

**האגודה לזכויות האזרח בישראל**  
**جمعية حقوق المواطن في اسرائيل**  
**The Association for Civil Rights in Israel**



# **The State of Human Rights in Israel and the Occupied Territories**

## **2008 Report**

***Marking the 60<sup>th</sup> Anniversary of the  
Universal Declaration of Human Rights***

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Researched and written by: Tal Dahan  
Translated by: Arthur Livingstone and Gila Svirsky  
Edited by: Inbal Green and Gila Orkin

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For more information about ACRI, please contact:

The Association for Civil Rights in Israel (ACRI)  
P.O. Box 34510, Jerusalem, 91000, Israel  
Tel: +972-2-652-1218  
Fax: +972-2-652-1219  
Email: [mail@acri.org.il](mailto:mail@acri.org.il)  
Website: [www.acri.org.il/eng](http://www.acri.org.il/eng)

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## Introduction

***“Now, therefore the General Assembly proclaims this Universal Declaration of Human Rights ... that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction”.***

**(From the Universal Declaration of Human Rights, 1948)**

On 10 December 1948, still gripped by the trauma of the atrocities committed during World War II and the brutal violations of human rights for millions of people, the General Assembly of the United Nations adopted the **Universal Declaration of Human Rights**. Most countries voted to endorse the Declaration, and December 10 has ever since been commemorated as "International Human Rights Day" throughout the world and, in recent decades, in Israel as well.

While not binding on UN member states, the Declaration has inspired international treaties and human rights activism, and is regarded as the basic text that establishes the range of recognized human rights. It opens with the pronouncement that all human beings are born free and equal in dignity and rights, and then sets out those rights in thirty articles, which include the right to life, liberty, personal security, prohibition of slavery and torture, freedom of expression, religion and faith, the right to marry and establish a family, the right to due process, the right to education, the right to health, and the right to an adequate standard of living.

Each year, the Association for Civil Rights in Israel (ACRI) publishes a “State of Human Rights Report” describing the condition of human rights in Israel and the Occupied Territories. A decade ago, marking half a century to the Universal Declaration of Human Rights, ACRI examined the status of human rights in Israel in light of those cited in the Declaration. The report then written revealed some troubling phenomena and trends: inequality, social gaps, human rights violations in the Occupied Territories, diminishing social rights, increasing privatization of social services, and more. Yet it was still possible to cite important milestones,<sup>1</sup> and note with satisfaction that “The State of Israel has impressive achievements in the field of human rights”.

A decade has passed, and the report presented here, published to coincide with International Human Rights Day, seeks to reevaluate the status of human rights in Israel and the Occupied Territories in light of the Universal Declaration, now from a perspective of sixty years. It is disturbing to note that not only have the troubling trends that we cited a decade ago not diminished, they have in fact grown worse. Sixty years after the founding of Israel, human rights have not been enshrined in a constitution, and only some of them have been anchored in Basic Laws. The State of Israel has increasingly shirked its responsibility to ensure its citizens the most fundamental rights – the right to health, the right to education, the right to housing, and the right to live in dignity. Inequality is growing and socioeconomic gaps are deepening. Freedom of expression and the right to privacy face new threats. Racist trends and those that limit basic

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<sup>1</sup> These include the following laws enacted in the 1990s: Basic Law: Human Dignity and Liberty, Equal Opportunities at Work Law, Equal Rights for People with Disabilities Law, National Health Insurance Law, Patients' Rights Law, the Public Defender's Law, the new Arrests Law, and the Freedom of Information Law.

freedoms and endanger human rights have increasingly found their way into bills tabled for legislation in the Knesset. Measures have been taken that evoke concern about the erosion of democracy, including injury to the standing of the legal system, particularly the Supreme Court; threats to civil society organizations and their activists; and encroachments on the freedom of expression. Lacking in the current deliberations of the Knesset's Constitution Committee on proposals for a constitution are effective safeguards of fundamental rights, and the standing and independence of the judiciary.

In modern Israel in the early twenty-first century, some citizens, not coincidentally, all of them Arab, still live in third-world conditions – especially in the unrecognized villages of the Negev. Eight years ago in October 2000, thirteen people were killed by the Israel Police – all Arabs and all but one citizens of Israel. Since then, despite unequivocal pronouncements by the Or Commission, institutionalized discrimination continues toward the Arab population of Israel. Very little was done to advance them and improve their status; gaps between Jews and Arabs have only widened; and discrimination grows worse.

Hovering above all this is the dark shadow of occupation and the separation regime ever more entrenched in the Occupied Territories. For forty-one years, Israel has denied fundamental rights to four million Palestinians in the West Bank and the Gaza Strip. Even the establishment of the Palestinian Authority in the mid-1990s and Israeli withdrawal from the Gaza Strip in the summer of 2005 did not change the fundamental imbalance of power in which Israel controls the lives of the Palestinians, and is responsible for the daily, severe, and ongoing violations of their rights. Under the domination of Israel, which defines itself as a democracy, live several million people who are denied their rights under military occupation in which no rights are guaranteed: not the right to life, personal security, or freedom of movement, not the right to earn a livelihood, to freedom of expression, or to health. In the reality of the Occupied Territories, particularly since the second *Intifada* in late 2000, most rights have long lost their meaning.

This report was compiled on the basis of information contained in numerous and diverse sources – reports and statements by non-governmental organizations, newspaper articles, Knesset deliberations and documents, and data published by State authorities or presented in court proceedings. For lack of space, the report addresses most, but not all, articles in the Declaration.

Consistent with the core issues at the forefront of the struggle for human rights in Israel – and fundamental to the 36 years of activity of the Association for Civil Rights in Israel – this report is divided into three main sections: **equality**; **civil rights**; and **social rights**. Together these comprise the full and diverse range of human rights: All have equal weight, and without safeguarding the entire spectrum, Israel will not take its place as a democratic society that allows for full realization of the liberty, freedom, and equality to which all human beings are entitled. The shadow of the occupation also darkens pages throughout this document – a status report of human rights in Israel and their trampling in the Occupied Territories. We will continue to wage battle against all these, wherever rights are violated by the Israeli authorities or on their behalf.

And the struggle for human rights can also mark achievements: At the close of each chapter is a brief survey, not exhaustive, of our tenacious and ongoing efforts to secure these human rights. You are invited to read and join us in our work – a struggle for the basic rights and fundamental freedoms of all persons.

## The Right to Equality

***"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood". (Article 1)***

***"Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status". (Article 2(1))***

***"All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination". (Article 7)***

The right to equality is a fundamental principle that is the foundation of the concept of human rights. Following Israel's enactment of the Basic Law: Human Dignity and Liberty (1992), the right to equality was anchored in a long list of court rulings as a constitutional right derived from the right to dignity; the violation of the right to equality is permissible only within the limits prescribed in the Basic Law. However, **sixty years after the Universal Declaration of Human Rights (UDHR) and the establishment of the State of Israel, there is no explicit constitutional anchoring of the right to equality** and there are no institutions entrusted with its application.<sup>2</sup> Also, many exceptions to the right to equality were listed in the draft legislation recently drawn up by the Knesset Constitution Committee, thus stripping it of its content. Moreover, there exists **institutionalized discrimination** in Israel reflected in legislation and policies which clearly prioritize the interests of its Jewish citizens over those of other citizens. This ongoing reality compounds the entrenched discrimination against Israel's Arab minority, and perpetuates the severe violation of the right to equality. In addition, for the last four decades, Israel has controlled millions of people with no rights, who are totally excluded from the concept of equality and to whom completely different laws and regulations apply – the Palestinian residents of the Occupied Territories.

A number of laws and amendments to laws have been passed in the last twenty years, which seek to guarantee the right to equality within Israel. Among them: the Equal Employment Opportunity Law (1988), which prohibits discrimination against a person throughout all stages of employment on the grounds of nationality, country of origin, age, gender, family status, sexual orientation, faith, opinion, and party affiliation; the Equal Rights for People with Disabilities Law (1998), which affirms the right of people with disabilities to be integrated into society, to equality of employment and to accessibility; the Prohibition of Discrimination in Products, Services and Entry into Places of Entertainment and Public Places Law (2000), that seeks to protect against discrimination by private individuals;<sup>3</sup> amendments to the State Service Law that determine a duty to

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<sup>2</sup> Apart from the recently established Equal Employment Opportunity Commission, see below in the "Workers' Rights" chapter.

<sup>3</sup> The Law was passed on the initiative of the Association for Civil Rights in Israel. ACRI recently initiated an amendment to the Law, the aim of which was to prevent discriminatory "selection" at the entrance to places of entertainment. According to the amendment, the owner of a business who does not provide services to his customers in the order in which they arrive, must show that there is a justifiable reason and that it is not unjustifiable discrimination. The proposal to amend the Law was submitted to the Knesset by Knesset Member Shelly Yachimovich and has passed its preliminary reading.

ensure fair representation of women, people with disabilities, Arab citizens (including Druse and Cherkassim), and immigrants from Ethiopia in public bodies. The right to equality is also anchored, as previously mentioned, in a long list of judicial rulings. But the elusive nature of discrimination and the difficulty of proving it in the courts have made it one of the thorniest problems for prevention and enforcement. Moreover, **the main obstacle to the prevention of discrimination in Israel is the absence of any real internalization of the value of equality within Israeli society**. Thus, for example, in the 2008 Democracy Index published by the Israel Democracy Institute, 83% of respondents agreed that "every person should have the same rights, irrespective of their political views"; but only 56% of respondents agreed on the need for full equality of rights between all citizens of the State, Jewish and Arab, and only 57% supported gender equality.

## **Women**

In general, the status of women in the **labor market** in Israel and the rest of the world is inferior to that of men. Women in Israel are among the lowest wage earners,<sup>4</sup> are concentrated at the bottom of the wages and promotion ladder in almost all sectors and professions, only a small minority of them are employed as managers, and most of them work in a rather narrow band of "women's professions" in which wages are low and prospects for promotion are limited. The proportion of women who work for manpower companies is considerably higher than that of men, and the unemployment rate for them is higher than for men. Alongside all this, women are discriminated against in acceptance for employment and in promotion because of pregnancy, birth, and parenthood, and are exposed to sexual harassment in the work place, a phenomenon that men scarcely suffer from. The proportion of women in the Israeli legislature is low compared to most western countries; the representation of women in senior academic posts is 10% lower than the average in EU countries and the more senior the post the lower their proportion. In the judiciary, on the other hand, women constitute a majority of 51%, precisely the same proportion as their representation in the overall population; the equality between the genders is also preserved in the different positions and roles of the judges.

In Jewish and Muslim religious law the status of women with respect to **marriage and divorce** is inferior to that of men. The inequality is expressed both in financial relationships in the context of marriage and in the possibility of leaving a marriage. This fact is detrimental to women in situations in which matters connected with marriage and divorce, like the distribution of assets between a couple, the custody of children and maintenance, are judged according to religious law and not in the family courts. Particularly serious is the problem of delays in the granting of a divorce – women who cannot divorce because of the husband's refusal to give them one. In all the religious courts, only men hold judicial positions. Marrying off minors is still prevalent among several population groups in Israel, both among the Arab population and the Jewish one. The Marriage Age Law, which allows a girl to be married as early as 17, does not provide sufficient protection for minors and is almost not enforced by the State authorities. There is also a phenomenon of bigamy in Israel, mainly amongst the Arab Bedouin in the Negev; Israeli law prohibits bigamy but this is rarely enforced.

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<sup>4</sup> According to the Knesset Review for 2007, published by the Central Bureau of Statistics in September 2008, the hourly income for a man – NIS 48.2 – was 20% higher than that of a woman – NIS 40.5.

Despite a heightening of the public's awareness of the extent of **violence against women** and of sexual assault, these phenomena continue to claim numerous victims, and the police and social services are failing to effectively address these issues. Shelters for battered women and the victims of sexual assault are only partially funded by the government and are unable to provide an answer to existing needs. The phenomenon of **trafficking in women** also continues. According to a report by the U.S. State Department in 2007, published in June 2008, Israel is making a prodigious effort to prevent human trafficking for prostitution through legislation and enforcement, but it is not doing enough to help the victims of trafficking, and is not taking sufficient punitive action against traffickers, agents, and pimps of the victims of trafficking for prostitution. For the first time, Israel is also mentioned in the report as a source country for victims of trafficking for prostitution.

### **Mizrahim (Jews of Middle Eastern and North African Origin)**

In today's Israel, there is almost no institutionalized discrimination against Mizrahi Jews compared with Ashkenazi Jews. **However, the widening socioeconomic gaps in the last few decades perpetuate ethnic differences and divisions created because of historical discrimination, so that the gaps between Jewish Israelis of different extraction still remain.** According to data from the Adva Center, since 1990 there has been an increase in the average income of salaried employees of Mizrahi origin, but even now the average income of native-born Israelis whose fathers were born in Europe or in the United States is greater than that of native-born Israelis whose fathers were born in Asia or Africa; the proportion of the former in the academic and technical professions and in management positions is greater than that of the latter (2006 data). The proportion of high-school graduates from the year 1997 enrolled in one of the academic institutions by the year 2005 who were of Asian-African extraction was less than the proportion of those of European-American extraction and native-born Israelis (25.7% compared with 36.4% and 35.6% respectively). The new rules for acceptance to universities introduced in 2003 which were supposed to improve the chances of candidates of Mizrahi origin (among others), were rescinded after one year.

**Institutionalized discrimination against Mizrahim is mostly evident in Haredi (ultra-orthodox) educational institutions.** Thus, for example, in the last few years there has been mounting evidence of the existence of a 30% quota in the acceptance of students of Mizrahi extraction to the Beit Ya'akov chain of seminaries; the Jerusalem Court for Administrative Affairs ruled,<sup>5</sup> that the Ministry of Education and the Jerusalem Municipality must exercise the supervisory powers vested in them to prevent ethnic discrimination in these institutions. There is a petition pending before the High Court of Justice on the matter of the humiliating discrimination between Mizrahi and Ashkenazi students in schools in the settlement of Emanuel.<sup>6</sup>

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<sup>5</sup> Administrative Petition 241/06 *The Association for Civil Rights in Israel v. Ministry of Education, Culture and Sport* (Justice Yehudit Tzur, ruling issued on 26 April 2006).

<sup>6</sup> HCJ 1067/08 *Noar K'halacha Association v. Ministry of Education*.

## **Arab Citizens of Israel**

The Arab citizens of Israel are a national indigenous minority entitled to full equality. Nonetheless, since the establishment of the State, **Arab citizens have been subjected to systemic and institutionalized discrimination** deriving from the concept of the State and its actual policies. This discrimination gives rise to a policy of bolstering the Jewish majority (for example, plans for the Judaization of the Negev and the Galilee); fosters legislation that discriminates between Jews and Arabs (for instance, the laws regulating the right to citizenship); preserves anachronistic institutions from the days of the incipient State that conduct governmental functions but are concerned purely with the interests of the Jewish majority (e.g. the Jewish National Fund and the Jewish Agency); and the discriminatory allocation of resources in all areas of life.

Discrimination against Arab citizens of the State throughout its entire existence is evidenced in a large number of surveys and reports, and has been acknowledged in court rulings, government decisions, the State Comptroller's reports, and in other official documents. In September 2003, the Or Commission, appointed to investigate the events of October 2000 and the behavior of the Israeli security forces during them, published the most significant, extensive, and comprehensive government report on the status of Arab citizens of Israel. The Commission concluded that "The State was not doing enough and was not making a sufficient effort to provide equality to Arab citizens and to remove the phenomena of discrimination and deprivation". The Commission also wrote in its report: "It must be a fundamental aim of the State's actions to achieve true equality for its Arab citizens [...] To this end, the State must promote, develop, and introduce plans to close the gaps, putting emphasis on the budgetary areas, in all aspects of education, housing, industrial development, employment, and services. Special attention should be paid to the living conditions and the plight of the Arab Bedouin".

**Five years have passed since the publication of the Commission's report and nothing has been done to improve the status of the Arab population in Israel.** We will briefly mention here only a few of the areas in which inequality and discrimination are apparent. Consideration of the infringement of the rights of Arab citizens of Israel in some of the other areas, such as health, housing, and freedom of expression, will be found later in the sections dealing with these topics.

▪ **Discriminatory legislation:** The trend towards racist legislation, which we pointed out in our *2007 State of Human Rights Report*, has continued during the past year. This trend is manifest in draft **bills and laws that fuel the delegitimization of Arab citizens** and reflect an attitude towards them that is more akin to the attitude towards an enemy than towards citizens with equal rights. In July 2008, the validity of the Citizenship and Entry into Law, which prevents the Palestinian spouses of Israeli citizens from receiving status in Israel was extended for a further year.<sup>7</sup> In June 2008, an amendment was passed to the Basic Law: The Knesset denying candidacy for the Knesset to anyone who has visited a hostile country without a permit. Although the amendment is worded in "neutral" language, it is in fact directed at the Arab members of Knesset and only at them. The amendment to the Law is a serious blow to the democratic character of the State of Israel and to the basic rights of its Arab citizens, among them the right to elect and be elected and the right to equality.

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<sup>7</sup> For a more detailed discussion on this discriminatory law, please see the "Right to Family Life" chapter in this report.

The organization Adalah – The Legal Center for Arab Minority Rights in Israel has pointed out that in the past, discrimination against the Arab citizens of Israel was largely a part of old legislation passed prior to the Basic Law: Human Dignity and Liberty, or a part of government policy, and was not anchored in primary legislation. Recent initiatives for legislation, on the other hand, are aimed at anchoring the discrimination in primary legislation. "The anchoring in legislation of discrimination based on nationality," claims Adalah, "is evidence of a transition to a new stage in which the State of Israel is prepared to declare that discrimination is part of its constitutional structure".

▪ **Land distribution and planning:** Land distribution and planning is one of the areas in which Arab citizens of Israel suffer from the most severe deprivation and discrimination. **Since the establishment of the State, the Arab population has increased sevenfold, but the State has expropriated half of the lands that were under Arab ownership and has not established a single new Arab town** (apart from the Bedouin towns in the Negev that were built on Bedouin lands). In stark contrast, during the past sixty years, more than 600 new Jewish towns have been built. Whereas Arab citizens in Israel account for 20% of the population, the area of jurisdiction of all Arab authorities covers only 2.5% of the area of Israel. Social and institutional barriers have led to a situation in which Arab citizens are effectively prevented from acquiring land or leasing it in more than 80% of the State's territory. **In the existing Arab towns and villages, outline plans fail to meet the needs of the population, including its natural growth rate.** As a result, tens of thousands of houses in Arab communities have been built without a building permit and are slated for demolition, and there is a dearth of public buildings to provide services to residents. The Or Commission report attached great importance to the issue of land and recommended that the State should allocate land to the Arab population according to principles of equality and distributive justice. The Commission considered that the State had an obligation to allocate to the Arab public "land in an equitable manner according to principles of equality as it does to other sectors".

Like all Arab citizens, **the Arab Bedouin are victims of a discriminatory land regime and planning policy which constitute a serious violation of their rights.** The State refused to recognize Bedouin ownership of land in the Negev: it ignored the way in which ownership and proprietary rights were acquired in customary Bedouin law, and applied the proprietary laws of the State of Israel to land in the Negev, culminating in its nationalization. The law made the Bedouin trespassers on their own land. The State refused to allow them to remain on their historical lands and even ignored the existence of entire villages in outline plans, some of which villages existed before the establishment of the State. Some Bedouin were transferred to a region allocated to them by the State and some were concentrated in a number of towns built by the State which became concentrations of acute poverty and unemployment. Tens of thousands of citizens who refused to move to the towns today live in humiliating conditions in villages that are not recognized by the State.<sup>8</sup>

▪ **Mixed towns:** 90,000 Arab citizens of Israel live in mixed towns – Ramla, Lod, Acre, Haifa, and Jaffa. Data from Shatil and Bimkom – Planners for Planning Rights paint a gloomy picture of neglect and discrimination in these areas. Most Arab residents in the mixed towns live in poor neighborhoods. The difference between Arab and Jewish neighborhoods in the same town is abundantly clear; sometimes there are even walls separating the Arab and Jewish populations. **Widespread in Arab neighborhoods are**

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<sup>8</sup> For more information on the situation of the unrecognized Bedouin villages of the Negev, please see the "Right to a Dignified Existence" chapter in this report.

**phenomena such as buildings and roads in disrepair, a lack of public institutions and public parks, a dilapidated education system, and a dearth of health and welfare services.** Many Arab neighborhoods are not officially recognized and do not appear on municipal plans.

Thus, for example, in Ramla: The town is home to 70,000 residents, 15,000 of them Arab citizens who live in the town's Arab neighborhoods (the old city, Jarwish-Miyutim, and Gan Hakal Aleph and Bet). Many of the Arab residents suffer from a severe housing crisis the main features of which are overcrowding, poor quality housing, and unlicensed building. The current outline plans in Arab neighborhoods are partial and out of date, and do not generally enable expansion of the neighborhood; two expansion plans, in Miyutim and Gan Hakal, do not provide solutions to even the current housing crisis, not to mention the next twenty years. The neighborhoods (apart from the old city neighborhood) suffer from a substandard level of municipal and public services: thus, for example, in Gan Hakal there are no banks, post office branches, or branches of municipal or government offices whatsoever; there are no National Insurance services of the kind frequently used by many of the neighborhood's residents, mainly the elderly and the unemployed; there are no community or commercial centers; there are no green areas, playgrounds, or playing fields; there are no family health centers or clinics apart from a small branch of a health fund operating on a part-time basis for several hours a day. Residents of the Dahmash neighborhood close to Ramla were forced to submit two petitions<sup>9</sup> to ensure that their children could access their right to study in the town's schools.

