Issue 31: Medical Assistance for Asylum Seekers and Migrant Workers

Please indicate which measures the State party has taken to protect asylum seekers with conditional release visas from dangerous working conditions as well as ensure their access to basic medical assistance. Please also explain the medical insurance coverage provided for by the Foreign Workers Law to migrant workers.

Although Israel in 1994 adopted the National Health insurance law, which is based on the principles of justice, equality and mutual aid, health care cannot be equally enjoyed by all of Israel's population. The law excludes people who are not in possession of permanent residency permits. As a result thereof Palestinians with temporary permits, migrant workers and refugees are not benefitting from this law and need to pay for health services out of their own pockets. Additionally, those groups are economically and socially the weakest in Israel.

The majority of asylum seekers arriving in Israel find themselves in bad - some in terrible - medical condition and are in need of basic medical help. It is therefore necessary that they receive immediate, adequate and accessible medical care. ACRI calls upon the state's responsibility to provide basic medical care for refugees.

Moreover, migrant workers need to be insured by private insurance companies. Often the employer insures the worker and chooses the insurance company for them. Mostly the companies communicate with the employer and not with the worker due to language barriers. The employers might stop employing the workers, when found that they are suffering from an illness, and they are often left with no further health coverage. The interdependence between migrant worker and employer is therefore undeniable. The workers mostly fail to enforce their rights and file claims with the companies due to the mentioned language barrier as well as the bureaucracy applied. According to the law insurance companies are allowed to reduce the insurance coverage of migrant workers, based on "impaired work capacity", to basic medical care only until they are expelled from Israel, when a physician has diagnosed the worker and found that he or she is incapable of working for three months.⁷⁸ In

⁷⁸ Ronny Linder Ganz, 'Why insurance companies love migrant workers', The Marker, December 17, 2010, available under: < <http://www.kavlaoved.org.il/media->

that way migrant workers can be sent home untreated, although they have health insurance. Obviously there is an imbalance between the needs of the migrant workers and the care provided to them. It is urgent that the state ensure adequate accessible insurance and medical care for migrant workers.⁷⁹

Articles 13 and 14 – The right to education

Issue 33: Shortage of Classrooms in Schools for Arab Children

Please indicate measures taken to address the serious shortage of classrooms in schools for Arab Israeli children.

The Arab education system in Israel suffers from a severe shortage of classrooms and kindergartens, which both the government and the Ministry of Education have been aware of for years. The many governmental programs and promises that were supposed to alleviate the problem have all failed, as these were only partially implemented, if at all. Our most recent data point to a shortage of thousands of classrooms and kindergartens in Israel's Arab communities. The crisis has grown over years and constitutes a discrimination against and neglect of Arab education. Meanwhile the situation is getting worse each year due to the high birthrate in the Arab community.

As part of a study of the real needs of Israel's Arab education system, a professional joint-committee was established in August 2007 between the Ministry of Education and the Follow-up Committee for Arab Education to examine the classroom shortage crisis. The committee's data (which can be considered official government data) revealed that by the 2012 academic year, the Arab educational system would lack a total of 9,236 classrooms. As part of a five-year plan to build new classrooms, in place between 2001-2007, the government pledged that some 3,200 additional new classrooms would be built for the Arab education system by 2011. That would still leave a shortfall of 6,000 classrooms needed to close the gap that has accumulated over the years, if in fact the resources were allocated to build these 3,200 classrooms as promised. The findings and conclusions of the joint committee were published in August 2008, but as of the writing of this piece, it is still unclear how the Ministry of Education intends to implement the committee's recommendations.

A result of the classroom shortage is that Arab students have no choice but to learn in overcrowded conditions, which in turn affects the quality of teaching: the average number of students per class in the Arab school system is 31.88 compared with 27.79 pupils in the Jewish system. This injury to the quality of teaching harms the right of Arab students to education and hurts their

[view_eng.asp?id=3144>](#)

⁷⁹ This paragraph was written in cooperation with Physicians for Human Rights in Israel.

academic performance, while increasing the cumulative gap between the Arab education system and its Jewish counterpart.

