



**Report by Adalah to UN Special Rapporteurs and Independent Experts
in response to Joint Questionnaire on COVID-19 and Human rights**

4 July 2020 (resubmitted on 16 July 2020 with major findings)

Adalah – The Legal Center for Arab Minority Rights in Israel is submitting this report in response to a joint questionnaire issued by several Special Procedure mandate holders to inform their upcoming thematic reports to the UN Human Rights Council or the General Assembly on the impact of the COVID-19 pandemic on the enjoyment of human rights.

Adalah is an independent legal center and human rights organization that works to protect the human rights of the Palestinian Arab minority, citizens of Israel, and Palestinian residents of the Occupied Palestinian Territory (OPT). Our contribution to these questions comes from the perspective of our work. Adalah has UN ECOSOC status since 2005.

Basic facts about sub-groups of Palestinians discussed in Adalah's report

Palestinian citizens of Israel (Palestinian Arab minority)

Palestinian citizens of Israel - 1.5 million people, or 20% of Israel's population - are considered a national, ethnic, linguistic, and religious minority under international human rights law. They are part of the wider Palestinian people, who reside in the State of Israel (SoI), the OPT, and abroad. They remained in their homeland, after the 1948 War and the establishment of the SoI. They reside primarily in three areas: The Galilee in the north; the "Little Triangle" in the center; and in the Naqab desert in southern Israel. They are Muslim (83%), Christian (9%), and Druze (8%), and speak Arabic as their native language.

They face institutionalized discrimination from the SoI, which defines itself as a Jewish state. The state has perpetuated wide gaps in the distribution of state resources, further disadvantaging the Palestinian minority in Israel, and has consistently pursued policies of confiscating Palestinians' land, demolishing their homes, and enforcing segregation. Structural discrimination has left Palestinian citizens of Israel particularly vulnerable to the COVID-19 crisis, which is exacerbating the existing gaps.

Palestinian Bedouin citizens of Israel

Bedouin citizens of Israel are a sub-group of the Palestinian minority in Israel. They have been living in the Naqab for centuries, long before the establishment of SoI. Today, approximately 258,500¹ Bedouin citizens of Israel live in the Naqab in three types of settlements: seven government-planned townships, 11 recognized villages, and 35 villages that the SoI refuses to recognize (unrecognized villages). The Bedouins in the Naqab have the highest levels of poverty in Israel; according to the Israeli National Insurance Institute, the poverty rate among Bedouin families was 58.5% in 2016, and a staggering two-thirds of Bedouin families, individuals and children were living beneath the poverty line. These high

¹ Israeli Central Bureau of Statistics, Localities and Population, by District, Sub-District, Religion and Population Group (2.15), 31 December 2017.

figures even underestimate poverty levels among the Bedouin, since the most impoverished group, the approximately 90,000 people living in “unrecognized villages” were not included.

The state pejoratively refers to the 35 unrecognized Palestinian Bedouin villages in the Naqab as “illegal villages”, and to their inhabitants as “trespassers” on state land. These villages do not appear on any official maps. Most unrecognized villages contain little to no health, educational facilities or basic infrastructure, including connection to the national electricity grid, running water, paved roads and sewage disposal systems. Their residents have no representation in the various local governmental bodies and cannot register to participate in municipal elections.² The denial of basic services to the Bedouin in the unrecognized villages is an integral part of the state’s policy of forcibly displacing this group, and aims at making their living conditions so difficult as to compel the Bedouin to abandon their ancestral land and relocate to recognized townships and villages.

Palestinians living under occupation in the West Bank

The total Palestinian population of the West Bank is just under 3 million, 51.3% male and 48.7% female.³ Under international humanitarian law (IHL), these Palestinians are classified as protected persons living under belligerent occupation. The West Bank is characterized by high levels of poverty, ranked at number 174 in 2014 on a list of states worldwide for GDP per capita, with a figure of just US\$ 4,300.⁴ Under military occupation for more than 50 years, Palestinians in the West Bank, including East Jerusalem face progressively deteriorating conditions, including more limited access to water, education, health facilities, and freedom of movement. They live in increasingly isolated communities, cut off by Israel’s system of illegal settlements, military infrastructure, and the Separation Wall. This population includes about 5000 prisoners held in Israeli prisons and detention centers, and classified by the Israel Prison Service as “security prisoners”, a category often used against Palestinians engaged in political activity against the Occupation. It also includes thousands of workers who are granted permission to work in Israel under strict conditions.