The Rakevet (El-Mahatta) neighborhood in Ramla is not recognized by the municipality and therefore does not provide its residents with basic services such as proper roads and sidewalks, public transport, garbage collection, and lighting. The neighborhood is trapped between a number of national transportation infrastructures built in the vicinity – national route intersection in the east, an overpass in the north-west, and the Ramla-Lod railroad track in the south. Residents of the area are under constant threat to their lives; there is no safe entry and exit to and from the neighborhood, nowhere where the railway line can be safely crossed, and there is no protective wall separating the railroad track from residents living only a few meters from it. The absence of lighting compounds the danger. Until now, six residents have lost their lives on the railroad track. Houses in the neighborhood are crowded together and most are constructed from makeshift materials. They are within a stone's throw of an extremely large industrial area that includes heavy industry factories, and an army base with a large antenna farm, all adding to the multiple environmental and health hazards to which the residents are exposed.

## **Persons with Disabilities**

Discrimination against and exclusion of people with disabilities is a fact of Israeli life. Many services are inaccessible or unavailable to them or do not provide for their needs; people with disabilities are severely discriminated against in the labor market, including in the public sector; and a host of difficulties confront children integrated into the general school system.

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<sup>9</sup> Administrative Petition 1402/06 *Anonymous vs. Ramla Municipality*, Administrative Petition 2571/05 *Anonymous vs. Ramla Municipality*. The petitions were submitted by the Association for Civil Rights and the Karamah organization.

In 1998, on the initiative of Bizchut – the Israeli Human Rights Center for People with Disabilities, a law was passed in Israel, the **Equal Rights for People with Disabilities Law (1998)**. The Law is unique in that it applies to persons with all kinds of disabilities – physical, sensory, cognitive, mental, and psychological, as well as to temporary or permanent disabilities. At the core of the Law is the principle of human dignity: a person with a disability is equal to any other person in society and entitled to be an active member of it. **In order to achieve this objective, it is not enough to prohibit discrimination, but equal opportunity must be created for people with disabilities to enable them to exercise their rights by providing a proper solution for their special needs.** The Law affirms the right of people with disabilities to equality in employment and accessible transportation services as well as the duty to make every place open to the public and every service provided to the public accessible to people with all kinds of disabilities.<sup>10</sup> Under the Law, the Equal Rights Commission for People with Disabilities – a designated and independent body acting within the State and financed by it – was set up in 2003 to promote the rights of people with disabilities and to implement the provisions of the Equal Rights Law. In March 2007, Israel became a signatory to the U.N. Convention on the Rights of Persons with Disabilities, which sets a standard for equality, full participation in society, accessibility, and decision-making by the person himself or herself. The State of Israel contributed much to the drafting of the Convention in the U.N. but has not yet ratified it.

The 2007 report by the Equal Rights Commission for People with Disabilities lists many recent developments in the areas of legislation, law, and society concerning the rights of persons with disabilities: the enactment of laws dealing with integration into the community; the regulation of various types of accessibility; representation during forced treatment, etc; rulings, mainly in the Supreme Court and the Labor Courts concerning equality of opportunity in education and employment; the appointment of equal rights commissioners for people with disabilities in all government ministries; and the establishment of hundreds of non-governmental organizations dealing with people with disabilities. However, according to data presented in the report (for the years 2002-2005) and data from Bizchut, despite intensive activity in the area, it is still impossible to point to significant changes or any major improvement in the situation of people with disabilities in Israel. Thus, for example:

- **The proportion of people with disabilities in employment is extremely low**, and declines as the severity of the disability increases (however, the proportion of people with disabilities who are in employment is slightly higher than the average in European countries). The average income of people with disabilities is less than 70% of the average income of people without disabilities. A survey of employers conducted by the Commission in 2007 reveals that 85% of Israeli employers do not employ people with disabilities and almost a quarter (23%) state that they do not want to employ workers with disabilities.
- **The economic situation of people with disabilities in Israel has deteriorated in the last few years and is the worst of all western countries.** More than 30% of people with severe disabilities and 21% of people with moderate disabilities report

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<sup>10</sup> This duty was determined in an amendment to the Law of March 2005, wherein it was stated that the regulations necessary to apply the Law would be sent by the various government ministries for approval by the Labor, Welfare and Health Committee by May 1, 2006 and approved by it by November 2006. As of November 2008, two years after that date, the regulations have yet to be approved; that said, the process of passing them into law is progressing in a sub-committee of the Labor, Welfare and Health Committee.

having a sense of being poor compared with less than 10% of people without disabilities. In 2008, a comprehensive amendment was passed to the National Insurance Law (the so-called "Laron Law"), which allows a person with a disability who is entitled to a pension from National Insurance to work without their pension being stopped or reduced, as has been the case up until now. The Law determines a graduated reduction of the pension according to the person's income and creates a positive incentive to be employed.

- There is an especially high concentration of people with disabilities among the poorly educated. In 2002, on the initiative of Bizchut, the Special Education Law was amended and a section was added to it on the integration of children with special needs into the general education system. The Supreme Court also issued important rulings in this field. Nonetheless, **serious systemic obstacles prevent the integration of children with disabilities into the general education system.** In general, children with complicated disabilities who learn in the standard education system are not budgeted for according to their disabilities and are funded to a considerably lesser extent than they would be if they were learning in the special needs education system, nor do they receive the assistance necessary to ensure their successful integration.
- In 2000, the Welfare (Treatment of Persons with Mental Disabilities) Law was amended to give preference to integrating a person with a mental disability into housing frameworks within the community over housing in an institution, as is accepted practice in developed countries. In effect, of 7,500 people with mental disabilities living away from home in State-maintained housing, 6,000 were sent to live in institutions and the State is intent on opening more and more institutions.
- More than half of the population requiring treatment in the area of mental health, and of those more than two-thirds of the minors, do not receive it in the existing public health frameworks. Since mental health services are not included in the national health basket, the State provides only what it can, and services are markedly inadequate.

The situation on the ground shows that **legal progress alone is insufficient to bring about a real integration of people with disabilities into Israeli society.** To do so, the Law must be applied in practice, by changing the public's attitudes and strengthening its commitment to changing them, and through real and effective equal opportunity policies in the areas of education and employment.

### **Immigrants from the Commonwealth of Independent States (CIS)**

The proportion of academics who are immigrants from the CIS is greater than the proportion of academics who are native-born Israelis. Many of them have technological training and have integrated into industrial factories and the manufacturing, planning, and engineering sectors. However, language difficulties sometimes force them into low-status work, such as cleaning and security, even if they have an education and a profession: 16% of immigrants from the CIS are non-professionals compared with 5% of the established population. **Many immigrants from the CIS who have come to Israel since the beginning of the 1990s, work in manpower companies for subcontractors and in part-time, seasonal, and casual work; on average, their wages are 30% lower than those of veteran Israelis.** The language difficulties of immigrants from the CIS and the fact that they are unfamiliar with the labor protection laws in Israel leave them vulnerable to exploitation by employers. Despite the inferior employment

conditions and the differences in wages, the proportion of their participation in the work force is greater than that of veteran Israelis.

The inferior status of immigrants from the CIS in the labor market is to a great extent temporary. Over the years they have integrated into Israeli life, have reduced the gaps in language and culture, they are being gradually less exploited, and the more educated among them have succeeded in breaking into professions with a higher employment status. However, research into discrimination at the stage of acceptance for employment revealed that employers have a preference for candidates for employment who are not new immigrants, even when the credentials of the new immigrants are equal to those of candidates born in Israel. Moreover, **the representation of immigrants from the 1990s in public service institutions, apart from medical professions, is still substantially lower than their proportion in the population**, and lower than that of native-born Israelis and immigrants from the CIS who came in the 1970s.

**The absence of civil marriage in Israel is a violation of the rights of immigrants from the CIS to equality and to family life.** According to data from the New Family Organization, more than half of Israelis who marry abroad were born in the CIS.<sup>11</sup>

### **Ethiopian Immigrants**

More than twenty years have passed since the mass immigration to Israel from Ethiopia. Claims, evidence, and data provided for many years by representatives of the Ethiopian community and arising from surveys and publications in the media indicate failures in the integration of Ethiopian immigrants and the discrimination they encounter. According to the Israeli Association for Ethiopian Jews, among the factors that make it difficult for Ethiopian immigrants to integrate in Israel are: the disintegration of the customary family framework; their unfamiliarity with the formal structures maintained by western society and the lack of cultural sensitivity on the part of these structures; living in disadvantaged neighborhoods and social isolation; and the grudging acceptance of them by Israeli society (manifestations of hostility and racism and the calling into question of their Jewish identity). **An examination of government policies over the years reveals no lack of good intentions, decisions, programs, and projects,<sup>12</sup> but not enough has been achieved in the field.** The reasons for this are complex. It may be that insufficient budget resources were invested in absorbing the Ethiopian community;<sup>13</sup> perhaps the projects offered to the Ethiopian community were not appropriate for its nature and needs<sup>14</sup> or were insufficient to bridge the cultural and technological gaps; the concentration of Ethiopian immigrants in neighborhoods and towns with low socio-economic status certainly took its toll; and no doubt there are other reasons. In July 2008, a parliamentary investigative committee was set up in the Knesset to examine the

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<sup>11</sup> For more on this issue, please see the 'Right to Family Life' chapter in this report.

<sup>12</sup> Thus, for example: in 2004, on the instigation of the Jewish Agency, the "Ethiopian National Project" was established with the aim of "creating a continuity of services for the community from the pre-immigration stage until the stage of permanent settlement"; and in February 2008, the Prime Minister announced a five-year plan to promote the absorption of Ethiopian immigrants, "that will provide a multi-faceted solution in the areas of employment, education, higher education, army, accommodation and housing, and welfare".

<sup>13</sup> Thus, for example, the government did not meet its obligations to allocate funding for the Ethiopian National Project and it was considerably reduced.

<sup>14</sup> Thus, for example, in its 2007 report, the Israeli Association for Ethiopian Jews stated that the proposed plans in the area of employment fall short of meeting the needs of the Ethiopian population.

situation of Ethiopian immigrants in Israel in the areas of education, housing, employment, and welfare, and the status of Ethiopian rabbis and Kesim.

▪ **Employment:** Many Ethiopian immigrants came to Israel with no formal education and without the skills required by the Israeli labor market, and therefore they have had difficulty integrating into the workforce. **They are employed for the most part in low-status work, many of them through sub-contractors and manpower companies.** According to data in a Knesset Research and Information Center document of June 2008, 37% of Ethiopian immigrants are non-professional workers compared with 16% of immigrants from the CIS and 5% of veteran Israelis. The employment ratio among Ethiopian immigrants is lower than that of the overall population by almost 10%. Education is certainly significantly improving the employment ratio, **but the proportion of academics of Ethiopian extraction employed in professions appropriate to their education and skills is low relative to the overall population;** the salaries of academics of Ethiopian extraction is accordingly lower than the average in the economy; moreover, many of them are engaged in projects within the Ethiopian community itself, projects that do nothing to promote them in the overall labor market. Nor have sufficient numbers of academics of Ethiopian extraction been integrated into the public sector despite the number of government decisions made in the matter in the last decade.

▪ **Education:** As a rule, students of Ethiopian extraction find it more difficult to integrate into the education system than other students because of the absence of adequate services in the neighborhoods in which they live and because of cultural gaps. According to data compiled by the Israeli Association for Ethiopian Jews in 2006, more than 72% of children of Ethiopian extraction have grown up in families living below the poverty line, and more than 70% spent the critical years of their development in an environment of caravan parks, absorption centers, and poor neighborhoods. Thus, at kindergarten age, children of Ethiopian extraction are already noticeably behind and this can be seen in the difficulties they have in acquiring reading and writing skills and with learning functions in general. The dropout rate in seventh to twelfth grades among children of Ethiopian extraction is 4.4% compared with 2.6% of all students, and the hidden dropout rate (active non-participation in classes) is far higher. The rate of high school graduates among students of Ethiopian extraction is 39.14% compared with 63.8% among the overall Jewish population.

According to documents from the Knesset Research and Information Center, **harsh criticism has been leveled for years at the policy concerning the integration of students of Ethiopian extraction into the education system.** The criticism used to be directed primarily against the policy of "integration by dispersal", that is to say the dispersal of students of Ethiopian extraction in educational institutions where veteran Israelis study without the appropriate resources being allocated to meet the special needs of these students. Nowadays, complaints about the growing tendency towards "concentration and education tracking", according to which students of Ethiopian extraction are concentrated in certain institutions of learning in restricted courses and learning tracks and even in separate classes of an inferior standard. It is also claimed that an overtly high number of students of both sexes of Ethiopian extraction are referred for special needs education. In the last few years, cases of **discrimination and racism against students of Ethiopian extraction** have also been uncovered. Thus, for example, cases have been reported in the media of schools refusing to register students of Ethiopian extraction referred to them, and of educational institutions where students of Ethiopian extraction learn separately from the other students.

▪ **Welfare:** The cultural and social trauma to immigrants from Ethiopia when they arrive in Israel, the change in the systems of relationships within the family, and the bleak economic situation of many of these immigrant families also created serious social problems. 65% of all persons of Ethiopian origin are familiar to the social services departments. The level of family violence between couples of Ethiopian extraction is higher than their proportion in the overall population in Israel. The problems Ethiopian youth have with absorption manifest themselves, among other ways, in an increased use of drugs and alcohol and in the relatively high crime rate relative to other youth.

The State Comptroller's Report published in May 2008 (relating to January through October 2007) states that "the administrative authorities do not fully comprehend the need for special treatment of Ethiopian immigrants deriving from their cultural background [...] and consequently **not enough has been done in the area of welfare to ease the proper and just absorption of Ethiopian immigrants in Israel** [the emphasis is not in the original text]". Among other things, the Comptroller found a lack of coordination between the various ministries dealing with immigrants from Ethiopia; that only in the last few years has the Ministry of Welfare really begun to relate to the cultural difference between immigrants and to formulate a policy of culturally sensitive treatment which had still not been implemented at the date of the Report; and that in the local authorities examined (Ashdod and Netanya), the municipalities were hard put to provide their wards of Ethiopian extraction with the treatment they need because of a shortage of social workers.

## **Gays, Lesbians, Bisexuals and Transgenders**

Recognition of the rights of gays and lesbians in Israel is relatively progressive compared with other countries. In the two decades since the ban on homosexuality was removed from Israel's penal code (1988), the efforts of the gay community and human rights organizations have yielded major achievements and increasing recognition of the rights of gay men, lesbians, and same-sex couples, both legally and in daily life. In most matters pertaining to the property of couples – spousal benefits, survivor benefits, pension, inheritance, and other – the status in Israel of same-sex spouses is today identical to the status of common-law spouses. In recent years, legal developments have advanced the parenthood rights of same-sex couples. Since the Supreme Court ruling in January 2005 that a lesbian can adopt the biological children of her partner,<sup>15</sup> lesbian partners receive such adoption orders as a matter of routine. In March 2008, an adoption order was also given for the first time to a gay male couple, one of whom adopted a child abroad.<sup>16</sup> The rights of same-sex couples are protected primarily through court rulings, however, and are not enshrined in law; indeed, in some rulings, such as that regarding the registration of marriage and adoption, the courts made a point of emphasizing that nothing in the ruling creates a new status for a family unit of same-sex couples. The position of the courts is that recognition of a same-sex couple and parenthood are matters of culture and values that should be determined by the Knesset.

The needs of transgendered<sup>17</sup> people in Israel are still not fully addressed, especially in the field of health. Although the national health funds (Kupot Holim) are obligated to

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<sup>15</sup> Administrative Petition 10280/01 *Jaros-Hakak v. Attorney General* (10 January 2005).

<sup>16</sup> Adoption Case (Tel-Aviv) 58/07 *G.S.S. v. Attorney General*.

<sup>17</sup> "Transgendered" is a general term for men and women who feel that the sex assigned to them at birth (male/female) is to some extent inconsistent with their gender identity – their identification as a man or woman.

cover the cost of sex-change operations, these are performed in one hospital only and are approved only after stringent criteria are met, which forces many who need these operations to have them abroad at a much higher cost. In Israel, the regulations regarding sex-change operations were set by the Ministry of Health in 1986; these are now outdated and not in line with the currently accepted international standards regarding transsexual men and women. Following an appeal by Physicians for Human Rights – Israel, the Ministry of Health recently established a committee to consider proposals for reform on this issue. A representative of the transgender community is a member of the committee – the first official representation on a government body.

### **The Occupied Territories: Violation of the Right to Equality of Palestinian Residents**

The massive presence of the settlements in the heart of the Occupied Territories and the policies adopted toward them has created a state of institutionalized separation and discrimination as well as a nullification of the principle of equality. **In the same territorial area and under the same administration live two populations who are subject to two separate and contrasting legal systems and infrastructure.** One population has full civil rights while the other is deprived of those rights. The absolute separation between the populations is purely on the basis of national origin. The settlers' lives, although they live in an area under military rule, are in almost every respect the same as those of Israeli citizens living in Israel. This is in stark contrast with the local population in the same area, the Palestinians, who continue to live under the regime of a military occupation. Thus, for example, a Jew who has committed a crime is entitled to all the rights of an accused under Israeli law, and will be tried before a civil court, whereas a Palestinian who has committed a crime – even during the same event – is subject to much harsher military law and will be tried under the military court system; Israel has built a modern arterial road system in the West Bank intended in fact only for use by Israeli traffic, whereas the Palestinians are forced to travel for the most part on twisting and dangerous roads; the discriminatory use Israel makes of the planning system in the Occupied Territories restricts building and any possibility of expanding Palestinian towns and villages, in contrast with the generous planning flexibility enjoyed by the settlers; the amount of water allocated to the settlements allows them to grow grass and build swimming pools, whereas there are Palestinians who are forced to buy drinking water from tankers.

This state of affairs in which all the services, budgets, and the access to natural resources are granted along discriminatory and separatist lines according to ethnic-national criteria is a **blatant violation of the principle of equality, and is in many ways reminiscent of the Apartheid regime in South Africa** (even if in South Africa it was a case of a racist separation criterion as opposed to the ethnic-national one applied in the Occupied Territories). It is also important to note that such a state of affairs is in **total contradiction of the principles of international law**: under international law, the Palestinian residents of the Occupied Territories are defined as a protected civilian population in an occupied territory, and as such they are supposed to enjoy a privileged status with regard to the protection of their rights. In March 2007, the U.N. Committee on the Elimination of Racial Discrimination (CERD) published its recommendations concerning Israel. In the document, the Committee viewed with concern "the application of laws, policies, and regulations that discriminate between Palestinians and Israelis in the Occupied Territories", and expressed special concern at Israel's declaration that it is entitled to discriminate between Israelis and Palestinians in the Occupied Territories according to their citizenship.