Disproportionate Dropout Rates among Arab Students

There is a close relationship between the lack of available learning environments and the chance that a student will drop out of school, especially when the student belongs to a severely weakened socio-economic group. The numbers show that across almost every grade level (primary and secondary), the dropout rate for Arab students is double that of Jewish students. The problem is particularly troubling in the Negev, where the dropout rate for Arab students has reached 70%. In spite of the State's Report's detailing of the construction of classrooms and three high schools in the Negev, a severe shortage of classrooms has led to students being taught in rented rooms and in buildings that are often sub-standard and unsafe. Additionally, the renting of these classrooms places an economic burden on the local Arab municipalities who have to shoulder most of the cost – the same municipalities who, socio-economically, are among the weakest in Israel, most of whom ranked in the bottom percentiles.

The Lack of Education for Bedouin Women

As the Israel Report of 2009 mentions, Israel enacted the Compulsory Education Law in 1949.⁸⁰ Yet, even following the findings of the Or Commission of 2003, that called for resolving the disparities between Arab and Jewish citizens, including by developing the education in the Bedouin community, the access to education for Bedouin women and girls has not improved much.

As mentioned above, the persisting refusal of the Israeli state to recognize Bedouin villages is a significant factor in the dire education conditions of Bedouin girls and women. While the State's Report notes the establishment of several kindergartens and high schools in unrecognized Bedouin villages, the unrecognized villages in the Negev still suffer from a lack of sufficient educational infrastructure. This shortage of high schools in, or near, unrecognized Palestinian Bedouin villages, directly contributes to one of the highest dropout rates in Israel – reaching 77% percent among teenage girls in unrecognized villages.⁸¹ However, to attend far away high schools Bedouin girls would have to make use of a transportation system with a mixed population in terms of tribal affiliation and gender, neither of which is culturally acceptable in their society. As a result, most girls leave the education system prior to reaching high school; only two out of 400 girls in the unrecognized village of El-Frijat attended high school in 2009. Even less Bedouin women attend high education institutions. Poverty – coupled with a lack of subsidization for access to higher education for young women in

⁸⁰ Israel Third Periodic Report 2009, para 546.

⁸¹ The Status of Palestinian Women, 2010, pp. 37 – 38.

unrecognized villages – representing the main hurdle for families to send their daughters to college or universities.⁸²

Shortage of Classrooms in East Jerusalem

For many years, a shortage of suitable classrooms has been at the core of the crisis in the Arab school system in East Jerusalem. Despite the fact that Palestinian pupils in East Jerusalem are entitled to free public education as permanent residents of Israel and according to the Compulsory Education Law, thousands are denied access to quality and free education. This ongoing educational crisis is characterized by a shortage of classrooms, unsuitable facilities, and untrained teachers.

According to the 2009 State Comptroller Report, there was a shortage in the 2007/2008 school year of at least 1,000 classrooms at all levels in East Jerusalem: preschool, kindergarten, elementary, secondary, and special education. As a result of the severe shortage in classrooms, the Jerusalem public schools are unable to absorb all the school-age children. Each year, the city turns away a large number of East Jerusalem children who seek to register for school, claiming insufficient space, some of those rejected attend private or semi-private schools (partly governmental funded and controlled schools known as recognized-and-unofficial). Others never make it to school.

In 2008, fewer than half the Palestinian children in East Jerusalem - 40,745 out of approximately 90,000 pupils - attended municipal public schools. The parents of many children for whom there was no room in the city schools were forced to send them to private or unofficial schools operated by private companies, churches, the Waqf [Islamic Authority], the UN, or other Palestinian organizations. Some 5,300 children are not registered with any educational framework; and the dropout rate is some 50%.

Furthermore, of those lucky enough to find space in the public schools, thousands learn in unsuitable buildings. Due to the shortage of suitable classrooms, as well as a slow and insufficient pace of construction of new schools, the city of Jerusalem rents and uses many facilities as classrooms that are not suitable: small, crowded, unventilated, and lacking essential facilities such as laboratories, libraries and art supply or playgrounds. In fact, half the city classrooms were below standard in 2009: According to an official examination, 704 classrooms did not meet the criteria compared with 656 that do (these include compulsory preschools). Of the sub-standard classrooms, the city declared that 221 are operating in structures that are “unsuitable” (188 schoolrooms and 33 preschool rooms).