Palestinian residents of East Jerusalem

The Palestinian population of East Jerusalem stands at an estimated 451,584.⁵ East Jerusalem is considered occupied territory under IHL. Israel annexed this area in 1967, and imposed Israeli law and sovereignty over its residents and considers the entirety of Jerusalem its “eternal and undivided” capital. Israel has granted these Palestinians the status of permanent residents and not citizenship, but is making continuing and intensifying efforts to establish an overwhelming Jewish majority in Jerusalem, through policies such as land expropriations for apartheid roads and settlements, excluding increasing numbers of Palestinians from Jerusalem via the ongoing construction of the Separation Wall, and revoking the residency status of Palestinians who are unable to demonstrate that their “center of life” is in East Jerusalem.

² “Violations of the ICESCR by Israel against the Arab Bedouin in the Negev/Naqab desert”, Joint NGO Report: UN Committee on Economic, Social and Cultural Rights, Adalah and NCF, January 2019: https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/ISR/INT_CESCR_ICO_ISR_33538_E.pdf

³ Estimated 2019: Palestinian Central Bureau of Statistics, *Estimated Population in Palestine Mid-Year by Governorate, 1997-2021*.

⁴ CIA World Factbook, online version.

⁵ Estimated 2019: Palestinian Central Bureau of Statistics, *Estimated Population in Palestine Mid-Year by Governorate, 1997-2021*.

Major Findings

1. **Excessive use of government-decreed Emergency Regulations:** In its response to the COVID-19 pandemic, the Government of Israel decreed dozens of Emergency Regulations, without the parliamentary oversight required by law. These regulations were presented as “protective measures” against the virus; however, many of these decrees also led to violations of human rights, especially of vulnerable groups. The regulations are based, for the most part, on a national security rationale, instead of being actual protective measures designed to deal with the pandemic as a civilian, medical crisis.
2. **Discrimination in access to medical services, education and economic financial support:** The government acted in a discriminatory manner in making interventions to protect people’s lives and wellbeing, such as equal access to medical services, distance learning, and economic financial support. This discrimination deepened the reality of structural discrimination in all fields of life faced by vulnerable groups, primarily Palestinian citizens of Israel, including the Bedouin, Palestinian residents of East Jerusalem, Palestinian workers from the West Bank, and Palestinian political prisoners incarcerated in Israeli prisons.
3. **Lack of available data on COVID-19 and Palestinian citizens of Israel:** Since the beginning of the COVID-19 crisis, the State has not collected or published comprehensive disaggregated data on COVID-19 and Palestinian citizens of Israel, and much of the data it has provided contains inaccuracies and omissions. For example, the Ministry of Health (MOH) publishes and updates an electronic map on its website to indicate “Points of exposure to confirmed COVID-19 cases”, which provides detailed data on a town-by-town basis including epidemiological investigations and the location of COVID-19 cases with corresponding time data. This map covers only Jewish Israeli towns and the mixed Jewish-Arab cities but contains almost no information about COVID-19 patients in Palestinian, including Bedouin, towns and villages in Israel.
4. **Delayed, limited health-related information in Arabic:** The State of Israel (SoI) is continuing to fail to provide essential, real-time COVID-19 updates and public health information in Arabic. Updates related to the pandemic are issued in real-time only in Hebrew on the MOH's website and other related, official websites. The MOH and other bodies issue Arabic-language updates only after significant delays or not at all.
5. **Large gaps in access to COVID-19 testing, emergency medical services, appropriate isolation centers for Palestinians:** Major gaps were found in access to emergency medical services, COVID-19 testing, and isolation facilities for Palestinian citizens of Israel, including Palestinian Bedouin in Naqab, as well as Palestinian residents of Occupied East Jerusalem compared with Jewish Israelis. After litigation and substantial pressure by civil society and political actors, a minimum amount of health-related services were provided; however, these gaps remained significant during the first wave of the COVID-19, and we are witnessing a lack of preparedness for these groups during the second wave. This reality is especially devastating in Palestinian Bedouin towns in Israel: since the end of May, these towns have topped the list of the worst affected towns in Israel, with an average of 6.5% confirmed positive cases of total tests conducted.
6. **Denial of access to online distance learning for Bedouin children lacking electricity and/or Internet connections:** As a result of the nationwide closure of schools in Israel on 15 March 2020, around 50,000 Bedouin children in unrecognized and recognized villages in the Naqab were unable to participate in online distance learning during the government-enforced lockdown, because they live in villages that the state has not connected to the electricity grid or the Internet. Most also lack access to a computer. The Supreme Court dismissed a petition on the case filed by Adalah and others, based on the government’s declaration of a return to school. However, some of the schools in question contend that they cannot reopen because