**Some actions taken by ACRI to safeguard the right to equality:**

During the 36 years since its inception, ACRI has engaged in diverse educational and public activities to instill the concept of equality and dignity in respect of humankind in general, and in respect of those who belong to minority groups in particular. In the legal arena, ACRI has recorded a number of impressive achievements that have become milestones in the struggle to promote equality in Israel. Among the activities and achievements of ACRI are the following:

- Successful litigation to prohibit discrimination in acceptance to Haredi (ultra-orthodox) seminaries on the grounds of ethnic origin (2006)
- Successful litigation to prohibit disqualification by public authorities of candidates for employment on the grounds of age (2004)
- Production of a broadcast on the subject of discrimination in the work place (2004)
- Reduction of the violation of equal rights and distributive justice in the "transfer provisions" for changes in the use of agricultural land (2003)
- Cancellation of the conditioning of the amount of child benefits on the parents' military service (2003)
- Acceptance for national service of Jewish men exempted from military service and for Arab women (2001)
- Publication of a high-profile series of articles on inequality in the Israeli media (2001)
- Initiation of the Prohibition on Discrimination in Products, Services, and Entry into Places of Entertainment and Public Places Law (2000)
- Distribution of a poster on equal rights in thousands of Israeli schools (2000, 2001)
- Publication of a comprehensive survey on inequality in Israel in the areas of work, education, and criminal proceedings (1999)
- Obligating the Jerusalem Municipality to subsidize summer camps in an egalitarian manner (1999)
- Ending discrimination against unmarried women requesting in vitro fertilization or sperm donations (1996)
- Establishment of Bizchut – the Israeli Human Rights Center for People with Disabilities (1993)

***Equality for Women:***

- In the framework of the Working Group for Equality in Personal Status Issues – running a public campaign to raise the legal marriage age to 18 (2007-2008)

- Award of tens of thousand of Shekels in compensation to a female employee who was discriminated against in her salary in comparison with her male colleagues (2003)
- Suing employers over discrimination against women because of pregnancy; successful litigation to ensure the recruitment of women to pilot training (HCJ Alice Miller, 1995), and successful litigation to ensure the hiring of female and male pilots by El Al even if they have not served in the Air Force (HCJ Orit Katsir, 1998)
- Petition against the discrimination against women in recruitment and promotion in the police forces (1996)
- Successful litigation to make the retirement age the same for men and for women (1990)
- Successful litigation to ensure the appointment of women to the Religious Council (HCJ Shakdiel, 1988)

***Equality for Arab citizens:***

- Public campaign calling for the implementation of the recommendations of the Or Commission (2008)
- Production of a short film commemorating Land Day exposing the continuing discrimination against Arab citizens in planning and land matters (2008)
- Achieving the first-time recognition of a Bedouin village in the Negev (2004)
- Successful litigation ensuring that the municipalities of mixed towns post all signs in their jurisdiction in Arabic as well as in Hebrew (together with Adalah, 2002)
- Successful litigation obligating the State to apply affirmative action in respect of Arab candidates, even if there is no specific provision in the law (2001)
- Successful litigation to prohibit discrimination in the allocation of State land between Jews and Arabs (HCJ Qaadan, 2000)
- Award of compensation for discrimination at work on the grounds of national origin (2000, 2006)
- Publication of a report on the circumstances surrounding the wounding and killing of Arab citizens of Israel by the police during the events of October 2000 (2000)
- Publication of a report on the violation of the human rights of the residents of the Arab neighborhood of Jarwish in Ramla (1998)
- Ensuring the enrolment of an Arab boy in a Jewish kindergarten in Jaffa and the removal of nationality as a criterion for registration in respect of children (1996)

**Recognition of the rights of same-sex couples:**

- Ensuring that the benefits from the Housing Ministry for same-sex couples are equal to those received by heterosexual couples (2007)
- Successful litigation to ensure the registration of same-sex marriages conducted abroad ("the Toronto marriages case", 2006)
- Securing the payment of National Insurance survivor benefits for same-sex spouses of deceased partners (2005)
- Ensuring the exemption from betterment and purchase taxes when transferring rights to a home from one same-sex spouse to another (2004)
- Successful litigation to register in Israel a lesbian adoption that had been legally conducted abroad (HCJ "Berner-Kadish", 2000)
- Successful litigation to ensure the broadcast of a program for youth on the subject of homosexuality (1997)
- Successful litigation to ensure the granting of survivor benefits to the partner of a deceased IDF officer (HCJ "Adir Steiner", 1997)
- Successful litigation to obtain job benefits for same-sex couples (HCJ "the Danilowitz case", 1994)

## The Right to Life and Personal Security

**“Everyone has the right to life, liberty and security of person”. (Article 3)**

### **The Killing of Arab Citizens by Security Forces**

In October 2000, thirteen Arabs – all but one citizens of Israel – were shot to death by Israeli security forces. The Or Commission, established to investigate these incidents and the behavior of the security forces, recommended that the Police Investigations Department (PID) probe all the events in which citizens were killed, and that some of those involved be brought to trial. The Commission also called upon the police to take action to eradicate hostility toward Arab citizens. “It is important to uproot prejudice against the Arab sector, found even among veteran and well-respected police officers”, stated the Commission. “Police officers must internalize the understanding that the Arab public is not their enemy, and should not be treated as such”.

Despite the harsh criticism of the Or Commission, **not a single indictment was filed against any of the police officers involved in the killing of citizens during the October events.** The Police Investigations Department of the Justice Ministry closed all the files during the course of 2006. Although a report published in September 2005 revealed serious faults and shortcomings in those investigations, Attorney General Meni Mazuz confirmed the decision to close the files in January 2008. Beyond the painful significance this has had for the families of the victims, it further deepens the crisis of confidence between the police and Arab citizens of Israel.

**Since those events in October 2000, 34 more Arab citizens have been killed by security forces,** most recently Sabri El Jarajawi, who died of his wounds in July 2008 after being beaten by police. In most cases, no charges at all, or very lenient ones, were filed, even though people were killed. The police officers involved were not dismissed, and continue to serve in the same positions. This disdain for the lives of Arab citizens raises concerns that for many who serve in the Israel Police, Arab citizens of Israel are an enemy whose blood can be shed.

### **The Occupied Territories: Violation of the Right to Life and Personal Security**

In the Occupied Territories, disdain for the lives of Palestinians continues. According to data from B'Tselem and OCHA (the UN Office for Coordination of Humanitarian Affairs), **430 Palestinians in the West Bank and Gaza were killed and over 1,150 wounded by Israeli security forces in the period from January through October, 2008.** Many were not involved in hostilities when they were hurt. Property damage and the use of excessive force against Palestinians – sometimes to the point of abuse – have become the norm.

Since the outbreak of the second *Intifada*, the Military Advocate General cancelled the directive to open an investigation into every case of death caused by Israeli security forces, and now such investigations are launched only in unusual circumstances.<sup>18</sup> This

<sup>18</sup> A petition filed by ACRI and B'Tselem in 2003 demanded the opening of an investigation by the Military Police for every case in which a civilian is shot to death by Israeli security forces. The hearings ended in April 2006, but a decision has still not been rendered. A request for a decision was submitted in February

is in breach of the obligation of states, both under humanitarian and international human rights law, to protect and defend the right to life and to prevent arbitrary killing by its security forces. Furthermore, only a small number of cases in which a Military Police investigation was opened have led to an indictment against soldiers suspected of killing Palestinians. This is also true for other offenses: According to data published in August 2008 by Yesh Din, **in the vast majority of cases of injury to Palestinians or their property by soldiers, no indictments are filed:** From the beginning of the second *Intifada* in September 2000 through the end of 2007, only six percent of the Military Police investigations of offenses by soldiers against Palestinian civilians and their property ended in indictments.

In June 2008, a bill passed its first reading in the Knesset aimed at **preventing Palestinians from claiming compensation for damage to their person or property caused by Israeli security forces.** This bill is designed to circumvent a decision by the High Court of Justice,<sup>19</sup> which ruled two years ago to declare void a paragraph in a law giving immunity to the State from compensation claims by Palestinians in the Occupied Territories on the grounds that this provision violated fundamental human rights.

**Settler harassment of and violence against Palestinians** continue in the West Bank, and the security forces continue to fail to respond. Numerous complaints from Palestinian residents and human rights organizations about specific incidents, as well as appeals on principle to authorities in the IDF, the Knesset, and the Defense Ministry have not led to improved enforcement of the law. Even after the High Court of Justice ruled in June 2006 (the "olive harvest ruling")<sup>20</sup> that the IDF is obligated to safeguard the security and property of Palestinian farmers, no enforcement measures were taken against the settlers, and violence against Palestinian farmers continues, especially during the olive harvest. The IDF admits to a dramatic increase in settler violence over the past year: Monitoring by Yesh Din in recent years reveals **a 90% failure rate in police investigations of offenses by Israeli civilians against West Bank Palestinians:** Of 163 investigations completed, only thirteen (8%) ended in an indictment; one file was lost and never investigated; while 149 (91%) were closed without any indictments issued. What's more, the past year has also been marked by deliberate efforts to constrain the activities of human rights activists (Israeli, Palestinian, and international) in the West Bank. Preventing access to areas where Palestinians are frequently subject to settler assaults and land takeovers withholds even this minimal assistance from Palestinians in their efforts to defend themselves and their property, leaving them even more vulnerable to settler violence.

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2008. HCJ 9594/03 *B'Tselem: Israeli Information Center for Human Rights in the Occupied Territories v. Judge Advocate General.*

<sup>19</sup> HCJ 8276/05 *Adalah: Legal Center for Arab Minority Rights in Israel v. Minister of Defense.* This petition was submitted by nine Israeli and Palestinian human rights organizations, including ACRI.

<sup>20</sup> HCJ 9593/04 *Murar v. Commander of Military Forces in Judea and Samaria.* The petition was submitted by ACRI and Rabbis for Human Rights.

**Some actions taken by ACRI to safeguard the right to life and security:**

- During the past few years, hundreds of workshops, lectures, conferences, study days, and cultural events on the issues of human rights during armed conflict were held as part of our International Humanitarian Law Program
- Extensive human rights education programs for IDF soldiers and the Border Police to instill the concept of human rights as a critical parameter for conduct and coping with situations of conflict
- Litigation (with partner organizations) demanding that a soldier and regiment commander involved in the shooting of a handcuffed and blindfolded Palestinian civilian in Ni'ilin be placed on trial with charges appropriate to the severity of the offense (2008)
- Dissemination of information to Palestinians about their rights and how to cope with settler violence (2005-2008)
- Litigation demanding an investigation into the killing of a 16-year-old Palestinian by IDF forces (2008)
- Public campaign (together with B'Tselem) about human rights violations and settler violence in the Hebron city center (2007, 2008)
- Successful litigation with partner organizations to ban the use of Palestinian civilians as "human shields" (2005)
- Conference to examine the IDF's open-fire regulations (2005 – together with the organization Breaking the Silence)
- Ongoing litigation (together with B'Tselem) demanding a Military Police investigation of every killing of a Palestinian civilian who was not engaged in hostilities (2003)
- Successful appeal to the Supreme Court demanding that an IDF commander who instructed his troops "to break the arms and legs" of Palestinians in the Occupied Territories be brought to trial ("the Yehuda Meir case", 1989)

## The Prohibition of Torture

***“No one shall be subjected to torture or to cruel, inhuman or degrading torture or punishment”. (Article 5)***

### **The Occupied Territories: Abuse of Prisoners and Violation of the Prohibition on Torture**

The right of a person to be free of torture and cruel, inhumane, or degrading treatment is an absolute principle of international law. In 1999, following a long and determined struggle by ACRI and other human rights organizations and lawyers, the High Court of Justice ruled that the use of physical methods of interrogation by the General Security Services (GSS) is unlawful, and placed an absolute ban on the use of torture. This was an important milestone in the struggle against torture in Israel, and, following that ruling, reports of abuse and torture during GSS interrogations decreased significantly. However, **from follow-up reports of human rights organizations, including B'Tselem, HaMoked – Center for the Defense of the Individual, and the Public Committee against Torture in Israel (PCATI), a picture emerges of the routine abuse of prisoners and, in a small number of cases, even torture.** Among the methods used to apply physical and mental pressure on the interrogees: denying access to legal counsel and cutting them off from the outside world, harsh prison conditions and preventing access to toilet facilities, blows, constricting handcuffs, binding in painful positions, curses, humiliation and threats, and using family members to apply emotional pressure and break their spirit. Absurdly and infuriatingly, this important ruling intended to ban torture has been misused in order to engage in torture. The ruling stipulates that while torture is unlawful, GSS investigators may be exempt from criminal responsibility if they use physical methods in exceptional circumstances such as a “ticking bomb”, and this exception has been applied more broadly than was intended by the ruling. In November 2008, the Public Committee against Torture in Israel, ACRI, and HaMoked – Center for the Defense of the Individual filed a contempt of court motion<sup>21</sup> to enforce the ruling.

#### **Some actions taken by ACRI to prevent torture:**

- Successful litigation against the denial of access to legal counsel and the use of physical force on detainees at the Ofer Facility in the Occupied Territories (2002)
- In a landmark ruling following a determined and protracted struggle by ACRI and other human rights organizations and attorneys, the High Court of Justice declared unlawful the GSS's use of physical methods of interrogation, and placed an absolute ban on the use of torture (1999)
- Successful litigation against the harsh prison conditions and torture of detainees held without trial in the al-Khiam Prison in southern Lebanon during Israel's control over that region (1999)

<sup>21</sup> HCJ 5100/94 *Public Committee against Torture in Israel v. Prime Minister of Israel*.

## Criminal Justice

***“No one shall be subjected to arbitrary arrest, detention or exile”. (Article 9)***

***“Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him”. (Article 10)***

***“Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defense”. (Article 11)***

### **Secret Evidence – Increased and Problematic Use**

A troubling phenomenon in recent years has been **court decisions that take into consideration information provided in secret evidence that is treated as factual. This classified material is provided in the presence of one side only, without the other side having a chance to challenge or refute it.** Reliance on secret evidence is not new, especially in administrative detention hearings, but has recently assumed new proportions and become routine. Whereas in previous years, judges often expressed some reservations in their rulings about relying on confidential material or noted the problematic nature of such procedures, judges more recently have relied on the classified information without noting any reservations. For example, in a petition<sup>22</sup> to the High Court of Justice filed by the Palestinian organization Al-Haq to rescind the prohibition on its director leaving the West Bank for travel abroad, the ruling refers to his being a senior member of the Popular Front for the Liberation of Palestine as fact and not suspicion – even though this was based on classified material, which the petitioner had no opportunity to address. Courts will often pay lip service to the need for extreme cautiousness in relating to secret evidence, but this lip service is not backed up by deeds – the setting of standards to limit reliance on secret evidence and ensure that it does not abrogate the right to due process.

In hearings on a petition<sup>23</sup> filed by ACRI against the use of Arab nationality as a criterion for profiling during security checks at Israeli airports, the judges agreed to the State's request to hold a hearing in the presence of one side only in which classified material would be presented. This is probably the first time the High Court of Justice has relied on secret evidence from the General Security Services (GSS) to deliberate a petition that criticizes on principle discriminatory policies against Arab citizens of Israel.

A related troubling phenomenon is the **increased anchoring in legislation** of the holding of court sessions in the presence of one side only and the use of secret evidence. Indeed, in recent years other democratic states have taken a more critical stance about procedures that allow for the denial of rights based on secret material, some of these procedures instituted after 9/11. The British House of Lords asserted in 2007, for example, that “control orders”, which place administrative limitations on terrorist suspects, cannot be based primarily on secret evidence.

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<sup>22</sup> HCJ 5022/08 *Jabarin v. Commander of IDF Forces in the West Bank* (7 July 2008).

<sup>23</sup> HCJ 4797/07 *Association for Civil Rights in Israel v. Israel Airports Authority*.

## **Legislation Harming the Right to Liberty and Due Process**

In addition to administrative detention (see below “Occupied Territories: Violations of the Right to Due Process”), laws have multiplied in recent years that allow for **suspension of an individual’s personal liberty for “preventive” purposes and without a criminal proceeding. The Incarceration of Unlawful Combatants Law (2002)**, amended to be more stringent in August 2008, allows for holding a person indefinitely in administrative detention if there is a “reasonable basis to assume” – based on secret evidence – that he took part in hostile activity against the State of Israel “directly or indirectly”, or that he is a member of a militia carrying out hostile activity. This law allows detention for fourteen days without any judicial review whatsoever; denying access to legal counsel for up to 21 days; and reliance on classified information and inadmissible evidence such as hearsay. The law also establishes a military court system within the Green Line to deliberate under specific circumstances the extension of detention in a way that severely harms the principle of separation of powers and the obligation to ensure scrutiny of detention procedures before an independent and separate judicial authority. On 11 June 2008 – in one of the harshest decisions in recent years – Israel’s Supreme Court affirmed<sup>24</sup> the legality of some provisions of this law, including holding a person for fourteen days without judicial review. The Court also stated that the law does not apply to citizens and residents of Israel, but only to “outside elements”, including residents of Gaza. Thus it is permissible to discriminate between citizens and non-citizens with regard to the laws of administrative detention within Israel.

The Entry into Israel Law (1952) allows the State to detain individuals who are in Israel unlawfully for purposes of expelling them. The law allows the State to hold them in detention until their expulsion, unless expulsion is impossible through no fault of theirs, or if there are reasons to justify their release. The **proposed Prevention of Infiltration Law**, which passed its first reading in the Knesset in May 2008, would allow for much harsher treatment of those who enter Israel unlawfully, allowing for arbitrary and extended administrative detention without adequate judicial review or a proper legal proceeding.<sup>25</sup>

In mid-2006, the **Criminal Procedures (Detainees Suspected of Security Offenses) (Temporary Provision) Law (2006)** took effect, which denies security suspects the minimal protection of their rights as human beings: Among its provisions, the law allows the authorities to delay bringing the detainee before a judge for up to 96 hours; it allows certain hearings under certain circumstances – about extension of the detention, appeals, and requests for further hearings – to be held in the absence of the suspect; and it authorizes extension of the detention for longer periods than is common today in Israel’s detention laws. This law, in combination with the denial of access to legal counsel for 21 days, often imposed by virtue of another law, would allow for a situation in which detainees are interrogated in a GSS facility for three weeks, completely cut off from the outside world, and brought to a courtroom only once. This provides a dangerous opening for the abuse of detainees and unlawful interrogation methods. In late 2007, the law, originally enacted as a temporary measure for 18 months, was extended for an additional three years, for a cumulative total of four and a half years. A petition<sup>26</sup> against this law filed in March 2008 jointly by the Public Committee against

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<sup>24</sup> Criminal Appeal 6659/06, Criminal Appeal 1757/07, Criminal Appeal 8228/07, Criminal Appeal 3261/08 *John Doe v. State of Israel*.

<sup>25</sup> For a more detailed discussion on the proposed bill, please see “The Right to Political Asylum” chapter in this report.

<sup>26</sup> HJC 2028/08 *Public Committee against Torture in Israel v. Justice Minister*.

Torture in Israel, ACRI, and Adalah: The Legal Center for Arab Minority Rights in Israel is currently pending before the High Court of Justice.

In addition, the temporary provision<sup>27</sup> that exempts the police from its obligation to document the interrogation of security offenses in visual and voice recordings was extended in June 2008 for four years. The intent of this obligation was, *inter alia*, to prevent the eliciting of false confessions through the use of unlawful interrogation methods. The possibility of holding secret, undocumented interrogations harms the rule of law and the credibility of the criminal procedure, and is unworthy of a democratic country that respects basic human rights.

## **Incarceration Conditions of Prisoners and Detainees**

Over the years, High Court rulings have repeatedly emphasized that basic rights in Israel also apply to those in prison, and that "Prison walls need not separate a prisoner from his humanity". However, annual reports by the Office of the Public Defender and the Israel Bar Association reveal harsh violations of fundamental rights of prisoners and detainees in Israel.

The most recent Public Defender's report, published in July 2008 for the year 2007, reveals **the excessive use of force and brutal conduct of guards toward prisoners**. In one third of the facilities run by the Israel Prison Service that were visited by the Office of the Public Defender, prisoners complained of violence, threats, and humiliating and contemptuous behavior of the guards, as well as invasive and degrading searches. The report also draws a disturbing picture of systematic violence by the guards toward juvenile offenders in the Ofek Prison. "It was impossible to ignore the atmosphere of fear among the minors", reports the Public Defender. "Many refused to speak with the visitors, saying they would be harmed if they spoke out". In almost half the prison facilities visited by the Office of the Public Defender, complaints were voiced about extreme disciplinary punishment that included unreasonable and unlawful binding of prisoners, including minors, and disproportionate restraints applied to suicidal prisoners.

In a large number of the Israel Prison Service facilities visited by the Office of the Public Defender, physical conditions were found to be incompatible with upholding human dignity: **extreme overcrowding, poor hygienic and sanitary conditions, insufficient ventilation, suffocating heat, lack of separation between the toilets and showers, and a shortage of basic equipment such as heaters, clothing, and blankets**. Harsh conditions also prevail in the vehicles used to transport prisoners to destinations such as courts. The report positively notes that prisoners no longer sleep on the floor following the High Court of Justice ruling<sup>28</sup> that a bed must be provided for each prisoner. The report also positively cites the special team convened by the Israel Prison Service for a comprehensive and in-depth examination of the deficiencies reported the previous year. "Unfortunately, however," notes the report, "there was a marked gap between the proper policies made by the Israel Prison Service Commissioner and the situation in the facilities themselves".

Harsh conditions and other violations of detainee rights, such as severe and disproportionate punitive discipline and humiliating and illegal restraints were also found

<sup>27</sup> Set in the Criminal Procedures (Interrogation of Suspects) Law (2002).

<sup>28</sup> HCJ 4634/04 *Physicians for Human Rights v. Minister for Internal Security*, 12 February 2007. This petition was filed by Physicians for Human Rights – Israel and ACRI through the Human Rights Program of the Tel-Aviv University Faculty of Law.

in detention facilities run by the Israel Police and in courthouse holding cells, the responsibility for which was transferred this year from the Police to the Prison Service. While violations of detainee rights were also found in facilities recently transferred to the Prison Service, the Public Defender's Report notes that at least the transfer of authority now makes clear who is responsible for improving the situation. Nevertheless, despite efforts to improve matters, as emphasized in the Public Defender's report, violations of human rights in Israeli prison facilities are not isolated events. "This is a countrywide issue," says the report, "of daily infringements of the fundamental rights of prisoners and detainees, and a violation of their dignity as human beings". A report by Physicians for Human Rights – Israel from August 2008 cautions that the Israel Prison Service operates far from the public eye, with inadequate external oversight. The report notes that **the current mechanisms for investigating detainee complaints have systemic faults that undermine their effectiveness**. They are not sufficiently accessible to the detainees and not capable of providing suitable and timely redress of the problems raised by the detainees.

## **The Occupied Territories: Violation of the Right to Due Process**

### ***Administrative Detention – Detained Without Trial***

The laws in Israel and the Occupied Territories allow for arrest of a person by administrative order for a period of six months, but this can be repeatedly renewed. **Administrative detention can be extended indefinitely; an individual can be incarcerated for years without any judicial proceeding, without the allegations against him being tested in court, and without the fundamental right to defend himself.** The material concerning suspicions against administrative detainees remains classified – not revealed to them or their attorneys – thus, making it impossible for them to defend themselves against these suspicions. Administrative detention takes place based on the decision of one person (in the Occupied Territories – the regional commander; in Israel – the Defense Minister). Because the decision is based on classified material, there is no judicial review to effectively prevent the abuse of authority.