The Result of Discriminatory Policies

⁸² The Status of Palestinian Women, 2010, pp. 37 – 38, see also, Rawia Abu Rabia, ‘Realities and Challenges of the Right to Education for Arab-Bedouin Girls in Israel’ in: ILSP Law Journal, pp. 119 – 125.

The severe shortage of classrooms in East Jerusalem comes in the backdrop of overall budget discrimination. Data released by the Jerusalem Municipality shows:

- The average number of students per classroom in 2009 was 24 pupils in the Hebrew education system compared to 32 pupils in the Arabic education.
- The administrative budget (to cover daily costs such as electric and water bills, photocopying, supplies and so on) for the year of 2011 is some 3 million shekels lower than the municipality's calculations.
- The standards of professional personnel in East-Jerusalem schools is much lower than the standard of those in West Jerusalem: while in the educational system in West Jerusalem there were 257 educational advisors in part-time positions, in East Jerusalem there were only 12 educational advisors, with different levels of positions. According to similar computation, there should be at least 28 psychologists in East Jerusalem schools, opposed to the 16 psychologists currently filling only 14.5 full-time positions.

Since Mayor Nir Barkat took office in 2009, some additional efforts have been made to correct some of the failings that led to the severe shortage in classrooms. According to a May 2010 report by the Knesset Research and Information Center, 120 classrooms in East Jerusalem are in various 'execution stages' of construction. However, these numbers are far from meeting the needs of the existing shortage. Furthermore, while several appropriation procedures for the construction of classrooms were initiated, a failure to allocate budgets for the appropriated lots makes these plans to build hundreds of classrooms impractical as well as dubious. Indeed, the authorities have been dragging their feet in discharging their obligations while the shortage of classrooms has only increased.

Failure to Implement Court Rulings

Already in 2001, the Jerusalem municipality had promised the High Court of Justice to construct 245 classrooms by 2005, and it promised in 2007 to build 400 classrooms by 2011, an obligation to build a total of 645 classrooms in ten years. By 2010 however, only 263 out of the 645 promised new classrooms were constructed and put into use. It should be noted that even if those 645 promised classrooms were to be built, it would only meet the needs of the natural population growth in East Jerusalem, and would not address the classroom shortage.

On February 6, 2011, following a petition submitted by ACRI, the High Court of Justice ordered the Education Ministry and the Jerusalem Municipality to provide within five years sufficient classrooms for children in East Jerusalem. Failure to do so, the HCJ declared, would result in them covering the tuition to semi-private schools (known as recognized- and unofficial-schools) of students unable to study in the public education system.

Following the court's decision, the Jerusalem Municipality announced on February 21, 2011, that 285 classrooms would be built in East Jerusalem,

budgeted at NIS 300 million. However, these will not solve the fundamental problem of classroom shortage given the existing figures of 1000 missing classrooms. Hence, despite the High Court ruling, the appropriate budget allocation has not been made and there is no indication of a genuine intention to find a solution to this problem in the near future.

The Social Consequences

The ongoing neglect of the education system in East Jerusalem severely impacts the Palestinian population of the city. The Palestinian community of East Jerusalem, which until the 1980s was considered one of the most educated and affluent Palestinian communities, has been undergoing negative processes for the last decades. Some of them stem from Israeli policies, and others are related to internal Palestinian affairs. The result is that East Jerusalemites are becoming poorer, less educated and subject to ever-rising levels of violence and delinquency. The catastrophic condition of the education system has a significant impact on those negative processes, especially among the youth.

Issue 34: Education for Human Rights

Please provide information on the provision of human rights education throughout the school system at all levels.