Israel makes extensive use of administrative detention against Palestinians in the Occupied Territories, and many are held for long periods. According to data from B'Tselem, 599 Palestinians were in administrative detention at the end of September 2008. Administrative detention is rarely used against Israeli citizens. The use of administrative detention, both against Palestinians and Israelis, is highly problematic on both moral and legal grounds. Despite the judicial rhetoric about the need to be particularly cautious in using administrative detention, **the Supreme Court has avoided setting minimal standards to safeguard due process**: The Court stated, for example, that in general no witnesses are required for an administrative detention hearing, and in recent years it refrained from obligating even the GSS officer in charge of the file to appear in court. What's more, in recent years, the Military Courts in the Occupied Territories have generally read only the summary of the classified material and made decisions even without seeing the entire file. In addition, administrative detention is often used when the evidence is insufficient to prosecute the case, hence administrative detention becomes a kind of punishment without trial. Thus, administrative detention **demonstrates marked disdain for the rights of detainees to dignity, liberty, and due process**. As long as evidence exists to establish guilt, a person must be allowed to address it and defend himself in a fair court proceeding. In the absence of such

evidence, there is no justification for the severe violation of his rights by incarceration without trial.

### ***The Military Court System***

For four decades, Israel has operated a **dual and discriminatory legal system**: An Israeli suspected of a crime, including settlers who live in the Occupied Territories, must be brought before a judge within 24 hours and will be adjudicated in the civilian legal system; Palestinians – even though they are civilians – can be detained for eight days before being brought before a judge, and they will be tried in a military court with a much harsher legal system and judges who are part of the military. A comprehensive report by Yesh Din in December 2007 exposes **grave failures in realizing the right to a fair proceeding for Palestinian civilians in Israeli military courts**, including the following:

- Most detainees and suspects have the formal right to be represented by a defense attorney, but in practice this is severely undermined as Israel constrains the attorneys, limiting their ability to defend their clients effectively, in various ways: setting conditions and limitations on meetings between lawyers and clients and on preparation of a legal defense; defense attorneys receive the investigative material only after the indictment was filed, written almost entirely in Hebrew, a language in which most are not fluent; procedures take place entirely in Hebrew and the translation into Arabic is inadequate; frequently the detention is extended based on classified material to which only the judge is privy; updated rulings and regulations are not accessible to the lawyers.
- The strict limitations on the presence of an audience in the military courts and the lack of publication of the verdicts combine to create a legal system that is conducted far from public scrutiny.
- Legal procedures are extended over a very long period.
- The vast majority of cases end in plea bargains, and a proper evidentiary hearing almost never takes place.
- The concept of presumed innocence is lacking: Military officers who attend the trial cannot separate themselves from their identity – both as Israelis and as the military. Accordingly, a tiny proportion of indictments end in full acquittal (in 2006 – 0.29% of the files that were adjudicated), and the detention is almost always extended in deliberations that take just a few minutes.
- Minors stand trial in the regular military courts, and in legal proceedings that are identical to those of adults.

### ***Conditions of Incarceration***

The rights of Palestinian prisoners and detainees incarcerated for security offenses are significantly less protected than the rights of other prisoners and detainees. A petition<sup>29</sup> filed in November 2007 by the Public Committee Against Torture in Israel describes the **disgraceful and inhumane conditions** in which detainees are held at the Ofer and Salem Camps as they await Military Court hearings – conditions they must bear from early morning until the hearings end in the late afternoon: severe overcrowding, denial of

<sup>29</sup> HCJ 10022/07 *Abu El'ayash v. Israel Prison Service Commissioner*.

access to toilets, no ventilation in the cells, suffocating heat in the summer and biting cold in the winter, no drinking water or orderly meals. In one case, a petition<sup>30</sup> to the High Court of Justice was necessary to provide reasonable access to the toilet facilities for detainees in the Shomron Detention Facility. In August 2008, the Israel Bar Association reported on their visit to security wings in the Hadarim Detention Center and the Sharon Prison. The prisoners complained, *inter alia*, about poor ventilation and substandard living conditions; inadequate access to medical care; meetings with lawyers under unreasonable conditions; and assaults and humiliation during transport from one prison to another. Physicians for Human Rights – Israel notes that the systemic failures in the investigation of prisoner complaints are much more serious for Palestinian prisoners, both because of language difficulties and also the limitations imposed on their making contact with parties outside the prison.

**Some actions taken by ACRI to safeguard criminal justice:**

- Participated in drafting the Arrests Law in 1996, which was revolutionary in its protection of the rights of suspects and detainees by significantly narrowing the grounds for arrest and stipulating that a detainee must be brought before a judge within 24 hours, as is customary in democratic countries
- Operates a hot line for prisoners
- Represented detainees when the grounds for their detention seemed questionable, and represented hundreds of administrative detainees in hearings about extending the length of their detention
- Conducted hundreds of workshops for the Israel Police and the Israel Prison Service showing the links between human rights and the personal and professional activity of police officers and prison officials
- ACRI closely follows proposed legislative initiatives – submitting comments, opinions, and position papers and participating in Knesset committee deliberations – to prevent disproportionate harm to the human rights of suspects, the accused, and the convicted
- Successful litigation to obligate the prisons to provide a bed for every prisoner (2007)
- Several court cases (in cooperation with other organizations) that enshrined in law the right of prisoners and detainees to meet with a lawyer (2004)
- Successful litigation to end punitive action against a prisoner who held a hunger strike (2003)
- Successful litigation to revoke military legislation that allowed for a Palestinian detainee to be incarcerated for twelve days with no judicial review, and for more than four days without an initial inquiry into the case (2003, together with partner organizations)
- Successful litigation to improve conditions at Ofer Detention Facility near Ramallah (2002, together with partner organizations)
- Publication of a report that examined implementation of the Arrests Law by the Police and Prison Service (2000)
- Bringing about the cancellation of the rule that prohibited an attorney from handling a case without the consent of the previous attorney (1996)
- Ensuring the right of prisoners to vote in the elections (1984)

<sup>30</sup> HCJ 7424/07 *Nasser v. Commander of Shomron Detention Facility, IDF* (13 February 2008). The petition was filed by the Public Committee against Torture in Israel.

## The Right to Privacy

**"No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks". (Article 12)**

The right to privacy is intended to provide individuals with a space in which to exercise their autonomy without interference by others, and to give them control over information relating to them. It is protected legally and constitutionally in Israel. The Basic Law: Human Dignity and Freedom states that "all persons have the right to privacy and to intimacy", and that "there shall be no violation of the confidentiality of the spoken utterances, writings or records of a person", and thus anchors the right to privacy as a **basic right with constitutional status**. In addition to the constitutional anchor, these rights are anchored in the Protection of Privacy Law (1981), which deals, *inter alia*, with the protection of privacy in data banks and the transfer of information between public bodies, and in the Secret Monitoring Law (1979). The existing legislation allows for the invasion of citizens' privacy in circumstances and for purposes determined by law; there are wide protections and exemptions in the Law that enable the invasion of privacy when justified by other social interests.

Technological developments in the last twenty years have made the right to privacy more vulnerable than ever. Prodigious amounts of information are kept in public and private computerized **data banks**, but these banks are not immune to abuse and information leakage. The personal information collected for a specific purpose is frequently used to achieve other objectives and exploited to the detriment of the subject of the information. Day after day we hear reports of the abuse of information and leaks from data banks that are supposed to be impregnable, like those of Income Tax, National Insurance, the Ministry of the Interior, or the Money Laundering Authority. Thus, for example, the Population Registry is disseminated on the Internet, available to all and sundry; and lately, a breach of the Internet site of Ichilov Hospital made it possible for every surfer to view sensitive information about patients.

In the last year, the threats to the right to privacy of Israel's citizens reached a new peak. At the end of June 2008, the **Communication Data Law**, formally called the Criminal Procedure (Enforcement Powers – Communication Data) Law, 2007 and nicknamed the "Big Brother Law" came into effect. The Law allows the police and investigative authorities in Israel to obtain from cellular telephone companies and Internet providers personal information about anybody – information about their location, the names of people or organizations they contacted from their telephone, Internet sites they surf, people with whom they corresponded by email, etc. Despite the need to make it possible for the police to investigate efficiently and thoroughly, the Law in its present format is far-reaching and gives the police and other investigative bodies almost unrestricted access to personal information about Israeli citizens and residents in a way that violates more than necessary the constitutional right to privacy. Moreover, in the first few months of its application, it has already become evident that the police have exceeded the authority the Law has given them and has asked for additional information from the cellular telephone companies about their customers to which they are not entitled under the Law. A petition<sup>31</sup> demanding a restriction on the applicability of the Law, submitted ACRI in April 2008, is currently pending before the High Court of Justice.

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<sup>31</sup> HCJ 3809/08 *Association for Civil Rights in Israel v. Israel Police*.

In October 2008, another dangerous bill passed its first reading in the Knesset – to set up a **biometric data bank** to include the fingerprints and facial features of Israeli citizens and residents. According to the Ministry of the Interior, the data bank is necessary for the issuing of passports and "smart" identity cards – a claim that has been refuted by many experts in the field, including experts in the service of the Ministry of the Interior itself. In none of the western democracies, not even in those that have introduced biometric identity cards, is there a data bank of such a nature. The great danger posed by a biometric data bank stems from the fact that this is personal information that cannot be altered or substituted; if it falls into the wrong hands or is used for unauthorized purposes, irreversible damage may be caused. Apart from ACRI, also opposed to the move are experts on privacy in the Ministry of the Interior, the Council for the Protection of Privacy, and the Israel Bar Association. In the coming months, the Knesset is due to discuss the bill and decide its fate.

At the same time, over the last few years, the Ministry of Health has been promoting an ambitious project called the "**National Medical Record**": the creation of a computerized system to coordinate the medical information about every Israeli resident. Doctors, emergency room staff, and a number of other functionaries authorized by the Minister of Health will be able to see, at a keystroke, all the medical information about every person in Israel, even if most of it is entirely irrelevant to the medical treatment they require. The initiative does not stipulate inclusion in the data bank on obtaining the patients' permission and no less harmful alternative has been discussed, like being satisfied with basic information about allergies to drugs, blood type, etc., or a smart card retained by the patient without which the information cannot be retrieved. Although the Ministry has set up a committee to discuss the ethical and family issues involved in establishing a data bank and to create the ethical rules and the legislation required to protect "the rights and the privacy of the patient", at least from the discussions the committee has held until now under considerable pressure and urging from the Ministry of Health, it is not expected to provide any proper guarantees of medical confidentiality in the system as planned. The Ministry of Health has already formulated a memorandum of a bill on the matter, and is simultaneously endeavoring to enact it and to establish "facts on the ground". From a report on a trial information system used as a pilot for the national medical record project it appears that it is being operated without instructions for securing information and without rules for use that would define what was permissible and what was prohibited in all matters concerning the use of the information. No controls have been instituted relating to the protection of privacy and the protection of information, as should have been expected from a pilot from which lessons should be drawn prior to the setting up of the project's sensitive information system.

**Employees and job seekers** are especially exposed to dangers of violation of their privacy. Examples of intrusion into the privacy of workers include, *inter alia*: a demand that they sign a sweeping waiver of medical privilege when they are taken into employment; the demand for them to waive the right to examine the results of tests conducted by placement agencies; eavesdropping on telephone calls and electronic mail; compulsory polygraph testing of workers and candidates for jobs; and the use of surveillance cameras in the work place. Even in the event that these violations are with the workers' or job seekers' consent, it is difficult to relate to them as if the consent was freely given: in a labor market that is inclined to favor the employers, workers are in an invidious position and are likely to "agree" to a violation of their rights so as to be taken into employment or to keep their jobs. The existing legal framework provides only a partial solution to this problem.

There is a principled appeal pending before the National Labour Court,<sup>32</sup> concerning two cases in which an employer accessed a worker's email inbox. ACRI joined the hearing with *amicus curiae* status. Against the background of the legal hearing, a collective agreement was signed in June 2008 between the Histadrut (Labor Federation) and the employers, which purports to regulate the matter, but which does not guarantee adequate protection of workers' privacy and allows for a situation in which an employee is forced to "agree" to waive their right to privacy in order to hold on to their job. In July 2008, the issue was discussed by the Knesset Labor Committee. The committee recommended that it should be frozen for a month until the Attorney General has given his opinion on the legality of the agreement, but the Histadrut and the employers rejected this recommendation and are trying to obtain an expansion order that will give the collective agreement legal status.

**Some actions taken by ACRI to protect the right to privacy:**

- Dealing with inquiries from citizens and employees about violations of their right to privacy
- Involvement in legislative processes (e.g. concerning the powers of the security services and the setting up of a DNA data base) so as to minimize the violation of privacy
- Publishing a blog, "The Little Brother," providing up-to-date information and analysis on issues relating to the right to privacy: [www.pratiut.com](http://www.pratiut.com)
- Activities to promote legislation that will guarantee protection for the privacy and dignity of persons being tested for suitability for employment (2008)
- Petition to the High Court of Justice against the Communications Data Law (2008)
- Joining the petition as an *amicus curiae* on the case of the privacy of an employee's electronic mail (2008)
- Filing a claim on behalf of an employee who was dismissed after a humiliating test in the Polygraph Institute (2006)
- Bringing about a reduction in the violation of privacy in the transfer of information from the Population Registry (2004)
- Submitting an appeal demanding that a job seeker should be provided with the information stored about them in the placement institute (2003)
- Petitioning against special searches conducted on left-wing activists at the airport (1990)

<sup>32</sup> Administrative Appeal 90/08 *Tali Iskov v. officer responsible for the Employment of Women Law – State of Israel, Ministry of Industry, Trade and Labor*; Administrative Appeal 312/08 *Afikei Mayim – Agricultural Cooperative Society for the Supply of Water Ltd. v. Rani Fisher*. ACRI and Kav La'Oved (Workers' Hotline) joined the petition with *amicus curiae* status.

## Freedom of Movement

**“Everyone has the right to freedom of movement and residence within the borders of each State. Everyone has the right to leave any country, including his own, and to return to his country”. (Article 13)**

Freedom of movement is a fundamental right and a precondition for the exercise of other basic rights: the right to earn a livelihood and live in dignity, the right to education, the right to health, the right to family life. As a rule, freedom of movement of Israeli citizens is ensured. It is troubling, however, that when the freedom of movement of Israeli citizens and residents is violated, these cases concern Arabs. Several years ago, for example, police roadblocks were placed at the entrance to Arab neighborhoods in Lod as part of the war against drugs;<sup>33</sup> and in East Jerusalem<sup>34</sup>, roadblocks are operated for the collection of debts, thereby abusing police authority.<sup>35</sup>

### **The Occupied Territories: Violation of Freedom of Movement**

**In the Occupied Territories, freedom of movement is contingent upon the national origin of the individual.** Restrictions on Palestinian residents that were initially imposed during the first *Intifada* were made more stringent during the second, and for the past eight years, freedom of movement is only a concept that barely exists in reality. In the West Bank many movement restrictions are the byproduct of the establishment of settlements and outposts, and intended to ensure the free and safe movement of Israeli settlers and citizens. This violation is a particularly severe infringement of movement rights, as it takes place **in their own backyards, on their own land, and in their own homes** – for people deemed “protected persons” by international law and for whom the military commander is obligated to safeguard their rights. Movement restrictions in the West Bank include:

1. Physical obstacles – checkpoints (staffed or not staffed), blockades (concrete blocks, trenches, fences, earth mounds), and the Separation Barrier. OCHA (the UN Office for the Coordination of Humanitarian Affairs) reports that in September 2008 there were 630 closure obstacles (staffed and unstaffed) blocking the movement of Palestinians<sup>36</sup> and an average of 85 additional “surprise” or “flying” checkpoints every week. From time to time Israel announces the removal of several checkpoints or blockades, but the overall impact of these measures is limited geographically and sometimes also of limited duration. OCHA also reports that 415 kilometers of the Separation Barrier (some 57% of the planned route) has been completed, and 79% of it – 329 kilometers – was built within the West Bank, separating Palestinians from their land and creating enclaves with no territorial contiguity in which Palestinian communities remain isolated from each other and from the rest of the West Bank.

<sup>33</sup> The roadblocks were removed following a petition by ACRI. HCJ 4780/04 *Muharb v. Israel Police*.

<sup>34</sup> East Jerusalem was unilaterally annexed by Israel in 1967, in violation of international law. According to Israeli law the status of Palestinian residents of East Jerusalem is that of “permanent residents” of Israel; given its control over East Jerusalem and the status it granted to the residents, the Israeli government is obligated to act equitably toward the Palestinian population there.

<sup>35</sup> A petition submitted by ACRI against this practice is still pending. HCJ 6824/07 *Manna v. The Tax Authority*.

<sup>36</sup> Including East Jerusalem. Another 69 were reported in the Israeli-controlled section of Hebron and another eight on the Green Line.

2. Movement restrictions – roads that have been closed to Palestinian movement (even those built on Palestinian land); areas that Palestinians are prohibited from entering following their designation as closed military zones or their appropriation for settlements and the surrounding land; sweeping movement restrictions imposed on population groups defined by the General Security Services (GSS); and “black lists” of individuals who are “police refused” or “GSS refused” – these include tens of thousands of Palestinians who are subject to severe restrictions on their freedom of movement within or freedom to leave the Occupied Territories. Over the past year, a troubling practice was adopted for investigating prohibitions on travel abroad that are imposed on Palestinian residents of the Occupied Territories, which, under the cover of “reform”, further constrains those who wish to travel abroad.

A survey by OCHA in September 2008 found that **approximately 65% of the main routes leading into the 18 most populated Palestinian towns in the West Bank are either blocked or controlled by IDF checkpoints.** Moreover, almost half the secondary routes into these areas, established over time as alternatives to the blocked main roads, are now also blocked. In March 2008, in an unfortunate interim ruling on a petition against the prohibition of Palestinian travel on Route 443 while allowing it for use by Israelis,<sup>37</sup> the High Court of Justice authorized the continued IDF construction of roads for Palestinians only (“fabric of life roads”). By this interim decision, **the High Court of Justice sanctions discrimination**, allows the ongoing creation of facts on the ground, contravenes its previous rulings, and violates international law, **implicitly authorizing an official policy of separation in movement** through the wrongful violation of the freedom of movement and human rights of tens of thousands of protected residents.

In the area called “the seam zone”, enclosed between the Separation Barrier and the Green Line, a “permits regime” prevails that has made some Palestinians illegal residents of their own homes. The right of these Palestinians to live in their homes or work their land is conditional upon receipt of a permit from the army, permits that are given for short periods if at all, and following which the residents must again knock on the doors of the Civil Administration in the hope that they will consent to a renewal. The “permits regime” applies only to Palestinians; Israelis, Jews who are not Israeli citizens, and even tourists can all enter and leave the area at will.<sup>38</sup>

In combination, the various physical constraints and movement restrictions imposed on the Palestinian residents thwart any efforts to lead a normal life. Furthermore, the very fact that some constraints are lifted after the intervention of human rights organizations raises doubts about the security justification for them in the first place. “In reflecting on more than seven years of restrictions,” sums up OCHA, “what was once a short-term Israeli military response to violent confrontations and attacks on Israeli citizens, has developed into an entrenched multi-layered system of obstacles and restrictions...This system is transforming the geographical reality of the West Bank and Jerusalem towards a more permanent territorial fragmentation”.

Even though Israel “disengaged” from **the Gaza Strip** in the summer of 2005, it still controls the movement into and out of Gaza via land crossings, air space, and the

<sup>37</sup> HCJ 2150/07 *Abu Tzfiya v. Defense Minister*. This petition for an order nisi was filed by ACRI on behalf of the mayors of six villages.

<sup>38</sup> A petition filed by ACRI in January 2004 against the “permits regime” is still pending. HCJ 639/04 *Association for Civil Rights in Israel v. IDF Commander in Judea and Samaria*. An amended petition was submitted in March 2006.

territorial waters. And even before Hamas took control, the Gaza Strip could be described as “one big prison” because of stringent Israeli control over the movement of people and goods into and out of it. Since Hamas took control of Gaza in June 2007, the situation has worsened. The border crossings, which allow the passage of people into Egypt, Israel, the West Bank, and back, are almost hermetically sealed, while they only partially function for the passage of goods. **Sealing the border crossings disrupts all aspects of life and violates the fundamental rights of the Palestinian inhabitants of the Gaza Strip.** From time to time during periods of calm, the passage of people, goods, and fuel is somewhat eased, but these changes, small and irregular, still do not allow for a normal life. OCHA reports, for example, that the Rafah crossing connecting Gaza with Egypt remained closed during August 2008 with the exception of the last few days of the month, when 3,341 people were allowed to leave Gaza and 1,052 were allowed to enter – some 35% and 12%, respectively, of the number who left and entered it in May 2007. Most of those departing were the ill, university students accepted for studies abroad, and foreign nationals. The Erez Crossing, used to enter and return to Israel and the West Bank, was restricted to the ill who require medical attention, merchants, diplomats, and foreign nationals. OCHA also reports that despite the reopening of the crossing for goods at Kerem Shalom, the amount allowed to enter has also diminished – imports in August were 23% of what they had been in May 2007.