In the mid-1990s, the education minister appointed a committee to develop a comprehensive plan for inculcating civic studies among Israeli students. A year later, the committee, headed by Professor Mordechai Kremnitzer, submitted a detailed report entitled "Being Citizens".⁸³ The report emphasized that "the resilience and quality of the democratic system are determined by the citizens' commitment to the democratic ideal." The report went on to emphasize that "education to citizenship must be provided for all students in the education system. Such education is a vital condition for life in a democracy. To succeed in this task, education to citizenship must be manifested in an ongoing process, throughout the entire period of schooling, in a holistic form and in coordination with all fields of studies; this in addition to develop the civic climate in schools." According to the Kremnitzer Report, education to the values of substantive democracy is considered the core of civic studies in all the democratic nations.

The committee concluded its report by presenting a series of recommendations, focusing mainly on the expansion of civil studies from pre-school through graduation from high school, and on developing a system-wide process in cooperation with all teachers and principals in order to inculcate democratic studies beyond the confines of civic studies classes. The committee recommended the nurturing of a civic and pluralistic atmosphere in schools, with an emphasis on an encounter with the other; conflict resolution

⁸³ Kremnitzer Committee, Being Citizens Report, available under:
<http://cms.education.gov.il/EducationCMS/Units/Mazkirut_Pedagogit/Mate/Dochot/DohBeEzrah.htm>

through discourse; and the development of the students' ability to engage in critical thought.

It should be noted that since the submission of the Kremnitzer Report, there has been a significant improvement in civic studies, both in terms of scale and in terms of content and methodology. However, this improvement is far from satisfactory. Firstly, some of the recommendations of the Kremnitzer Report have never been implemented. Israeli students take civic studies in just six grades (three in elementary school, one in junior-high, and two in high school) – the committee recommended that civic studies be included in all twelve grades. Moreover, many schools still do not provide civic studies, and there is a shortage of teachers with a specialist teaching certificate in the subject.

Our impression is that education to democracy and human rights is still perceived today by the Ministry of Education as the prerogative of a single ministry unit (the “Kremnitzer Headquarters”) and a single school subject (civic studies), rather than as an issue that must be addressed by the entire education system. Moreover, comments by the education minister, the head of the Pedagogic Secretariat, and other senior ministry officials (see below) suggest that education to democracy and human rights is actually moving further away from the core of civil studies in Israel.

The need to enhance education to human rights and democracy is necessary due to the deterioration that has occurred in recent years in the manner in which young people experience and understand the essence of democracy. This deterioration suggests that even the full implementation of the committee's recommendations would not be sufficient, and that broader and more dynamic steps must now be taken.

As early as 1996, the Kremnitzer Report noted the problematic perception of democracy that was prevalent among the public. “In most groups, their status as citizens is perceived as an essential formal matter with meager content, and not as the source of prestige,” the report found. “In some groups there is a strong tendency to insularity within the group, to ignore other groups, and to develop negative and stereotypical images of others.”

All the evidence – including public opinion polls, violence incidents among youth, manifestations of racism, and so forth – suggest that things are only getting worse. For example, a survey conducted among hundreds of Jewish and Arab youth in the 15-18 age range in February 2010 for the School of Education at Tel Aviv University found that, in theory, most of the youths support the democratic system: eighty percent of the respondents (seventy-nine percent of the Jewish respondents) stated that they would prefer a democracy they disagree with to a dictatorship with whose leadership they agree. However, the findings suggest that for most Israeli youths, democracy is restricted to its formal dimension, whereas its substance – i.e. individual and minority rights – is not recognized or supported. By way of example, forty-six percent of the Jewish respondents in the study do not think that Arab citizens should enjoy equal rights, and fifty-two percent believe that Arabs should not be elected to the Knesset.

True democracy cannot survive for long without the protection of human rights in general, and minority rights in particular.⁸⁴ The erosion of democratic values directly encourages the violation of these rights and leads to manifestations of hatred, intolerance, and violence, challenging the very foundations of democratic society. In recent years, for example, racism has spread in Israel, as has the social legitimacy attached to this phenomenon. The freedom of expression of groups and individuals has been impaired, and there is an increasing tendency to delegitimize those who are perceived as different. This trend has included acts of violence against minority groups in Israel, such as Arabs, immigrants, gay and lesbian people, Haredim (ultra-Orthodox Jews), and migrant workers.⁸⁵

In light of the alarming trends described above, it is more important than ever to encourage education to democratic values – human rights, tolerance, pluralism, critical thought, and respect for others. Halting the decline in the values of democracy and human rights requires more substantive and broad-based actions now than those proposed in the past. The Ministry of Education must invest greater efforts in education to democracy and human rights in order to halt these trends, which are liable to destabilize the very foundations of Israeli democracy.