Over the past year and a half, **movement between Gaza and the West Bank has been significantly restricted**, and in practice the two have been completely cut off from each other. Some of the implications of this are discussed below in “The Right to Family Life” chapter.

**Some actions taken by ACRI to protect freedom of movement:**

- A public campaign (together with B’Tselem) about the severe constraints on Palestinian movement in the city of Hebron (2007, 2008) and the publication of a comprehensive report about this issue (2007)
- Successful advocacy to rescind an order that prohibited Israelis and foreign nationals from having Palestinian passengers in their cars in the Occupied Territories (2007, together with partner organizations)
- Litigating against the use of police roadblocks for purposes of collecting debts in East Jerusalem (2007)
- Successful litigation to ensure that Palestinian farmers can access their lands during the olive harvest (2006)
- Dissemination of information to the local farmers about rights and possible courses of action (2006 – ongoing)
- Successful litigation to dismantle the concrete wall in the southern Hebron Hills (2007)
- Successful litigation to dismantle an existing section of the Separation Barrier (2005)
- Successfully advocating to remove police roadblocks placed around Arab neighborhoods in Lod (2004)
- Litigation against the route of the Separation Barrier in various areas, which in some cases led to changes in the route of the Barrier and fewer human rights violations of the Palestinian residents

- Litigation calling for the passageways in the Separation Barrier to be opened (2003) and against the “permits regime” imposed on the “seam zone” (the area enclosed between the Barrier and the Green Line) (2004)
- A public campaign about the route of the Separation Barrier (2004)
- Litigation to demand that the severe movement restrictions imposed on Mordechai Vanunu after his release from prison be rescinded (2004)
- Litigation against closure and encirclement of various locales in the West Bank
- The removal of roadblocks on the access roads to several villages through correspondence with military officials; litigation against a night curfew on the Gaza Strip (1990)

## The Right to Political Asylum

***“Everyone has the right to seek and to enjoy in other countries asylum from persecution”. (Article 14)***

The International Convention Relating to the Status of Refugees from 1951 was adopted by the United Nations in the wake of World War II and – to a large extent – as a lesson learned from the plight of European Jews during the Holocaust. The Convention states that a refugee is someone persecuted for reasons of religion, nationality, political opinion, race, or membership in a particular social group. State parties to the Convention undertake not to expel or return someone to where his life, well-being, or freedom would be threatened, or where he would be subject to torture. State parties are also obligated to enshrine the principles of the Convention in their internal laws and to create procedures that would enable asylum seekers to apply for recognition of their status as refugees.

**Although Israel was one of the first countries to sign this treaty on refugees, it failed for many years to meet its obligations under the Convention.** Israel has no clear policy or procedures to handle refugees and asylum seekers, and the procedures that do exist (since early 2002) hardly meet the requirements of the Convention or the current needs: The mechanisms in Israel for accepting refugees are not anchored in legislation, but rely on unpublished internal directives of the Justice Ministry, and decisions about granting asylum are taken without due process – in the absence of representation, lacking transparency, and violating the right to submit arguments and appeals. **Israel’s rate of recognizing refugees is among the lowest in the western world:** Since 1951, only some 170 people were recognized as having refugee status in Israel according to the Convention.

Since April 2007, the number of refugees and asylum seekers who enter Israel has increased sharply, especially those entering from Egypt. According to the Refugees’ Rights Forum, approximately 12,500 asylum-seekers and refugees currently reside in Israel (as of November 2008). These people come from countries and regions rife with killing, genocide, civil war, severe human rights violations, and extensive political persecution. Approximately 10,500 of the asylum seekers currently in Israel, (including 950 minors) are citizens of Eritrea and Sudan. The UN High Commissioner for Refugees forbids the return of asylum seekers to their countries of origin in fear for their safety. Several hundred asylum seekers are citizens of the Congo and the Ivory Coast, defined by Israel as “crisis countries” whose citizens have been given temporary group protection.<sup>39</sup> Approximately 1,500 asylum seekers are currently held in detention facilities in Israel, some 1,000 of them in Ketziot Prison in the south.

**How Israel has dealt with the stream of asylum seekers knocking on its doors over the past year and a half ranges from ignoring and neglecting them to isolated humanitarian gestures or temporary group arrangements without scrutinizing each case, to drastic measures in the hope of deterring others from seeking asylum in Israel.** Such measures include long and senseless incarceration, refusal to grant asylum to “nationals of enemy states”, and the immediate return of asylum seekers to Egypt (“hot return procedure”). In early 2008, the Immigration Police launched an operation to arrest and detain large numbers of asylum seekers with the aim of deporting

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<sup>39</sup> The United Nations recently declared the Ivory Coast to be safe for the return of its nationals, and Israel requested that they leave by the end of the year.

them. Following protest by the UN High Commissioner for Refugees, the deportation plan was suspended and an announcement was made that the Foreign Ministry is trying to find an African country willing to take them in. Some detainees were released and others remained in detention. As of March 2008, asylum seekers were released on condition that they move north to Hadera or south to Gedera; in August 2008, police from the Immigration Administration began to arrest asylum seekers who violated this condition.

A State Comptroller report from May 2008 examines the treatment of people who sought asylum in Israel from April to September 2007. According to the State Comptroller, the current process of examining asylum applications, the Ministry of the Interior's ongoing failure to develop efficient procedures or set policy, and its suppression of relevant information – all violate the rights of refugees to work, health, and welfare. In August 2008, the Ministry of the Interior took its first steps in dealing with the asylum seekers, registering applicants from Eritrea and the Sudan. Human rights organizations, however, have noted serious problems in this procedure that violate the rights of the applicants, including not allowing their representation by an attorney, “run-arounds” among bureaucratic offices, arbitrary decisions, a lack of translators, and harsh conditions until matters are resolved. In parallel, the measures taken toward those seeking asylum in Israel have continued and even worsened. On 23 August 2008, the IDF renewed its policy of “hot returns” – handing back to the Egyptian soldiers any asylum seekers who crossed the border, without a preliminary inquiry or providing access to the UN High Commissioner for Refugees – even though Egyptian soldiers have shot at asylum seekers as they make their way to the Israeli border. The fate of asylum seekers who were returned to Egypt is unknown. In the High Court of Justice, a petition is pending against the “hot returns” procedure, submitted by several human rights organizations.<sup>40</sup>

In May 2008, the government-sponsored **Prevention of Infiltration Law** passed its first reading in the Knesset. In this proposed law, anyone who enters Israel without permission would face up to five years imprisonment; refugees of countries defined as “enemy states”, which include Sudan, would face seven years in prison. This bill enshrines the “hot returns” procedure and also enables extended and arbitrary administrative detention without judicial monitoring or due process. This bill indiscriminately treats all those who enter Israel without a permit as a “security threat” – including refugees and migrant workers – without examining the question of their threat on a case-by-case basis, in gross violation of international law, the principles of Israeli constitutional law, and the articles of the Universal Declaration of Human Rights, as well as society's fundamental obligation to deal humanely with those who seek asylum within it.

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<sup>40</sup> HCJ 7302/07 *Hotline for Migrant Workers v. Defense Minister*. This petition was filed by the Hotline for Migrant Workers, ACRI, the Religious Action Center of Israel, Physicians for Human Rights - Israel, and ASSAF: Organization for Aid to Refugees and Asylum Seekers.

**Some actions taken by ACRI to safeguard the right to political asylum:**

- Active membership in the Refugees' Rights Forum working to promote recognition of the rights of asylum seekers and refugees in Israel. Among its activities, the Forum published three position papers that deal with principles of protecting refugees and asylum seekers, the principle of non-refoulement, and the detention of refugees and asylum seekers (2008)
- Production of an Internet video against the "hot returns" procedure (2008)
- Successful litigation demanding that Israel not force asylum seekers who fled Gaza to return there (2008)
- Petitions to the High Court of Justice (with partner organizations) against the "hot returns" procedure (2007) and the harsh detention conditions of asylum seekers in Ketziot (2008)
- Successful advocacy to legalize the status in Israel of a Palestinian persecuted because of his sexual orientation (2004)
- Successful advocacy to release Iraqi refugees from prison (1994)

## The Right to Family Life

***“Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.***

***Marriage shall be entered into only with the free and full consent of the intending spouses.***

***The family is the natural and fundamental group unit of society and is entitled to protection by society and the State”. (Article 16)***

On all matters of personal status in Israel, religious law prevails. Israel does not allow civil marriage or divorce, but only religious marriage conducted by the religious institution of the marrying couple. For Jewish citizens, Israel recognizes only the Orthodox courts and rabbis. **This is not consistent with the articles of the Universal Declaration and constitutes a serious and unjustified violation of the freedom of religion and conscience, the right to family life, and equal rights.** The fact that only religious marriage is recognized closes the option of marriage for many Israelis. Those affected include couples not of the same religion; individuals whose religion is not recognized by the religious establishment, which includes tens of thousands of immigrants from the Commonwealth of Independent States whom the Rabbinate does not recognize as Jewish; those disqualified for marriage for religious reasons (“illegitimate” children or a divorcée with a *Cohen* – descendants of the first High Priest); same-sex couples; and couples who do not want a religious marriage ceremony, or who wish to marry according to Conservative or Reform Jewish ritual. Efforts made in recent years by organizations, groups, and Knesset Members to enshrine civil marriage in Israeli law have been unsuccessful. Even the proposals for a constitution that were deliberated in recent years in the Knesset Constitution Committee perpetuate the existing order regarding marriage and divorce, and the violation of the human rights of women, seculars, those lacking a religious classification, couples of mixed-religion, and same-sex couples.

Israel recognizes civil marriages that were certified abroad, and these couples can register as married in the Israeli Population Registry and receive benefits and the status of a married couple for all intents and purposes. Thousands of couples take advantage of this option every year, despite the high cost and inconvenience;<sup>41</sup> for couples who cannot afford it, this is not an option. In parallel, terminating a marriage in Israel by those of the same recognized religion can be carried out only by a religious court. There are also many couples who choose not to have a marriage ceremony, but live together as common-law couples. The standing of such couples has strengthened over the years, and is often equal to that of married couples. In parallel, significant developments have taken place in recognizing same-sex relationships, particularly with respect to the status of the relationship (including registration in Israel of those married abroad), property rights, and – over the three last years – also the right to parenthood (for more about this, see “The Right to Equality”). Nevertheless, recognition of the status of a common-law marriage, including same-sex couples, was achieved primarily through court decisions, and is enshrined in law only partially.

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<sup>41</sup> According to data from the New Family organization, over 5,000 Israeli citizens marry abroad each year, comprising some 7% of the total marriages. Over half of those marrying abroad were born in the Commonwealth of Independent States.

## **Israeli Citizens Married to Foreigners**

While Jews can immigrate to Israel under the Law of Return and are automatically granted Israeli citizenship, non-Jews do not have the legal right to become naturalized citizens in Israel. **The Ministry of the Interior has a deliberate policy of preventing non-Jews from becoming naturalized citizens, even when this severely harms couples and families.** Because **Israel has no clear immigration policy anchored in law**, matters of personal status are at the discretion of Ministry of the Interior officials, who wage an all-out war against Israelis with non-Israeli partners, foreign parents of Israeli children, and foreign parents of Israeli citizens. Granting permanent residence status to the partner of an Israeli citizen or resident is perceived by the Ministry of the Interior as a matter of grace – a “humanitarian gesture” of “family unification” – and not realization of a basic right. Those who wish to realize their right to family life are forced to go through many long years of trials and tribulations – repeated appeals to the Population Registrar that remain unanswered, demands to fill out documents that arrive months and even years after filing the request, and arbitrariness, foot-dragging, and unreasonable activity and decisions by Ministry of the Interior officials. Sometimes, if the couple has a child during this period, the status of these children is not resolved and services are withheld from them.

## **Israeli Citizens with Palestinian Partners or Partners from Muslim Countries**

The situation of Arab citizens and residents who wish to make homes with partners who are not Israeli is particularly difficult. For over six years, Palestinian spouses of Israeli citizens have not had their status in Israel legalized. This problem begins with Ministry of the Interior policies, continues with government decisions, and since 2003 is anchored in the **Citizenship Law** (“Laws of Citizenship and Entry into Israel (Temporary Order) 2003”). Naturally the main victims of this law are members of the Arab minority in Israel, who maintain family and marriage ties with Palestinians in the Occupied Territories. In May 2006, the High Court of Justice, in a majority ruling of six to five, rejected petitions challenging this law, asserting that the law serves a temporary security need. Most of the judges, however, noted that **the law is unconstitutional because it severely harms the constitutional rights of Israeli citizens to family life and equality.** Since then, however, despite the State’s claims that the law is only temporary, it was renewed again and again. The scope of the law was also expanded to prevent legalizing the status of family members of Israeli citizens who are from Iran, Lebanon, Syria, Iraq, and other “high-risk regions”, as defined by the government. In July 2008, the law was renewed for one more year, and stipulated that residents of the Gaza Strip could not acquire legal status in Israel, even under the exceptions clause in the law. Four petitions are currently pending in the High Court of Justice demanding that the law be revoked.

In May 2008, Justice Minister Daniel Friedman tabled an amendment to the Basic Law: Human Dignity and Liberty stipulating that laws pertaining to entry to Israel, residency, or naturalization would be immune from judicial review – in other words, that the courts would not be able to adjudicate their constitutionality and invalidate them if they unjustifiably harm human rights. The primary purpose of this initiative was to enshrine the Citizenship Law, with the severe harm it wreaks on the right to family life.

## **Migrant Workers**

Israel's attitude toward its migrant workers is to disregard all human and natural aspects of their lives and treat them as if they are temporarily in Israel for one purpose only: to work. In order to prevent them from "taking root", the State would like to transform people who came to Israel for a period of five years (and in cases of chronic care nurses, sometimes longer) into work machines who do not fall in love, develop relationships, or bring children into the world. Migrant workers who meet in Israel and become couples lose their visa and are subject to deportation, if the relationship becomes known to the Ministry of the Interior. A woman migrant worker who becomes pregnant can also expect to lose her visa and be forced to leave Israel with her child. The State also prohibits the entry of migrant workers together with first-order family members (parents, children, and spouses). If two members of the same family are discovered in Israel, the Ministry of the Interior will revoke the visa of one and order his or her expulsion. These severe violations are not based on laws or regulations, but internal directives of the Population Registry of the Ministry of the Interior, some of which have never been made public.

## **The Occupied Territories: Violation of the Right to Family Life**

The restrictions on movement of Palestinians from the West Bank to the Gaza Strip and vice versa – in force since the beginning of the second *Intifada*, and more severely during the past year – have taken a heavy toll on the ability of residents of the Occupied Territories to realize their right to family life. Palestinian women who wish to go from Gaza to the West Bank in order to get married are required to deposit a large sum of money and promise they will return to Gaza after the marriage ceremony. Since November 2007, a resident of Gaza who is in the West Bank must carry a "Permit for Judea and Samaria". To obtain this permit, a Gazan must submit a request to the army, meet stringent criteria, and then the permit is valid for three months only. Marriage between residents of Gaza and the West Bank does not ensure receipt of the permit, nor does it guarantee renewal after it expires. If the permit is not renewed and one member of the couple is expelled to Gaza, the other family members will also have to move to Gaza if they want to maintain the family unit. **Until recently, families forced to live apart – one in the West Bank and the other in Gaza – could meet subject to the very few permits issued by Israel. Now Israel has eliminated the option of entering Gaza for a visit and then returning to the West Bank,** thus leaving family members with one choice only: If they wish to live together, they must move to the Gaza Strip, and renounce hope of returning to the West Bank.

For over seven years, Israel has prevented residents of the Occupied Territories from legalizing the status of their spouses and children in the Territories who had not been residents there. Most of these are Palestinians with foreign citizenship who are married to residents of the Occupied Territories, and whose visa with which they entered the Territories has expired. **Since the early 2000s, Israel froze all applications regarding status in the Territories:** It refuses such applications from the Palestinian Authority, and thus these individuals find themselves held hostage in the Occupied Territories. Without legal residence, if they leave the Territories or if they are detained by soldiers or police at a checkpoint or in Israel, they will be expelled and not allowed to return. Since

October 2007, following a petition to the court by human rights organizations,<sup>42</sup> Israel approved approximately 32,000 requests for “family unification” in the West Bank and Gaza Strip. These approvals were defined as “good will gestures” and not a change in policy. According to data from B'Tselem and OCHA (the UN Office for the Coordination of Humanitarian Affairs), another 90,000 requests submitted since the early 2000s are still in the pipelines.

**Some actions taken by ACRI to safeguard the right to family life:**

- Membership in the Forum for Freedom of Choice in Marriage
- Handling hundreds of applications to the Ministry of the Interior for legal standing, including the filing of dozens of court petitions for individuals, which in many cases led to a satisfactory resolution and sometimes also to changes in the procedures
- Petition to the High Court of Justice against the “Citizenship Law” that does not allow the naturalization of Palestinian spouses, and against the government decision that preceded it (2002, 2003, 2007)
- Court petitions and appeals concerning the right to family life for common-law spouses – Israeli and foreign (2004-2008)
- Litigation (with partner organizations) demanding that Palestinian residents of the Occupied Territories be allowed to arrange for the status of their foreign spouses (2007)
- Publication of a blog called “Laissez-Passer” about immigration and legal status in Israel: <http://www.mehagrim.org>.
- Dissemination of a poster about the right to family life in thousands of Israeli schools (2005)
- Litigation (with partner organizations) demanding an end to the procedure that compels a migrant worker who gives birth to leave Israel (2005)
- Publication of a high-profile report about human rights violations by the Population Registry, including the right to family life (2004)
- Publication of a paper on a proposed framework for civil marriage and divorce (2001)

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<sup>42</sup> HCJ 3170/07 *Dwikat v. State of Israel*. The petitioning organizations: HaMoked: Center for the Defense of the Individual, ACRI, B'Tselem, Gisha, Public Committee Against Torture, Yesh Din, Jerusalem Legal Aid and Human Rights Center, Adalah, and Physicians for Human Rights - Israel.

## Freedom of Expression

**"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers". (Article 19)**

Since the earliest days of the State, freedom of expression has been recognized as a basic right, but in fact this right is subject to no small number of restrictions and threats. An important positive development in the last few years was the decision to rescind the **Mandate Press Ordinance** and amendments<sup>43</sup> that dealt with the licensing of newspapers and the powers to close them, thus restricting freedom of occupation and freedom of expression.

In the past year, the dangerous trend continued of **restricting the freedom of expression, protest, and political actions of Arab citizens in Israel**. Still fresh in the memory is the way the GSS treated the legitimate political activity of Palestinian citizens of Israel as subversive and the announcement that it considers that it has a duty to "thwart the subversive activities of those who would undermine the character of the State of Israel as a Jewish and democratic country, even if their activities are carried out using tools provided by democracy". This policy, which has no constitutional basis, even won the support of the Attorney General. Following the declarations, in the last few months the GSS have been summoning for interrogation journalists, human rights activists, and political activists whose public activities are deemed unacceptable. Thus, for example, Salah Haj Yehya, Director of Clinics in the organization Physicians for Human Rights - Israel, was summoned for interrogation because of what was defined as the organization's political activities; and Balad party activists were summoned for interrogation and were required to sign an undertaking that they would not maintain contacts with former Knesset Member Azmi Bishara. Despite the fact that their activities are, as previously stated, legal and legitimate, the GSS also makes threats – for the most part veiled but occasionally overt – against interrogees, makes it clear to them that they are under constant surveillance, hints that there could be repercussions in their private life, and warnings that if they continue with what they are doing they are liable to have criminal charges brought against them. Thus, the GSS terrorizes Arab journalists, human rights activists, and others. Such behavior, whose objective is to restrict freedom of expression and curtail freedom of political action, is illegal and a danger to democracy.

The main media in Israel are controlled by wealthy private investors and **the commercial interests of these individuals have an enormous influence on the Israeli media**. We recently saw an example of the problematic structure of the Israeli media and the influence it has on freedom of expression in the attempt to televise the film by Miki Rosenthal, "The Shakshuka System," that tells the story of the Ofer family as an example of the link between big business and government. As a result of pressure and threats by the Ofer family, the commercial channels refused to broadcast the film. The decision of the Broadcasting Authority to screen the film, if it is carried out, is an

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<sup>43</sup> Regulations 94-96 of the Defence (State of Emergency) Regulations, 1945. The revocation was the result of petitions submitted by ACRI: HCJ 6652/96 *The Association for Civil Rights in Israel v. Minister of the Interior*, HCJ 2459/02 *The Association for Civil Rights in Israel v. Minister of the Interior*. The Press Bill, 2008, formulated as a result of the petition, removes the requirement to obtain a license for the publication of a newspaper, although remnants of the old arrangements still remain in it. The bill passed its first reading in March 2008.

indication of the importance of independent public broadcasting in an age in which most of the media platforms are controlled by commercial interests.