The reluctance to address human rights and democracy in the education system seems to be due, in part, to the false assumption that these issues are connected with left-wing political tendencies. In November 2009, for example, the Knesset Education Committee held a discussion on the subject of civic studies in schools, on the initiative of the Institute for Zionist Strategy. A press release published by the committee after the discussion quoted the comment by chairperson MK Zevulun Orlev (National Religious Party) that “there is a left-wing, liberal, and universalist bias in civic studies.”⁸⁶

Creating an association between democracy and human rights and any specific political position is dangerous; the essence of democracy is that it encompasses pluralism, freedom of expression, and a plurality of views within society. Moreover, civic studies seek to inculcate students with basic knowledge concerning theoretical concepts such as different types of government, the authorities of state, and principles such as the separation of powers and relations between citizens and the state – this in addition to the substantive side of democracy, i.e. the importance of protecting human rights. This knowledge, and the acquisition of skills for coping with complexity and dilemmas, provide a vital foundation for life in a democratic society.

⁸⁴ On the connection between human rights and democracy, see the Introduction to ACRI's the State of Human Rights Report 2009, available under: <<http://www.acri.org.il/en/?p=695>>.

⁸⁵ We examined this issue in depth in the State of Human Rights Report 2009, published in December 2009. For example, see the chapter on the subject of hatred and racism, available under: <<http://www.acri.org.il/en/?p=695>>.

⁸⁶ Education Committee, Press Release, 25.11.09, available in Hebrew under: <<http://portal.knesset.gov.il/Com8chinuch/he-IL/Messages/25112009.htm>>.

Connecting these subjects with political positions implies the civic education is a controversial subject and raises alarming doubts as to its importance.

At the beginning of 2009, Professor Yuli Tamir, the education minister at the time, received a copy of a report entitled Education to Shared Life for Jews and Arabs in Israel. The authors of the report explained its central concept of “shared life” as including equality between Arabs and Jews; positive and decent relations; shared responsibility; mutual respect and legitimization; and a common desire for peace.

The report, which was prepared by a public committee against the background of “evidence of alienation between Jews and Arabs,” recommended a series of important steps to reform the education system in order to reinforce education to shared life between the two peoples. The recommendations include: education to shared life from pre-school through the end of high school; encouraging encounters between Jews and Arabs; study of Arabic language and culture in Jewish schools ; the establishment of joint schools for Jews and Arabs; and the integration of Jewish teachers in Arab schools, and vice versa.

It should be noted that the list of goals in the State Education Law also includes “gaining familiarity with the language, culture, history, heritage, and unique tradition of the Arab population and of other population groups in the State of Israel, and recognizing the equal rights of all Israeli citizens.”

However, the report’s recommendations for education to shared life have not been implemented, and it seems unlikely they will be implemented in the near future. At present, activities in the education system to promote shared life between Jews and Arabs in Israel are marginal and superficial and cannot facilitate real change. The civic studies programs include activities on the theme of “coexistence.” However, education to shared life cannot be reduced to a one-time encounter or short-term, localized, and superficial programs. The Ministry of Education does not at present have any serious programs designed to promote shared life between Arabs and Jews.

We believe that the Ministry of Education should stop ignoring the erosion of democratic and human rights values in Israel generally, and among young people in particular. These values must be inculcated in the system on all levels and in all streams, in order to ensure that they penetrate the curriculum in all subjects. Every teacher in Israel should see himself or herself as an educator for democracy. To this end, a broad and comprehensive program should be developed to strengthen democratic values and to ensure that this subject is a key priority. This must include an increase in the budgets for democratic education. Such a program should be capable of reversing the alarming trends described in this chapter.

Article 15 - Cultural rights

Issue 37: The Arabic Language

Please provide information as to whether the Arabic language is systematically used, in addition to Hebrew, in public administration at the local and national level, in the court system, as well as with regard to road signs.

The Usage of the Arabic Language

Arabic is an official language in Israel. Both the status of Arabic here and the status of Israel's Arab minority necessitate that any use of Arabic employ correct spelling according to the conventions of the language, while preserving the national-cultural context of the language. Any other use of Arabic, including its use for transliterating other languages, contravenes this obligation and runs counter to the provisions of law and the instructions of the Israeli Supreme Court regarding the special status of the Arabic language. The obligation to respect the minority language and to use it as part of the cultural-national identity has been recognized in various other multi-national countries throughout the world.

Despite its official status, the Arabic language does not appear in many public places and spaces, such that it is impossible for Arab citizens to equally enjoy and utilize the full complement of public services and facilities. Recent years have seen various initiatives, both from public figures and government officials, which have damaged the official status of the Arab language and, consequently, the right of the Arab minority to its language and to the preservation of its culture. For example, it was reported recently that several major commercial chains had forbidden their employees to speak Arabic at work or play Arabic music in malls and in franchise stores.

Road Signs

Another example concerns road signs. Despite a decade-old Supreme Court ruling directing mixed cities to add Arabic to all municipal signs, there is still no full compliance in these communities. ACRI has time and again contacted the cities that were mentioned in the Supreme Court's decision, seeking their compliance with the court ruling. In January of this year ACRI again filed to force the city of Nazareth Illit to follow the ruling (request for a contempt of court), after numerous direct appeals to the city did not bear fruit. As of now, the Nazareth municipality is formulating a plan to implement the ruling.

In addition, the outcome of a program proposed by the Minister of Transport two years ago remains unclear. According to the plan, Arabic language road signs would be revised from their current version to a transliteration of the Hebrew location name. The implication of this decision is the removal of the Arabic language from road signs and effectively the transformation of all signs into solely Hebrew references. This proposal defies the status of Arabic as an

official language and furthermore violates Arab citizens' rights to equality and to dignity. The difficulty of this program is compounded by the fact that it serves to undermine the Arab minority in Israel, violating its right to its language and preservation of its cultural and historical character. This decision is just one of a long list of recent statements and proposed legislation designed to deny the legitimacy of the Arab minority. It should also be noted that over the years various bills have been introduced seeking to cancel the official status of the Arabic language in Israel. Some of these proposed bills would designate Hebrew as the sole official language of the State of Israel (with other languages receiving special status but no official designation).

Translation of Jerusalem Municipality Forms into Arabic

The vast majority of the Jerusalem Municipality forms are unavailable in Arabic. In 2007/2008, ACRI found that only 13 out of 91 official Jerusalem Municipality forms and documents exist in Arabic, 9 of which refer to the payment of city taxes. Following ACRI's repeated requests to translate the forms, the Jerusalem Municipality agreed in April 2009 to do so, but only a few were translated by the end of 2009. The Jerusalem Municipality notified ACRI that it is working on classifying and translating the forms. In early 2011, after several meetings on the issue were held with the professional echelons in the Jerusalem Municipality, and after ACRI threatened to file a court petition, the forms are now being translated. ACRI keeps monitoring the issue that is far from completion.

Changing Jerusalem Street and Neighborhood Names

Ever since the 1950's, the Jerusalem Municipality has been waging a joint struggle with the Prime Minister's Office in an attempt to change the Arabic names of several Jerusalem neighborhoods into Hebrew ones. This trend gained momentum in recent years.

A ministerial committee has been established recently whose role is to unify the spelling of place-names on road-signs, maps, and textbooks. For example, Likud MK Israel Katz, transportation minister and committee member, wished to erase the name *Ursalim al-Quds*, that is written in Arabic letters, from the road-signs in and around the city and replace it with *Yerushalayim* in Arabic script, disregarding that no such word exists in Arabic. Likud MK Tzipi Hotoveli and Israel Beiteinu MK Zvulun Orlev have recently filed a legislative proposal that, if adopted, would obligate the Jerusalem Municipality to give Hebrew names to neighborhoods that do not have one yet, and refer to all neighborhoods with their Hebrew name only. This bill greatly upset the Jerusalem residents as it increases the alienation between the authorities and the Arab residents of the city. Moreover, it would further downgrade the Arabic language and carry a clear message concerning Jerusalem's Arab history and culture.