The "Shakshuka System" affair exposes a phenomenon that has taken hold in the last few years – the filing of specious libel charges by those who have the financial means, with the aim of discouraging critics and inducing a chilling effect on freedom of expression. This trend is made possible, among other things, by a **tightening of the laws against defamation**: more and more publications that took refuge in the shadow of the defense of freedom of expression are now being more rigorously examined by the courts,<sup>44</sup> and the damages awarded for defamation are on the increase.<sup>45</sup> During the term of the 17<sup>th</sup> Knesset, many private bills were introduced that proposed a tightening of many aspects of the Defamation Prohibition Law.

Against this background, the **free and anonymous platform provided by the Internet** is important. The Internet is an open and democratic arena for the exchange of opinions, thought, information, and experiences that also provides a platform for weak and silenced voices in society, such as exploited workers, whistle blowers, and others who do not enjoy positions of power that would allow them to challenge those who find their criticism unpalatable. **In the last two years, threats against the freedom of expression have proliferated in this arena.** Thus, for example, in March 2008, the Knesset Committee discussed a bill requiring Internet site operators to be held responsible for the responses of Internet surfers (the so-called "Talkback Law"). The bill was frozen in July after the Israeli Internet Association proposed a mechanism of self-regulation for supervision of content published by surfers on the Internet, but even this compromise is an unnecessary violation of the freedom of expression. Two appeals are currently before the Supreme Court against judicial decisions defending anonymity in the Internet,<sup>46</sup> and the Knesset is expected to discuss an electronic commerce bill that would determine rules concerning the responsibility of companies for the publications of surfers and concerning the anonymity of the Internet.

In February 2008, the first law of its kind in Israel censoring the Internet passed its first reading – the bill to filter Internet content – that seeks to restrict Internet access to adults. Although it is intended to serve worthy ends – the protection of minors from harmful Internet content, the way it is to be implemented as appears in the bill – a central censorship apparatus directed by the government – is extreme and dangerous. The Knesset rejected a more equitable solution that is already being applied and that affords protection for children against problematic content – to force Internet providers to install for those of its customers who want it a home filtering program with which users can define the filter characteristics according to their taste. The creation of a censorship apparatus under the Ministry of Communications, similar to those in countries like China and Iran, could well be the first step towards filtering information from citizens on grounds of harmful content, security needs, or other purposes, as well as for the needs of politicians, commercial companies, and other powerful Internet groups.

**The right to demonstrate** is an inseparable part of freedom of expression. But again and again we encounter expressions of ignorance or of orchestrated opposition from the

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<sup>44</sup> See, for example, Criminal Appeal 2550/05 *State of Israel v. Ungerfeld* (ruling of 13 August 2008). An appeal for a further hearing was lodged against the ruling.

<sup>45</sup> See, for example, Administrative Petition 89/04 *Dr. Yuli Nudelman v. Natan Sharansky* (ruling of 4 August 2008).

<sup>46</sup> 471/07 (Tel Aviv) *Sabu v. Yediot Internet*; RRA (18) *Rami Mor v. Yediot Internet*.

authorities – the police and local authorities – that violate the right to demonstrate. Police officers sometimes interpret the prohibition of illegal assembly as one that encompasses all kinds of assembly, and therefore consider the dispersal of all unlicensed assemblies as justified, including peaceful protest vigils. The authorities sometimes refuse to permit a demonstration or impose illegal conditions on it, and relent only after there has been legal intervention.<sup>47</sup> In other cases, when the subject of the demonstration is controversial and arouses strong emotions, the police choose to protect the demonstrators by denying them the right of expression – refusal to grant a permit for the demonstration – instead of perceiving its role as that of allowing freedom of expression despite the risks. Thus, for example, the objections of the Police to approving the rally right-wing activists wanted to hold in Um-el-Fahm and the ruling by the High Court of Justice that it could be held.

Various threats to freedom of expression persist and in the last few years have overshadowed the Jerusalem March for Pride and Tolerance in Israel. Private bills discussed by the Knesset Constitution Committee at the beginning of 2008<sup>48</sup> sought to restrict the possibilities of holding marches and processions in Jerusalem that offend the feelings of the public or religious values; in effect, the bills are intended to allow the Jerusalem Municipality to prohibit the Pride March. No more so than in the most problematic and extreme cases is the protection of freedom of expression essential to the preservation of a robust democracy; and no more so than in the capital of Israel, which contains the Knesset, government ministries, the Supreme Court, and other key institutions, is it prohibited to allow political bodies to deprive minority groups of their right to freedom of expression and assembly.

## **The Occupied Territories: Violations of the Right to Demonstrate**

Stricter rules on the arrangements for demonstrations, rallies, and protest vigils apply in the Occupied Territories than in Israel. Participants in demonstrations are treated violently and intolerantly by the Israeli security forces. **In the last two to three years, excesses in the use of power during demonstrations in the Territories, including deaths and injuries, have become commonplace.** Thus, for example, according to an

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<sup>47</sup> Thus, for example, as a precondition for granting a license for a demonstration in support of the disengagement from Gaza, the police stipulated that the demonstration's organizers should make the security arrangements at their own expense. The High Court of Justice ruled that the police had a responsibility to provide security for demonstrations and to maintain the public order during them, and that they are not entitled to impose this financial burden on those who are requesting permission for the demonstration. HCJ 2557/05 *Mateh Harov v. Israel Police* (ruling of 12 December 2006). After the judgment was handed down, the Police Law was amended to state explicitly that payment may not be demanded as a condition for holding a demonstration.

Two additional examples from the past year in which the authorities chose to make draconian use of the powers vested in them in order to curtail freedom of expression: Ben-Gurion University refused to allow its students to hold a demonstration within the campus grounds in support of the rights of workers at the university; in its ruling on a petition submitted by ACRI on behalf of the students, the Beersheba District Court determined that the University must allow students to demonstrate on campus, and instructed the University to rescind the anti-democratic clause in its regulations which banned demonstrations on political or controversial issues (2085/07 *Doitcher v. Ben-Gurion University*). In another case handled by ACRI, the municipalities of Rishon LeZion and Petach Tikva refused to allow an animal welfare association to set up information booths within their jurisdiction. A petition submitted by ACRI on behalf of the association is still pending (Administrative Petition 1317/08 *Shevi – Liberation of Animals in Israel v Rishon LeZion Municipality*).

<sup>48</sup> These bills lapsed with the dissolution of the 17<sup>th</sup> Knesset. If they are to progress, Knesset Members will have to resubmit them in the next Knesset.

OCHA report, more than half of those injured in the West Bank by the Israeli security forces in July-August 2008 were injured during protest demonstrations against the Barrier held in the villages of Ni'lin and Bil'in.<sup>49</sup> Measures used against demonstrators include: tear gas, crowd dispersal skunk bombs that leave a terrible odor, physical assault, rubber bullets, and sometimes even live rounds.

**Some actions taken by ACRI to safeguard freedom of expression:**

- Representing demonstrators in criminal proceedings against them
- Successful litigation to remove a clause in the Ben-Gurion University articles of association prohibiting students from holding demonstrations on political or controversial issues (2008)
- A petition against the Rishon Lezion and Petach Tikva Municipalities demanding that they allow an animal welfare association to set up information stands within their jurisdiction (2008)
- Successful litigation obligating the local authority of Misgav to allow the use of its public facilities for meetings which give expression to different ideas, including political ones (2005)
- Revocation of the Press Ordinance (2004)
- Ensuring that a college was prohibited from preventing the publication of notices only because they were written in Arabic (2001)
- Successful litigation to bring about the acquittal of a journalist charged with publishing material condoning violence (2000)
- Ensuring that political banners are allowed to be hung on private verandas (1999)
- Securing permission for a prisoner to write a newspaper column (1996)
- Successful litigation to remove censorship on plays ("HCJ Laor", 1987)
- Successful litigation to ensure that the Temple Mount Faithful would be allowed to pray at the Mugrabi Gate (1983)
- Obligating the police to provide proper protection to demonstrators – and not to prohibit a demonstration – when there is a fear of violence against the demonstrators (1983)

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<sup>49</sup> According to data from OCHA, 221 Palestinian unarmed citizens were injured in July, of whom 44 were children, and in August, 144 unarmed citizens were injured, among them 68 children.

## Freedom of Information

**"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers". (Article 19)**

The disclosure of public information is essential for the democratic discussion of questions on the public agenda, to ensure the right of every citizen to influence events on a firm and solid basis, and to ensure proper administration. In 1998, the Knesset passed the Freedom of Information Law initiated by a coalition of associations for the freedom of information of which ACRI was one. The Law ensures the right of citizens to obtain information from the authorities, both on matters of public interest and on matters affecting the applicant personally.

The passing of the Law was a most positive step that symbolized a real revolution in the approach to this right in Israel. But ten years after it passed into law, its enforcement is still inadequate. **The State's authorities continue to create difficulties for anyone seeking to realize their right to access information.** On many occasions the authorities leave applicants for information waiting in vain for long periods, forcing them to resort to legal procedures involving financial outlays and considerable effort in order to gain access to information that from the outset there was no proper reason for its concealment from the public eye. Many government bodies do not even bother to disclose basic information that should be made available for public scrutiny on a fixed and ongoing basis, such as internal procedures and various criteria according to which the State's ministries operate, affecting the ability of citizens to exercise their rights. In the State Comptroller's Report published in May 2008, the Comptroller stated that: half of the authorities examined did not make their internal procedures available for public scrutiny; most of the authorities do not publish on their Internet sites in an effective, accessible, and up-to-date manner instructions on how to submit requests for information; those responsible for implementing the Law in the authorities have not been properly instructed on how it should be implemented; and 44% of the authorities surveyed, most of them dealing with social matters, do not publish an annual report on their Internet sites as required by law. According to the Movement for Freedom of Information, which monitors the implementation of the Freedom of Information Law in the various authorities, **not one ministry in the Israeli government fully implements the Law**, and only a few ministries implement it satisfactorily. In the last year, following successful petitions by ACRI, the Ministries of the Interior and Housing have begun to publish their internal procedures on the Internet.<sup>50</sup>

In the State's archives, and specifically in the IDF archives, the situation is particularly bleak. Officials in the security apparatus control the management of the archives in a way that illegally restricts freedom of information and research. Historical material that should have already been disclosed even under the strict rules imposed by the security apparatus are still closed to scrutiny, and the resources invested in the disclosure of archival material and the promotion of research and the transparency of the archives are abysmal. The restrictions on access to materials in the archives lead to a perversion of historical research, the collective memory, and the cultural heritage of the State of Israel, and hinder the democratic public discourse on security and political issues.

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<sup>50</sup> Administrative Petition 530/07 *Association for Civil Rights in Israel v. Ministry of the Interior*, Administrative Petition 8391/08 *Anonymous v. Ministry of Welfare and Social Services*.

**Some actions taken by ACRI to promote freedom of information:**

ACRI was one of the organizations that initiated the Freedom of Information Law. Our activities have led to a number of significant achievements concerning the promotion of freedom of information, including:

- Successful litigation leading to the publication of the Ministry of Housing's internal procedures on its Internet site (2008)
- Successful litigation ensuring the publication of the Population Registry's internal procedures on the Ministry of the Interior's Internet site. (2007)
- Securing an undertaking by the Government Secretariat Office to provide anyone who asked, without the need to pay any fee, government decisions made prior to 2004 and which had not been published on the Internet (2006)
- Ensuring the publication of international agreements to which Israel is a party on the Foreign Ministry's Internet site (2006)
- Successful litigation ensuring the publication of the decisions of committees considering the parole of prisoners (2006)
- Successful advocacy to make it permissible for an accused to examine the file against them and closed due to lack of evidence (2006)
- Successful litigation to ensure the disclosure of the details of the first tender for the privatization of a prison (2000)
- Bringing about the publication of the Prison Service Regulations (2000)
- Ensuring the publication of the list of bodies supported by the Ministry of the Interior (2000)
- Petition to allow scrutiny of court files (1996)

## Freedom of Association

**"Everyone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association". (Article 20)**

**"Everyone has the right to form and to join trade unions for the protection of his interests". (Article 23(4))**

Although the right of association is a recognized and protected right in Israel, there are some provisions in Israeli law that infringe upon the right:

- **"Prohibited Association"**: The executive branch has the right to declare a group of persons a prohibited association or a terror organization, i.e. it is an administrative power and not a judicial one. No process of hearing is conducted before the declaration and no process of judicial review has been determined, apart from allowing that body to file an appeal to the Supreme Court.
- **Registration of Political Parties**: The prerogative of the Registrar of Parties not to register a party that is opposed to the character of the State of Israel as a Jewish state is a serious violation of freedom of association, freedom of expression, and the democratic process.
- **Registration of Non-Profit Organizations (NPOs): The supervision of civil society organizations in the context of NPOs is among the strictest in the world.** Every year, NPOs must submit to the Registrar of Non-Profit Organizations in the Ministry of Justice audited financial reports, signed minutes of general meetings, details of principal donors, and more. In research conducted by Attorney Michal Aharoni of the Community Service Law Program in the Tel-Aviv University Faculty of Law it was noted that the specific reporting obligations, the powers of the Registrar of Non-Profit Organizations, and the way in which they are applied together with the restrictions on the registration of organizations and their activities are all indicative of the dangers inherent in "burdensome bureaucracy and demands for precise reporting aimed at harassing civil rights associations, preventing their registration, and monitoring their activities".
- In June 2007, the Knesset passed an **amendment to the Amutot Law, increasing the State's supervision of NPOs operating in Israel.** NPOs are now also obliged to make a "verbal report" to the Registrar that includes, *inter alia*, the main activities conducted by the NPO to further its objectives during the year, a description of its organizational structure, the names of office bearers in the NPO, etc. The increase in supervision, which has already been said to be strict in any case, is contrary to the recommendations of the U.N. according to which government authorities have no need to supervise the objectives of the civil society's organizations and they should not be allowed to interfere in their management. The fear is that the wide and unprecedented powers given to the Ministry of Justice will be used to hinder the activities of bodies that want to exercise freedom of expression, thought, and association to discuss controversial matters in the forefront of public debate in Israel.
- **Workers' Associations**: In the last few decades, changes in the labor market in Israel have negatively impacted on organized labor, and as a result have led to a violation of the right to organize. Among these may be noted moves towards privatization and flexibility in the labor market, a switch from collective agreements to personal contracts, a reduction in the power of the Histadrut (Labour Federation), and

various restrictions on the right to strike. The percentage of workers organized in any kind of workers' organization dropped from 85% in the 1980s to only 32% in 2003. In the 1990s and at the beginning of the present century, attempts by workers to exercise the right to organize were unsuccessful in many cases, mainly because of objections and harassment by employers. In 2007, in only 37% of the companies surveyed on in the "Maala" CSR Index<sup>51</sup> were workers organized, and in only 28% of the companies was it reported that efforts to organize workers would be allowed should there be any.

In the last few years, social change organizations, and chief among them the Social Welfare Legal Clinic at Tel-Aviv University, have been working to increase workers' awareness of organization as a tool in the struggle for their rights, and to help workers' groups that want to organize and set up a committee or workers' representation. Recently, a new general workers' organization was also established ("Power to the Workers – Democratic Organization of Workers") – the first since the establishment of the General Histadrut in 1920 and the National Histadrut in 1934.

- **The Israel Bar Association:** The condition stated in law, according to which the practice of law is conditional on membership of the Israel Bar Association is an unjustified violation of both freedom of organization and freedom of employment. In other professional organizations, like the Institute of Certified Public Accountants in Israel and the Israel Medical Association, there is nothing comparable to the arrangement with lawyers by which the body responsible for granting licenses to practice the profession is also the body that is meant to serve as the professional union representing its members' interests and their professional knowledge, and membership of which is voluntary.

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<sup>51</sup> The Maala CSR Index examines large companies in the economy according to criteria of corporate social responsibility.

## The Right to a Dignified Existence and an Adequate Standard of Living

*“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control”. (Article 25)*

### Poverty and Social Gaps

Over the past thirty years, Israel has moved from being one of the most egalitarian countries in the western world in terms of income distribution to the least egalitarian western country, with the exception of the United States.<sup>52</sup> According to a 2007 report by the National Insurance Institute, economic growth in the years 2005-2007 did not improve the overall social situation. Increasing poverty and lowered welfare expenditures were halted, but **the marked economic improvement in comparison with the recession years 2001-2003 was not translated into social betterment.** The most recent Poverty Report, published in February 2008 and covering the second half of 2006 and the first half of 2007 indicates that the poverty rate during this period remained stable: There were 420,000 families living in poverty in 2006/07 – 20.5% of the total families in Israel – and the incidence of poverty among children remained high at 35.9% – 805,000 children. Among families with four or more children, the poverty rate soars to 60%. **A steady increase was also maintained in the poverty rate of working families,** particularly families with only one breadwinner: The incidence of poverty in families with one breadwinner rose from 17.6% in 2002 to 23.9% in 2006/07. A report by an inter-ministerial committee in March 2008 notes that in Israel, the level of nutritional insecurity (defined as the lack of regular access in customary ways to a sufficient amount of nutritional food) has reached troubling proportions.

According to data published by the Adva Center (November 2007), instead of investing the fruits of growth in recent years into social and economic development, government policy in Israel focused on one main goal – fostering economic growth, especially by reducing budgetary expenditures.<sup>53</sup> **Per capita spending on social areas shrank even more than per capita overall spending.** In 2001, for example, social spending per capita was NIS 11,218, and will be NIS 10,504 per capita in 2008, according to Adva estimates. Pension payments from the National Insurance Institute also dropped, despite the increased needs and population growth. According to Adva, the policies of reduced government spending contribute to the enrichment and expansion of large corporations and major financial groups, but **they exact a heavy toll: deeply reduced spending for public services.** These reductions harm equal opportunities for education, higher education, health, and housing for most Israelis; they undermine the stability of the middle class; and thus they cast a shadow on development and growth in the coming generations. What's more, most Israeli citizens do not even benefit from the growth, as it

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<sup>52</sup> In an income survey of 2005, for example, the Central Bureau of Statistics reports that the average gross income for households in the upper decile was 12.1 times higher than in the lower decile, and the net income, nine times higher.

<sup>53</sup> Government spending per capita drastically decreased in 2002-04. Although it has risen since then, spending remains lower than in 2001 even after these increases. Virtually the only area of increased government spending was infrastructure, especially for transportation.

is skewed – concentrated in several branches of the economy and the center of the country.

Among the poor in Israel are tens of thousands of hard-working employees in the State authorities who are employed in disgraceful conditions through service contractors. Government ministries who make use of these contracted services avert their eyes to save government money at the expense of these sub-contracted workers. Many other workers are plunged into poverty after encountering a crisis because the State reneged on its promise to provide a safety net. Despite this, State authorities in recent years have taken to **placing the burden of blame for the poverty on the poor themselves, ignoring the destructive impact of Israel's socioeconomic policies in the past two decades.**<sup>54</sup>

The National Insurance Institute noted with satisfaction in 2007 that social goals were announced as government policies<sup>55</sup> for the first time, including the goal of increasing employment in order to alleviate poverty. They emphasize, however, that an improved employment rate alone is not enough to ease distress, and that active government labor policies are also required to raise the salaries of low-income employees. Supportive and complementary tools, such as financial support for families, should also not be neglected, the survey noted. These are particularly important for people who cannot participate in the workforce, such as children, the elderly, and the disabled, and for those who do not manage to extricate themselves from poverty even when they actively participate in the workforce.

### **East Jerusalem: Neglect and Discrimination**

In late 2006, the population of Jerusalem was estimated at 732,100. Thirty-four percent (251,400 residents) of these are Palestinian Arabs living in East Jerusalem who were given “permanent resident” status following unilateral annexation of the city by the Israeli government in 1967. Given its control over East Jerusalem and the status it granted residents there, the Israeli government is obligated to act equitably toward this population. Israeli law stipulates that East Jerusalem residents are entitled to all services and rights granted to Israeli citizens, apart from the right to vote in national elections. Nevertheless, **since 1967, the Israeli government has not budgeted resources for strengthening and developing East Jerusalem** – resources that are essential for meeting physical needs as well as the natural growth of the population. The aim of this policy, which has lasted for four decades, is to **ensure a Jewish majority in the city of Jerusalem and push Palestinian residents to leave.** As a result, East Jerusalem residents live in dire straits, and their condition is worsening.

67% of the Palestinian families in East Jerusalem and 77.2% of East Jerusalem children live in poverty, compared with 21% of the city's Jewish families and 39.1% of the city's

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<sup>54</sup> In February 2008, for example, the Yitzhaki Committee – an inter-ministerial committee appointed by the prime minister – attributed the increased number of poor every year to the poor themselves.

<sup>55</sup> In April 2008, the government adopted the Social-Economic Agenda for Israel 2008-2010 presented to it by the National Economic Council. This Agenda sets two primary goals: the reduction of poverty by encouraging growth, with the key being increased employment; and using stimuli for balanced, long-range growth, with the key being improved education at all levels. The government appointed an inter-ministerial committee headed by the Director General of the Finance Ministry to present the government with quantitative goals for poverty and employment that would be integrated into the government economic policies. In August 2007, the government for the first time approved two economic-social goals for 2008-2010 – the goal of employment and the goal of reducing poverty and improving the standard of living among the poor – to be added to the two existing goals (on the deficit and inflation).

Jewish children (data from 2006). Because of the chronic shortage of sanitation facilities in East Jerusalem, trash piles up in the streets and the numerous illegal garbage dumps. Roads are studded with potholes, and the few sidewalks that exist are in serious disrepair. Public parks are a rarity. The infrastructure for sewage and drainage throughout East Jerusalem has deteriorated from years of neglect, creating acute sanitation problems. Despite frequent complaints from the residents, there are many areas in which no repairs or improvements are made. The laying of new sewage and drainage pipes is made conditional upon the payment of high fees and development taxes that exceed the means of the residents, but even when residents are willing to cover the costs of laying sewage lines, the authorities generally delay the work.

The postal service barely functions. Welfare services – with insufficient funding and ongoing discrimination in comparison with those on the western side of town – are on the brink of collapse. This is particularly serious in light of the socioeconomic situation of the population. In the area of education, there is a disgraceful shortage of 1,500 classrooms in the state school system. As a result, the system has no room for some 40,000 East Jerusalem children who have to study in expensive private schools or simply drop out. Almost no preschool programs exist.

In the field of planning, East Jerusalem suffers from glaring discrimination whose purpose is clear: **to limit legal construction by the Palestinian population and constrict the space available for the development of Arab neighborhoods.** This discrimination in planning has led to a situation in which most of the structures in East Jerusalem were (and are still being) built without a permit. They are densely crowded, and the occupants live in constant fear of having their homes demolished. One direct outcome of the planning discrimination is the lack of a fresh water supply, because Israel's Planning and Construction Law prohibits the connection of unauthorized buildings to the municipal water network. Based on data from the Gihon Company (Jerusalem's water and sewage supplier), over half the population in East Jerusalem – 160,000 residents – lack a regular water supply. Having no choice, the residents rig makeshift connections to water mains or to neighboring homes legally connected to the water network, or they make do with stored containers of fresh water. The lack of fresh water reduces the level of hygiene (since showers, dishwashing, and housecleaning all become difficult), allowing for the spread of infectious diseases.

The reality of life in East Jerusalem is therefore an ongoing cycle of neglect, discrimination, and poverty. These, combined with cutting off the West Bank through construction of the Separation Barrier, have brought economic and social ruin to some parts of the city. The vast majority of residents in this area do not receive and are unable to purchase the most basic services, and their right to a dignified existence and an adequate standard of living is severely compromised.

### **Living Conditions in the Unrecognized Bedouin Villages: 60 Years of Disgrace**

Tens of thousands of people live in 39 unrecognized Bedouin villages in the Negev, which have existed for decades. Some reside on their ancestral land, some on lands to which they were evicted decades ago. The State refuses to recognize these villages, and refers to them and their inhabitants as "scattered". From Israel's perspective, these are illegal settlements that must be evacuated and the inhabitants moved to existing townships. As a result of the planning policies of the governments of Israel – disregarding the very existence of these villages and not taking into consideration the

needs and rights of these citizens in the overall planning – the village residents live in uncertainty and fear of eviction. In the absence of planning, all construction in these villages is carried out without a permit, and residents fear for losing their homes and having additional criminal measures taken against them.

While the villages exist in reality, they do not appear on any official maps; the people who live in them also do not exist. How else can one understand that a developed country in 2008 has communities in which tens of thousands of people are **not connected to the water, electric, sewage, and telephone infrastructures or the roadways**. The residents of the unrecognized villages also suffer from **severe shortages in educational, health, welfare, and sanitation services**. Living conditions are disgraceful even in the ten Bedouin villages that were recognized and incorporated as the Abu Basma Regional Council. Although these towns were recognized some time ago, the planning procedures for them are still not completed, and therefore most of these towns are still unable to issue construction permits. According to the Planning and Construction Law, the electric company is prohibited from connecting structures to the electric grid if planning procedures are not complete. As a result, even villages that were recognized years ago are not connected to the electric grid – just like the unrecognized villages. Their living conditions did not improve, and the rights of these residents to dignity and adequate housing are still seriously compromised. The planning process may take years, only prolonging the suffering of these residents.

### **The Occupied Territories: Violation of the Right to a Dignified Existence**

According to the World Bank, the Palestinian economy continues to deteriorate and remains dependent on external aid. Israel's siege policy in the Gaza Strip, which has been in place since 2007 (see the chapter on "Freedom of Movement") has wiped out Gazan industry almost entirely. Unemployment in Gaza climbed to 29.8% in the first quarter of 2008; if we add to this those who have given up and no longer seek work, unemployment mounts to 35.5%. Amnesty International data show approximately **80% of Gaza residents currently depend on humanitarian aid from international agencies, compared with 20% a decade ago**; and 30% of the population have no access to clean water. The rate of poverty reached 51.8% in 2007, while 35% are defined as living in deep poverty.<sup>56</sup> Food prices increased by 28% in Gaza between June 2007 and June 2008. **The local authorities are also collapsing as a result of the siege, as they can barely provide basic services such as water, sewage, and sanitation** due to their inability to bring parts and raw materials into Gaza. International organizations (the World Bank and OCHA – the UN's Office for the Coordination of Humanitarian Affairs) report that even the ceasefire in place since June 2008 did not significantly improve matters: The supply of fuel and basic products is still far from meeting needs; and the shortage of raw materials combined with the ongoing prohibition on export prevent rehabilitation of the economy.

The West Bank showed slight economic recovery during the past year, but the assessment of the World Bank is that this is not significant. Unemployment in the West Bank climbed to 19% in the first quarter of 2008; if those who gave up looking for work are added, unemployment mounts to 25.7%. The level of poverty in 2007 was 19.1% (or 45.7% not counting external aid). Food prices rose by 21.4% from June 2007 to June

<sup>56</sup> According to the World Bank, if the poverty indicator is based solely on income and does not include external aid, the rates of poverty and deep poverty in Gaza are 79.4% and 69.9% respectively.

2008. According to the World Bank, **75% of Palestinians reduced the amount of food they buy, and 89% buy lower quality food than they had in the past.**

**Some actions taken by ACRI to safeguard the right to a dignified existence and an adequate standard of living:**

- Membership in the Forum of Organizations to Abolish the Arrangements Law, which seeks to eliminate or minimize the Arrangements Law, and ongoing activity in the social sectors included in the Arrangements Law. The Forum recently formed a caucus of Knesset Members to abolish the Arrangements Law
- Public advocacy to demand reexamination of the level of guaranteed income benefits and a method to update them – this issue has not been scrutinized for thirty years (2008)
- Educational activity about human rights, particularly social rights, among social services employees and social activists
- Running our project “East Jerusalem: Services and Infrastructure” in cooperation with representatives of Palestinian communal and local organizations advocating for an end to the neglect and for improved living conditions in East Jerusalem. This project includes intense public advocacy to place this subject on the agenda of the media and decision makers
- Distribution of thousands of copies of a poster in Israeli schools about the right to a dignified existence (2006)
- Litigation to nullify the Arrangements Law in 2004 because of improper legislation procedures (2004)
- Successful advocacy to connect homes in the Barbour neighborhood of Acre to the electricity grid (2003)
- Litigation (with partner organizations) against the drastic cut in guaranteed income benefits (“the dignified existence case”, 2003). This petition raised public and legal awareness about the right to a dignified existence and the growing gaps in Israeli society. Although the petition was rejected, the Court ruled that a dignified existence is a basic right of every resident of Israel, and that the State is obligated to ensure a safety net for its residents
- Litigation demanding that the cut in old-age payments be restored (2002)

## Workers' Rights

***“Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.***

***Everyone, without any discrimination, has the right to equal pay for equal work.***

***Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. (Article 23)***

***No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms”. (Article 4)***

### **Labor Laws and their Violation**

Labor law in Israel is among the most progressive in the world. Some twenty laws deal with a range of aspects of employer-employee relations, ensuring rights to workers such as the right to severance pay, the right to annual leave, and the right to receive a full salary on time. Called **protective labor laws**, these set the minimal rights to which all workers are entitled, and the employer is obligated to provide these even if the employee is willing to forego them. In reality, however, workers' rights in Israel are far from protected.

Most labor laws in Israel were enacted in the 1950s, but much has changed in the Israeli labor market since then; the laws, however, have not changed. The process of globalization and internal developments in the Israeli economy and society, including more emphasis on efficiency and less concern about values like organized labor and social solidarity, have led to growing power gaps between employers and employees; increased inequality between categories of employees; the spread of harmful and exploitive employment practices; significant erosion of workers' rights; and greater potential for exploiting employees without power. In particular, **the hiring of workers via manpower contractors, service companies, and other forms of secondary-employment has severely harmed employees, and allowed those who order the service – including the government itself – to shirk their responsibility for employees' rights.** Such forms of employment constitute an extraordinary 10% of the labor force in Israel, compared with some 2% in Europe. Approximately 46% of subcontracted employees work in the public sector.

Another important factor allowing for the violation of employees' rights in Israel are the minimal resources allocated to the Enforcement Division of Labor Laws in the Ministry of Industry, Trade and Labor. In late 2006, only nineteen inspectors were responsible for enforcing labor laws among 2.4 million Israeli employees. Although efforts have been made to recruit more personnel for this division over the past year and a half, enforcement is still a drop in the bucket of labor law violations.

Crime therefore pays, and some employers continue to find new and imaginative ways to make a profit at the expense of their workers. The following are among the most frequent and striking violations of protective labor laws, harming sub-contracted employees in particular: paying less than the minimum wage; delaying the payment of

wages; not paying extra wages for overtime or work on the Sabbath, as prescribed by law; “fining” employees or otherwise unlawfully withholding their wages; not making payments for convalescence, leave, and holidays; printing fictitious salary slips in someone else’s name to withhold from employees their social rights or rights based on seniority; not disclosing to the employees their rights or employment terms; firing employees without severance pay or partial payment of the severance pay to which they are entitled; and harming the dignity and privacy of employees and job applicants. Most violations of Israeli labor laws, particularly the most severe, target employees in specific groups, particularly the weak and vulnerable, who have a hard time standing up for their rights: new immigrants from the Commonwealth of Independent States or Ethiopia; Arab citizens of Israel; migrant workers; Palestinians; workers who are elderly or children; and youth, the disabled, and women.

In recent years, human rights organizations and others in economic fields or public life have struggled to raise awareness about workers’ rights. Special emphasis has been given to the disgraceful and ongoing exploitation of sub-contracted workers. This seems to be bearing fruit in recent years, and public pressure is compelling the State to take responsibility – both as the largest employer of sub-contracted employees and also as the authority responsible for enforcement of the labor laws. Among the positive developments last year was the launch of the **Equal Opportunities in Work Commission** within the Ministry of Industry, Trade and Labor. Beyond the importance on principle of having a State authority involved in ensuring equality at work, this office will provide support for employees to file civil suits (compensation claims) against employers who violated their rights. Another positive development is promotion of a **government bill to step up enforcement of labor laws**, which passed its first reading in the 17<sup>th</sup> Knesset. This bill – written with the participation of representatives of the Justice Ministry, the Ministry of Industry, Trade and Labor, employers, and employees – seeks to legislate the responsibility of the actual user for ensuring the rights of sub-contracted employees who work there. This year also saw progress in **the battle against “loss tenders”** – tenders for services in which the lowest bid wins even though the terms would compel winning bidders to violate the rights of their employees in order to make a profit. In a precedent-setting ruling issued in April 2008, the Tel Aviv Administrative Court<sup>57</sup> ruled that the Bat Yam Municipality must revoke the tender for cleaning services that was based on a deficit estimate, and cancel its agreement with the employment contractor who submitted a bid that would not have enabled it to pay the cleaning workers the legal minimum wage. Another important decision<sup>58</sup> of the Tel-Aviv District Labor Court established that it is a criminal violation of the Minimum Wage Law for an employer not to pay wages on time. In early 2008, an obligatory pension agreement came into force, which obligates all employers to pay into a pension plan for their employees. Statutes also came into effect this year obligating firms to directly hire an employee who works for them for over nine months via an employment contractor.

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<sup>57</sup> Administrative Appeal 1464/07, *Perah HaShaked Inc. v. Bat Yam Municipality* (Judge Sara Dotan, 14 April 2008).

<sup>58</sup> Criminal Case 420/06 *State of Israel – Ministry of Industry, Trade and Labor v. Saga Enterprise (1996) Inc.* (Judge Hadas Yahalom, 26 June 2008).

## **Migrant Workers**

In March 2006, following a long human rights campaign, **the High Court of Justice ruled<sup>59</sup> that the “binding” arrangement existing in the agriculture, nursing, and industrial sectors<sup>60</sup> in which a migrant worker is “bound” to a particular employer violates the basic rights of the migrant workers, and therefore must be revoked.** In this arrangement, the work permit received by the migrant who comes to work in Israel was made conditional upon his employment by a specific employer. If the worker terminated his contract with that employer – even because he was exploited and abused – his visa was immediately revoked and he became illegal in Israel and subject to deportation. This arrangement gave enormous power to the employers, who knew they could severely infringe the rights of the migrant workers, who would be unable to quit. Many employers exploited this power. As noted, the High Court of Justice voiced unprecedented criticism of the arrangement, labeling it “a modern form of slavery”, and instructed the State to formulate new employment arrangements within half a year.

Over two and a half years have passed since this verdict, but the “binding” arrangement has still not disappeared. Although the State formulated alternate procedures for the nursing and agriculture sectors, it has not yet implemented them, thus nothing has changed: **The “binding” of workers, in such stark contradiction to the values of the Universal Declaration of Human Rights, continues in 2008, after the Supreme Court spoke out against it so clearly.** What’s worse, judges of the Administrative Court who see cases daily of employees who lost their legal status because of the binding arrangement, and sometimes even Supreme Court justices, rule time after time in contravention of the court decision. In late July 2008, the organizations that had petitioned against binding filed a motion for contempt of court to compel the State to abide by the ruling and abolish the binding arrangement.

Another serious problem is the **charging of broker fees** to foreigners who wish to come to Israel to work. Employment contractors charge these workers exorbitant amounts, ostensibly to cover the expenses of bringing the worker to Israel. In practice, however, this money is only a way to profit on the backs of the employees.<sup>61</sup> Regulations that took effect in July 2006, which limited the amount employees could be charged for brokerage fees, did not improve matters, but in fact made things worse: **In the past two years, these fees increased by tens of percent.** Migrant workers are compelled to take out high-interest loans – and sometimes even mortgage their homes and property – in order to make this payment. As a result, their ability to negotiate better working conditions is impaired – losing the job would bring economic disaster on them and their families. In April 2008, an agreement was supposed to take effect with the International Organization for Migration and the Labor Ministry of Thailand that would permit

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<sup>59</sup> HCJ 4542/02 *Kav LaOved v. Government of Israel*. The petition was filed by the organizations Kav LaOved (Workers’ Hotline), the Hotline for Migrant Workers, ACRI, Physicians for Human Rights – Israel, the Adva Center, and Commitment to Peace and Social Justice – via the Law and Welfare Program of the Faculty of Law, Tel-Aviv University.

<sup>60</sup> Since May 2005, a different system prevails in the construction industry, called the “companies’ arrangement” in which migrant workers are employed by employment contractors via “personnel companies”, which are responsible for paying the wages of the employees and their social rights. However this system also leaves the migrant worker dependent on his employer, giving him inferior status and enabling exploitation. Kav LaOved reports, for example, that from 1 January to 15 August 2008, they received complaints against 27 of the 39 manpower companies who are licensed to employ migrant workers in the construction industry for 2008.

<sup>61</sup> According to a conservative estimate by Kav LaOved, Israelis earn a billion shekel annually from importing foreign workers to Israel.

supervision of Thai workers recruited for the agricultural industry and set the fees they pay. In addition, as of June 2008, only migrants from countries with which Israel signed a bilateral agreement to enable supervision of these fees would be allowed to enter Israel to work. However, signature on the bilateral agreements was postponed from June to December.

**Some actions taken by ACRI to safeguard workers' rights:**

- Filing suits in the name of employees whose rights were violated; participating in several legal procedures (together with partner organizations) as *amicus curiae* – a “friend of the court” – to draw attention to the issues of subcontracted workers
- As part of the Forum for the Enforcement of Workers' Rights, promotion of legislative initiatives designed to protect the rights of employees and increase enforcement and punishment of employers in violation of the law
- Successful litigation to revoke the submission of tenders based on unrealistically low estimates that would entail the violation of workers' rights (2008)
- Successful litigation to eliminate discriminatory job postings in the Employment Bureaus (2008)
- Successful litigation to set minimum standards for tenders issued for the employment of security guards in Israeli schools (2007)
- Publication of a comprehensive report on workers' rights and their violation (2006)
- High-profile public campaign about the responsibility of employers to ensure the rights of their sub-contracted employees (2006)
- Conference in Nazareth with the participation of dozens of Arab working women on the subject of the Wisconsin Welfare to Employment Plan (2005)
- Conference conducted in Hebrew and Russian about the rights of sub-contracted security guards, with the participation of dozens of sub-contracted workers from the Commonwealth of Independent States (2005)
- Distribution of an information sheet in Russian and Hebrew about the rights of sub-contracted employees (2005)
- Distribution of a poster about the right to work in thousands of Israeli schools (2004)
- Successful advocacy to eliminate the illegitimate use of the category “refused work” (1999, 2003)
- Successful litigation concerning the right to employment of members of the Black Hebrew community (1987)

**Some actions taken by ACRI to safeguard the rights of migrant workers:**

- Successful litigation to compel revocation of the “binding” arrangement that bound migrant workers to specific employers (2006, together with partner organizations)
- Successful litigation to set criteria for granting legal status to the children of migrant workers who grew up in Israel (2005)
- Successful litigation to ensure that migrant workers slated for deportation will be able to meet with their attorneys at the airport (2005)

- Successful litigation to arrange for payment of National Security payments to migrant workers injured during their work (2003)
- A campaign (together with Physicians for Human Rights – Israel and Defence for Children – Israel ) to arrange health insurance for migrant workers and their children (2000-2001)
- Successful litigation to pay the airline fare of foreign nationals who are deported (1998)
- Successful litigation to establish procedures for judicial review of the detention of foreigners in Israel illegally (1999)
- Successful litigation to establish procedures for investigating complaints of migrant workers about the confiscation of their passports (1997)

## The Right to Health

**"Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care". (Article 25(1))**

The enactment of the National Health Insurance Law in 1994 was an extremely important step forward in the promotion of the right to health in Israel. The Law promised to ensure that health services were provided to Israeli residents in accordance with the principles of justice, equality, and mutual assistance. However, the State's commitment to ensure the universal and equitable realization of the right to health was quickly eroded. **Gradual cuts in the health budget over the last decade and the privatization process promoted by successive Israeli governments and the Ministry of Finance are gradually stripping the National Health Insurance Law of its content and leaving the weakest sections of society unprovided for.** The public health system, the only one available to vulnerable population groups, and to some extent even to the middle-class, is suffering from a deterioration in the scope and quality of the services it provides, and at the same time there is an increase in private contributions of citizens towards health costs (by those who can afford it). Thus, two health systems, significantly different in quality, are being created – one for the rich and one for the poor.

### **Shortcomings of the National Health Insurance Law and the Erosion of the Health Basket**

From the get go, despite its advantages, there were serious flaws in the National Health Insurance Law. Dental health services, mental health services, and nursing care are not included<sup>62</sup>, all three of which are essential to preserving the basic right to health. The Law does not cover other health requirements of the elderly, such as hearing aids, walkers, and more; nor does the Law cover special health requirements of women, such as contraceptives.

Even the existing services in the basic health basket have been eroded over the years. **According to a calculation made by the Adva Center, from the enactment of the National Health Insurance Law in 1994 until 2007, the decline in the funding of services in the health basket has reached 44%.** If the value of the health basket is not to be diminished, it must be updated once a year according to a number of representative indices, *inter alia*, population growth, the aging population, and increases in the cost of services. But the indices included in the Law do not cover the needs, and every update beyond them requires a government decision, which is usually through the Arrangements Law or an amendment to the Budget Law. The Ministry of Finance refuses to anchor in law a mechanism for a regular update that reflects technological developments in the medical field, such as new drugs, equipment, and medical procedures; this is contrary to the opinion of experts and the Ministry of Health, who consider that an automatic updating mechanism of 2% a year should be included; in the end, the decisions made are frequently influenced by public pressure and do not provide a complete solution to needs. In June 2008, a proposed bill to update the health basket

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<sup>62</sup> In some cases, the State contributes towards complex nursing care, but to an extremely limited and unsatisfactory extent.

at a fixed rate of 2% per annum passed its first reading in the Knesset.<sup>63</sup> The bill passed with the support of 56 Knesset Members from all Knesset factions, after a struggle waged by ACRI and a broad coalition of organizations that promote health rights. This is an important step, but the determined resistance to the bill in the government as well as the dissolution of the Knesset in mid-term, casts grave doubts on whether the bill will be enacted.