Issue 38: Peaceful Access to non-Jewish Holy Sites

Please indicate how the State party effectively guarantees the preservation of non- Jewish holy sites and their protection from desecration, as well as peaceful access to these sites by their respective local and international religious communities.

Parking Arrangements for Old City Worshipers

There is a lack of public transport to East Jerusalem, especially compared to the western part of the city, in addition to a lack of official parking spaces. These deficits can especially be felt on Muslim or Christian holidays when worshipers visit the holy sites in the Old City of Jerusalem and see themselves left with no alternative but to park illegally and subsequently get fined for parking illegally. Ever since 2009, ACRI has been repeatedly appealing to the Jerusalem Municipality, asking it to arrange public transportation for Muslim worshipers, make it accessible to them, and arrange parking spaces for Muslims and Christians who visit holy sites in the Old City of Jerusalem - following the model of arrangements made on Jewish holidays. Last year, the Jerusalem Municipality decided to arrange a shuttle service from the northern entrance of Jerusalem to the Old City during the month of Ramadan. Worshipers were able to park their cars in a public parking space and take busses to their places of worship. For this year a similar arrangement was a made. This arrangement does however not satisfy all the needs and leaves for example the South of the city without any solutions.

Temple Mount Entry Restrictions

Under some circumstances, the Israeli police puts entry restrictions on worshipers, who want to visit the Temple Mount. In 2010, ACRI asked the Jerusalem Police to provide a list of the type of restrictions imposed on worshipers and the circumstances under which they apply. In the response of December 2010, the police stated that when in possession of intelligence of an intended riot, after undertaking specific situation assessments and after the approval of the political echelons, Muslims under a certain age are denied access to the Temple Mount. According to police data, such restrictions were in effect for 15 days in 2009 and for 11 days in 2010.

It further emerged, based on ACRI's correspondence with the coordinator of government activities in the territories, that during the month of Ramadan of 2009, Israel allowed 58,600 residents of the west bank to pray on Temple Mount on Fridays, while in 2010 it allowed the entry of some 100,000 residents from the west bank. Men under 55 and women under 50 were denied access, regardless of their marital status. It should be noted however, that Israel views these [group] entry permits as a generous gesture on its part, as the residents of the territories normally do not have the right to enter Israeli territory without personal permits.

Issue 39: Protection of Cultural Heritage

Please provide information on measures taken to guarantee the protection of the cultural heritage of the various population groups in the State party. Please also provide information on how the cultural heritage is reflected in the school curriculum as well as in the cultural events and activities in the State party.

The cultural heritage of the Arab minority is not fully guaranteed within the school curriculum of the Arab schools. Therefore, in recent years, voices within the Arab public in Israel have demanded the establishment of a separate pedagogic secretariat for Arab education, in order to recognize the status of the Arab citizens of Israel as a national and cultural minority.⁸⁷ This structure would be similar to that provide for state-religious and Haredi education, reflecting recognition of the fact that distinct population groups have the right to a degree of autonomy in determining the content of studies.

This issue was discussed by the Knesset Education Committee at the beginning of 2008. A statement issued by the committee after the discussion quoted the chairman of the committee, MK Rabbi Michael Melchior: “My sense is that in reality, different streams are being granted more and more independence – until it comes to the Arabs. In their case, the ministry says, ‘That’s it! Now education must be statist and uniform.’ In my opinion, we should recognize in structural terms the strong desire of the Arab public to express and consolidate its identity.”⁸⁸ A commitment to the values of equality and respect for minorities should have led the Ministry of Education to examine this initiative seriously; it could make a real contribution to advancing Arab education and promoting the substantive equality of Arab school students in Israel.