## **Increase in Private Expenditure on Health Services**

The erosion of government funding of the public health service is a process that began very shortly after the enactment of the National Health Insurance Law, and which gained pace since 1998. In the last decade, there has been a continuing erosion of government budgeting for the health services and accordingly in the scope of the services provided by the health funds (Kupot Holim). At the same time, there has been a **constant increase in the expenditure of private households on health services**.<sup>64</sup> The 1998 Arrangements Law allowed the health funds to increase members' contributions towards medications and medical services as well as to add new supplemental payments for additional services. Since then, these payments have been on an upward trend. Moreover, owing to a contraction in the scope and quality of services offered by the health funds with respect to the basic health basket, the middle- and upper- classes are spending more and more on supplementary health insurance (provided by the funds and partly supervised by the Ministry of Health) and private insurance. Thus, according to data from Physicians for Human Rights – Israel and the Adva Center, in 1994, the government's share of national expenditure on health was 50%, and the private households' share was 24%; by 2006, the government's share had shrunk to 38% and households' share had increased to 33%. The share borne by private households in the national expenditure on health in Israel is one of the highest in the western world.

The increase in the burden of private expenditure on health services naturally hurts mainly those with the least resources. In a survey conducted for the Israeli Medical Association and published in April 2008, it was discovered that **almost one third (31%) of the Israeli public had been forced to do without at least one type of medical service**, like purchasing medicines (13%), visits to their doctor (10%), treatment for children (6%), and treatment for the elderly (13%). There was deterioration in the health of 37% of the population that was forced to forego medical treatment. Not surprisingly, the percentage of those forced to forego medical services is higher among the weaker population groups: the Haredim (ultra-orthodox), Arab citizens, the poorly educated, and low-wage earners. The survey also revealed that **43% of the overall population was afraid that they could not pay for medical services not included in the health basket. The percentage is particularly high in the south where it reaches 57%**. The last State Comptroller's Report published in May 2008 reinforces warnings articulated by human rights organizations and research institutes in the past few years that the expansion of private funding damages the egalitarian character of the health system. **"The substantial increases in the percentage of individual contributions," said the Comptroller, "were approved in the absence of a deliberate policy and with no overall vision by the Ministries of Health and Finance to the detriment of patients – who are the only ones affected".**

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<sup>63</sup> The proposed bill was submitted to the Knesset by Knesset Member Haim Oron.

<sup>64</sup> Meaning outlays in addition to the health tax.

Alongside the increase in private funding of the health services, an additional aspect of the privatization of the national health system is the **transfer of services once provided by the Ministry of Health into private hands**. Thus, health services to schoolchildren were privatized and, to a certain extent, also family health and mental health services that are in the process of being transferred to the health funds. Health funds, for their part, have, in the last few years, become a hybrid creature, on the one hand providing services included in the public health basket but on the other hand offering additional services and supplementary insurance to those who can afford them. The increase in the private insurance market exacerbates the inequality in access to health services and increases the risk of a continuing deterioration of the public health system, since the middle classes who can afford to purchase private insurance no longer have any interest in fighting for improvements in the public services.

A key tool in the privatization process and the deterioration of the public health system is the **Arrangements Law** which allows the government to make far-reaching changes in the economy each year without proper legislation and without in-depth and serious discussion of their implications. According to Gabi Bennun, former Deputy Director for Economy and Health Insurance at the Ministry of Health, **since the National Insurance Law was passed, more than three hundred legislative amendments have been made to it through the Arrangements Law, most of which worsened the situation of those insured**. The 2009 Arrangements Law, too, currently before the Knesset, includes a proposal to collect a uniform minimum health tax (global tax) from all insured, including housewives, a step that could violate the principles of universality and equality that underlie the National Health Insurance Law and curtail accessibility to health services.

### **Differences in Health Indices and Discrimination in Access to Health Services**

The widening inequality and gaps between various groups and geographical areas within Israel are also manifest in the accessibility of health services and the health indices of the population. Thus, for example, according to a September 2007 publication by the Taub Center for Social Policy Studies in Israel, the lowest life expectancy is in the Beersheba district; infant mortality rate in the south is 7.6 deaths per thousand and in the north 6.3, compared with 3.3 in the central region. The report also stressed the recent trend towards widening gaps. Thus, for example, in 1996 the difference in life expectancy between Jewish (and other) males and Arab males was 1.5 years, and between Jewish (and other) women and Arab women 3.1 years; in 2005, the gap widened to 3.8 and 4 years respectively. The mortality rate of infants born to women with extremely poor education from 2000-2002 was 4.6 times the mortality rate for those whose mothers had an academic education; in 1993-1996, the rate was 3.5. There are also large differences in the morbidity indices in a wide variety of illnesses, like asthma, diabetes, obesity, caries, paranoia, and depression, corresponding to the educational level, socioeconomic status, and national or ethnic origin.

In the periphery, low socioeconomic status coincides with low accessibility to health services. In the north and south, relative to the center of the country, a large percentage of the population belongs to disadvantaged population groups, among them new immigrants and Arab citizens, some of them Bedouin residents of the unrecognized villages. The availability and accessibility of the public health services to residents of the

periphery is considerably lower in comparison with the center of the country. The lack of beds is particularly serious; there is a dearth of expert practitioners; there is a shortage of medical equipment, and more. The formula according to which the budget is distributed between the health funds ("the capitation formula") does not encourage the funds to invest in low-income patients and residents of the periphery, and does nothing to prevent the exclusion of patients who are "unattractive" to the funds.<sup>65</sup>

A document produced by the Knesset Research and Information Center in March 2008 presents data on the scope of health services in the southern region compared with other regions: only 9% of hospital beds in Israel are in the southern region where 14% of the country's population live; in all types of hospitalization in the southern region (general, mental, chronic illnesses, day hospitalization), apart from the field of rehabilitative hospitalization, the rate of beds per 1,000 people in this region is the lowest in Israel; and the number of dialysis units in the southern region is the lowest in Israel. The southern and northern regions also come in last place in the number of professional physicians. A position paper by Physicians for Human Rights - Israel and the Beersheba women's group "Equality in Health", published in May 2008, reveals differences in the accessibility of special medical equipment. Among its findings: the ratio of CT equipment per capita in Tel Aviv is 70% higher than the rate per capita in the south and 60% higher than the rate in the north; the ratio of MRI equipment per capita in Tel Aviv is three times the rate per capita in the south and seven times the rate per capita in the north; there is not one lithotripter (for treating kidney or gall bladder stones) in the north or the south. Such data are particularly serious when one takes into consideration the fact that there is a concentration of vulnerable population groups in the periphery who cannot afford the cost of supplementary and private insurance, and are therefore entirely dependent on the public health services.<sup>66</sup>

Discrimination against the Arab minority in Israel manifests itself in the low level of health in comparison with the Jewish majority (life expectancy, mortality, morbidity, etc.); in the reduced availability and accessibility of medical services; and in the poor availability and quality of "necessary conditions" for health (clean water fit to drink, adequate sewage systems, regular garbage disposal). The socioeconomic situation of Arab citizens in Israel is also a significant factor in explaining the health status gap between the Arab minority and the Jewish majority. Especially difficult is the situation of the Arab Bedouin population of the Negev, half of whom live in the unrecognized villages. The lack of recognition of their villages leads to a chronic lack of infrastructure and basic services – water and electricity connection, sewage infrastructure and waste disposal; the lack of planning also denies them the opportunity to obtain building permits for the construction of health institutions. The lack of transportation infrastructure and services in Arabic also reduce the accessibility of health services for residents of the Bedouin villages.

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<sup>65</sup> The capitation committee is currently meeting for the second time since the enactment of the National Health Insurance Law. On the previous occasion, the committee updated the age variables but did not add variables that would encourage the health funds to invest in the periphery and prevent the exclusion of poor and sick insured.

<sup>66</sup> According to data from the Israeli Medical Association published in April 2008, only 18% of the public relies on basic health insurance alone, and 74% of the public have purchased supplemental health insurance packages or private insurance. However, the distribution is unequal: in Jerusalem and in the north, there are a higher proportion of people who only hold basic health insurance (31% and 23% respectively) compared with 11% in the center of the country.

## **The Occupied Territories: Violation of the Right to Health**

The violation of the right to health in the West Bank is mainly a consequence of the restrictions on movement imposed on the Palestinian population. These restrictions (described above in the "Freedom of Movement" chapter), and the dislocation created between small communities and the centers on which they rely for the provision of services, make it extremely difficult to access health services. It can take a long time for patients and medical personnel to reach the medical centers because of delays at roadblocks or travel along by-pass and poorly maintained roads, or because travel is totally impossible; and emergency vehicles have difficulty in reaching their destinations. There are also shortages of medicines and medical equipment. Thus, for example, according to an August 2008 report by OCHA, 73 of the 416 items included in the list of essential medicines were lacking in the West Bank and stocks of 45 items were sufficient for less than one month.

In the **Gaza Strip** there are not many essential medical services. The exercise of its residents' right to health is therefore dependent on the ability to leave the Strip and obtain medical services in Israel or abroad. As described above in the "Freedom of Movement" chapter, the Gaza Strip is in a state of almost total blockade and closure. Obtaining an exit permit from Gaza involves protracted bureaucratic negotiations with the Palestinian and Israeli authorities that delay and may even prevent a sick person from getting treatment. Petitions to the High Court of Justice submitted by human rights organizations on behalf of patients whose applications for permits have been rejected are not always successful and lately, there has even been a dramatic reduction in the number of accepted petitions in such cases.<sup>67</sup> The prolonged closure of the crossings prevents even patients who have obtained the long awaited-permit from accessing medical treatment that is unavailable in Gaza and prevents the inflow of vital medicines and medical equipment. A delegation of physicians from Physicians for Human Rights – Israel that visited Gaza at the beginning of July 2008, reported that despite the relative easing of the security situation, the crossings are not opened on a regular basis and many needs are not addressed, the exit of patients is still delayed, and medical equipment is arriving in dribs and drabs. Thus, for example, according to reports by human rights organizations, in May 2008, there were 1,088 recorded cases of applications for treatment in Israel but less than half of them were approved while the remainder were refused or are pending a decision; in August 2008, 874 applications to receive medical treatment were submitted in Israel and the West Bank, and 560 patients passed through the Erez crossing during the month. In July 2008, 49 types of medicines and 91 types of medical equipment were completely out of stock in Gaza, and stocks of dozens of other types of medicine and medical equipment are sufficient for only two to three months; similar data was also recorded in August. According to the July 2008 report of Physicians for Human Rights – Israel, in the year preceding the report, 200 patients died while they were waiting to be treated outside Gaza, of whom 45 were children and 75 were women. The organization also warns of a new policy of the GSS, attested to by Gazan patients, under which patients are summoned for interrogation at the Erez crossing and asked to provide information or become official collaborators as a precondition for receiving an exit permit from Gaza for medical treatment.

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<sup>67</sup> Thus, for example, in light of the repeated failure of the High Court of Justice to provide effective legal redress to Gazan patients requesting to leave the Gaza Strip, Physicians for Human Rights - Israel completely stopped submitting such petitions in May 2008.

**Some actions taken by ACRI to promote the right to health:**

- Petition demanding that a health clinic be built in the unrecognized village of Tel el-Malach (2008)
- Petition (together with Physicians for Human Rights - Israel) demanding that dental health services should be supplied to all schoolchildren in Israel without discrimination (2008)
- Successful advocacy to advance a proposed bill for the creation of an automatic mechanism to update the national health basket each year, and against the expansion of supplementary insurance plans to include life-saving medicines in place of the national health basket (2007, 2008)
- Distribution of a poster on the subject of the right to health in thousands of schools and health centers throughout the country (2007)
- Petition demanding the connection of health clinics in unrecognized villages in the Negev to the electricity grid (2007)
- Petition demanding the inclusion of subsidized contraceptives in the national health basket (2005)
- Petition against the government's decision not to update the national health basket (2003)
- Successful litigation that led to the establishment of additional family health clinics in East Jerusalem (2001)
- A campaign (together with Physicians for Human Rights – Israel and the Defence of Children – Israel) to regularize health insurance for migrant workers and children (2000-2001)
- Petition demanding the establishment of health clinics in the unrecognized Bedouin villages in the Negev (filed in 2000, ended in 2006)
- Petition on the high contributory rate of a hospitalized person and their family towards complex nursing care (1998)
- Successful litigation that led to the establishment of a procedure to allow doctors from the Occupied Territories to come to hospitals in East Jerusalem during a closure period (1997)

## The Right to Housing

***“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing...” (Article 25(1))***

### **Shirking Responsibility**

Israel does not have a housing policy that is clear, transparent, and anchored in law. This makes it possible for the State to evade its responsibility to ensure full protection for the right to adequate housing for all. In recent years, Israel’s housing policies have changed beyond recognition. The dominant trend today, as in other areas of social services and social rights, is for the State to shirk responsibility to allow full realization of these rights for its citizens. This is manifested, *inter alia*, by the privatization of State responsibilities – moving the center of gravity to the private sector without proper regulation – cutting allocations for assistance, and failing to protect tenants and borrowers. As a result, the right to housing has been violated for an increasing number of people who do not have a roof over their heads.

Israel encourages private ownership as a housing solution even for low-income households, but it has stopped providing grants and significantly lowered its mortgage subsidies to help in the purchase of apartments. While many families need a mortgage to purchase an apartment, the State completely privatized the mortgage market, and has not yet regulated mortgage institutions sufficiently to prevent honey traps for the borrowers that end in the foreclosure of mortgaged homes when borrowers default on their loans. As a result, the number of families evicted from their homes has sharply risen, now reaching approximately 1,500 families a year. Recently, the Knesset amended the Execution Law so that families who do not meet their mortgage payments would not be evicted without their having a reasonable housing alternative. It is hoped that this measure will be the first in better protection for the housing rights of those who have mortgages.

With more and more families having a hard time buying an apartment, the rental market has become the only option for an ever-growing group. However the private rental market is also undergoing significant change. The shortage of rental apartments has led to steep and frequent rises in rental prices, which have taken a heavy toll on low-income groups and the middle class; the absence of tenant protection laws and the lack of an efficient enforcement mechanism for breaches of rental contracts provide a fertile ground for violations of the rights of those renting apartments. Israel is one of the only countries in the developed world in which the State does not intervene at all in the terms of the rental contract, the level of rent, or the frequency that the rent is raised.

Instead of increasing State aid to the needy in light of the rental market situation, government assistance to disadvantaged families today is significantly lower than it had been in the past. Public housing – apartments owned by the State that are leased at subsidized prices to populations who meet the terms of eligibility – once a model of housing assistance for low-income families and the absorption of new immigrants – is now in the process of disappearing. While the State continues to sell public housing apartments to the tenants who lived in them, it has completely stopped the construction of new public housing. As a result, the pool of public housing apartments has reached an

unprecedented low level of 1,600 available units, although over 50,000 eligible people are in line awaiting an apartment.

To replace the assistance model provided by public housing, the State has now turned to the assistance model of paying some of the rent in the private rental market, without giving thought to the dramatic implications of this change. Not taken into consideration, for example, was the effect of higher rental prices on those who receive a set payment from the Housing Ministry that is adjusted only once every few years or people with disabilities who have a hard time finding a suitable apartment in the private rental market. The assistance is not anchored in law and often changes: In recent years, it was cut in half and the eligibility criteria have become more stringent, arbitrary, and discriminatory.

Neighborhoods where people from all socioeconomic strata had once lived together are now becoming neighborhoods for the rich only. Entire areas are undergoing a radical face-lift as real estate investors enter the neighborhood: Residents are pushed out, separated from their communities. Not only is the State not preventing this, it has taken an active role by issuing demolition and eviction orders. The State does not demand affordable housing in new projects currently being planned and built, thereby squeezing low-income populations out of centrally located areas, where rental prices have soared.

The processes of change in the housing market are also manifested in the troubling growth in the number of homeless. With no State funding and poor enforcement of regulations, a network of shelters for the homeless in Israel is based entirely on non-governmental charitable agencies, and no systematic effort is being made to prevent the number of homeless from rising.

## **Discrimination against the Arab Minority and Demolition of Homes**

Systematic discrimination against the Arab minority in land and planning policies has led to severe violations of their housing rights. Town plans for Arab locales do not exist or do not meet the basic housing needs of the population, and therefore construction permits cannot be issued there. To meet the needs of natural growth, unauthorized construction inevitably takes place, destined to be demolished in adherence with the laws of planning and construction. The State maintains its refusal to acknowledge the existence of the unrecognized Bedouin villages in the Negev,<sup>68</sup> destroying these homes and the homes of Arab citizens and residents in northern Arab towns, mixed cities, and the Palestinian neighborhoods of East Jerusalem. As a result, thousands of families remain without a roof over their heads or live in constant fear of their homes being destroyed. The State also continues to discriminate against the Arab population in providing financial support for housing. This was noted by the Or Commission, which reported in August 2003 on the severity of the land and housing shortages among the Arab minority. The Or Commission pointed out that discrimination and neglect have led to overcrowding in Arab towns and villages and severely harmed the ability of young couples to find an apartment.

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<sup>68</sup> There are also unrecognized villages in the north of Israel. For example, the village Dar El-Hanun in the Wadi 'Ara area: While Israel refuses to recognize Dar El-Hanun based on claims such as preserving open space and the quality of the landscape, it encourages and approves the building of new Jewish communities in the same area.

In the past year, a positive new trend has been evident in several court rulings related to the planning failure in Arab towns: In several cases, the court even rescinded the demolition orders for homes located in Arab towns and neighborhoods because of the inadequate planning there.<sup>69</sup> It is hoped that this judicial trend will continue, and that home demolitions will no longer serve as a tool for continued discrimination against the Arab minority in Israel.

### **In the Occupied Territories: Violation of the Right to Housing**

In Area C of the West Bank where Israel holds the authority for planning, the out-dated Mandatory regional plan and Jordanian planning laws remain in force. In keeping with these plans, large areas are zoned as agricultural land and very little construction is allowed on them. The Civil Administration did not develop new plans to respond to the updated needs of the Palestinians for residential housing, public buildings, or infrastructure (although the Israeli settlements in the Occupied Territories do have separate and modern planning that meets their needs and allows construction permits to be issued). Having no choice, Palestinian residents of the West Bank are forced to build without a permit, and this construction is vulnerable to demolition, of course. According to data from OCHA, over 94% of the applications for a construction permit in Area C submitted to the Israeli authorities by Palestinians between January 2000 and September 2007 were rejected. Statistics from Bimkom: Planners for Planning Rights note that during this period, the Civil Administration issued demolition orders for 4,820 structures built by Palestinians in Area C; 1,626 structures were destroyed. As of May 2008, according to OCHA, demolition orders are pending for more than 3,000 Palestinian-owned structures in the West Bank; these demolitions can be carried out at once, without prior notice. Throughout the West Bank, at least ten small communities are in jeopardy of being almost entirely erased as a result of the many demolition orders pending against the homes located there.

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<sup>69</sup> Administrative Appeal 1037/07 *Naveh Atid Village Association – Dahmash v. Local Committee for Planning and Building in Lod* (Justice Sarah Dotan, 30 January 2008), filed by the organization Karameh; Criminal Appeal (Tel-Aviv) 80137/07 *Daka v. Tel-Aviv Municipality* (Justice Dr. Michal Agmon-Gonen, 4 February 2008. An appeal was filed to the Supreme Court on this judgment); Criminal Case (Magistrates Court, Haifa) 4420/04 *State of Israel v. N. Hadid* (Justice Daniel Fish, 20 February 2008); Beersheba (Magistrates Court, Beersheba) 9064/06 *Abu Shehita v. the State of Israel* (Judge Yisrael Axelrod, 5 March 2008).

**Some actions taken by ACRI to safeguard the right to adequate housing:**

- Membership in the Forum of Organizations for Housing Policy
- Publication of a comprehensive report on violations of the right to housing in Israel (2008)
- Production of an animated film for the Internet about the right to housing (2008)
- Advocacy to promote reform of rental assistance policies and to regulate the private rental market (2008)
- Litigation to prevent the selection of candidates by an admissions committee for a housing project in Tel-Aviv (2008)
- Litigation to demand that housing solutions be found for prisoners before their release (2008)
- Successful advocacy to promote a legislative amendment that will prevent banks from evicting mortgage defaulters from their homes without alternative housing (2008)
- Legal representation of three Palestinian villages with demolition orders against them (ongoing from 2005).
- Successful advocacy to revoke a discriminatory regulation on rental fees in East Jerusalem (2003)
- Legal representation of Palestinian families expelled from the Hebron Hills caves where they have lived for generations (ongoing from 1999)
- Successful litigation to prevent discrimination against Arab citizens in rental assistance (1999)
- Advocacy to ensure the right to present arguments against home demolition orders in the Occupied Territories (1992)

## **Appendix: The Universal Declaration of Human Rights**

**On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights the full text of which appears in the following pages.**

### ***PREAMBLE***

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

**Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS** as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

### ***Article 1***

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

**Article 2**

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

**Article 3**

Everyone has the right to life, liberty and security of person.

**Article 4**

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

**Article 5**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

**Article 6**

Everyone has the right to recognition everywhere as a person before the law.

**Article 7**

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

**Article 8**

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

**Article 9**

No one shall be subjected to arbitrary arrest, detention or exile.

**Article 10**

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

**Article 11**

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

**Article 12**

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

**Article 13**

(1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

**Article 14**

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

**Article 15**

(1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

**Article 16**

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

**Article 17**

(1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

**Article 18**

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

**Article 19**

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

**Article 20**

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

**Article 21**

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

**Article 22**

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

**Article 23**

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

**Article 24**

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

**Article 25**

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

**Article 26**

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

**Article 27**

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

**Article 28**

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

**Article 29**

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

**Article 30**

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

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