Another significant issue that undermines the preservation of the cultural heritage of the Arab minority is the war the Israeli government has declared on the Nakba over the past two years. The Nakba, in Arabic, is the disaster experienced by the Palestinian people when Israel received independence. Many of the facts relating to the events that occurred in this country in 1948 have been the subject of debate among historians and others for many years. Unsurprisingly, interpretations have emerged that reflect at least two key narratives, one Israeli and the other Palestinian. What is undeniable is that the Nakba forms a central part of the experience of a large part of the population of Israel, and has the character of a traumatic, seminal, and formative event.

“The first thing we will do is to remove the Nakba,” declared Prime Minister Benjamin Netanyahu ahead of the beginning of the new school year in 2008,

⁸⁷ For example, see the position papers presented as part of the “Jewish-Arab Rift” project of the Israel Democracy Institute: Khaled Abu Asba, [Establishing an Independent and Autonomous Authority for the Arab Education System in Israel](#); Hala Espanioli, [Cultural Autonomy for Arab Education](#) (only in Hebrew).

⁸⁸ MK Rabbi Michael Melchior, 15.1.08, available in Hebrew under: <http://portal.knesset.gov.il/Com8chinuch/he-IL/Messages/15012008.htm>

referring to the intention to remove the subject from the curriculum.⁸⁹ In May 2009, the government supported an amendment to the Independence Day Law. In the form approved at the Preliminary Reading, the amendment, which came to be referred to popularly as the “Nakba Law,” stated that no institution which receives state support will be permitted to finance activities marking the Nakba. Ahead of the present school year, Minister of Education Gideon Sa’ar decided to remove any mention of the events of the Nakba from textbooks in the Arab sector. He also decided to reexamine a history book for the Jewish sector presenting both narratives, which had already been approved by the ministry.

Once again, as in other cases, the official measures are accompanied by an atmosphere of intimidation and the delegitimization of anyone who dares to address the subject of the Nakba, even if this is only on the historical level of recognizing the Palestinian narrative. For example, after the Ministry of Education ordered the managers of the Common Denominator website of the Center for Educational Technology to remove the emblem of the Ministry of Education, and under right-wing pressure, it was decided to remove the subject of the Palestinian refugees from another site of the Center, “by way of a preventative measure”.⁹⁰

Forbidding mention of the Nakba has grave ramifications. Palestinian citizens, including students, have a right to learn their history and to express their identity and collective memory. Marking the Nakba does not threaten the security of the State of Israel or of Israeli residents: it manifests the legitimate and fundamental right of all individuals, groups, and peoples to express their pain for what they perceive as a disaster. For Arab citizens, the measures discussed here reflect a lack of recognition on the part of the state and the negation of their formative narrative. This can only distance them still further from a sense of identification with the state in which they live. For Jewish students, these decisions reflect the negation of the identity of the other, and deny the students the opportunity to hear the story of the Palestinian people. For all of us, Jews and Arabs alike, this approach damages the prospects for mutual understanding and coexistence. In this context, it is interesting to note that preliminary studies have found that young Israeli Jews are capable of addressing and containing different narratives, and are highly motivated to become acquainted with the other.⁹¹

⁸⁹ Atila Shompli, 'The Education Vision of Nethanyahu', Ynet, 31.8.08, available in Hebrew under: < <http://www.ynet.co.il/articles/0,7340,L-3589924,00.html>>

⁹⁰ Or Kashti, 'Ministry: Remove our logo from coexistence Web site', Haaretz, 18.3.10, available under: <<http://www.haaretz.com/print-edition/news/ministry-remove-our-logo-from-coexistence-web-site-1.264934>>

⁹¹ See: Noga Eini Alhadaf and Dan Bar-On, Differences in the Perception of the Israeli and Palestinian Narratives of 1948 among Israeli Jewish Youth – Coping with the Study of a History with Two Narratives (to be published in Studies in Education). See also: Noga Eini Alhadaf, Studying the Historical Narrative of the Other – The Reactions of Israeli Jewish Youth to the Israeli and Palestinian Historical Narratives of 1948, thesis toward an MA degree from the Department of Psychology, Ben Gurion University, 2008.