they are unable to fulfil the Health Ministry's guidelines, and others are located in coronavirus "hot spots" where schooling has not resumed. As a result, many of these children did not return to school and missed out on months of distance learning.

7. **Insufficient economic measures taken to help Palestinian citizen workers, households, businesses:** The economic measures taken by the SoI to date have not been effective for Palestinian citizens of Israel, for workers or for households, due to existing structural discrimination and socio-economic gaps. The economic support granted was not adjusted to the underlying economic situation of the Palestinian minority in Israel, and did not address its particular needs.
8. **Exploitation of West Bank Palestinian workers in Israel:** The SoI has issued various decisions aimed at keeping the Israeli economy from collapsing, such as defining certain industries as essential. Palestinian workers from the West Bank comprise a significant group of the workers in these industries, such as construction. The regulations issued to keep these industries running, focused on the economic benefits for the Israeli economy as well as on security measures, including monitoring of the workers' movement via a telephone App, and confiscation of their identity cards, as opposed to health and safety.
9. **Lack of representation of Palestinian citizens in National Emergency Committee:** The SoI did not include any Palestinian experts in its National Emergency Committee, and had no clear plan to combat the spread of COVID-19 among Palestinian citizens based on their particular circumstances and needs. Without Palestinian representation and experts in the National Emergency Committee, the SoI did not incorporate the rights and needs of Palestinian citizens into its strategizing and decision-making to combat the pandemic. This reality created a situation in which Palestinian civil society groups, the political leadership, and a newly-formed Arab Emergency Committee had to fight, campaign, submit legal cases, and pressure the authorities in order to ensure that the SOI provides the most basic services, such as COVID-19 tests and access to information in Arabic.
10. **Israeli Supreme Court failed to provide remedies and/or entrench and guarantee rights:** The Supreme Court of Israel (SCT) failed to provide remedies to different Palestinian groups that demanded equal access to health services and protective measures, distance learning, and more. The SCT also did not ensure the protection of vulnerable groups harmed by the Emergency Regulations decreed by the government. The SCT, for example, did not issue decisions in COVID-related prisoners' rights cases, months after the cases were submitted. As a result, prisoners were left exposed to heightened risk of contracting the virus and to rights violations by the prison authorities. The SCT also deleted petitions based on general/partial commitments made by the SoI, avoiding issuing principle rulings on the merits of the cases or on the validity of the rights in question, often without even holding a hearing. Thus, the SCT left broad scope for the state authorities to continue to act in a discriminatory manner and in violation of basic rights.
11. **New process of legislating Emergency Regulations threatens rights and the rule of law:** The SCT's reluctance to deliver substantive rulings that uphold rights and check the accruing of excessive powers to the government, has opened the door to a legislative process that is currently underway in which the government is transforming the Emergency Regulations decreed during the first wave of the virus, into a dozen of bills and potentially laws. Such legislation, if passed, will have a limiting effect on the freedoms and human rights of various groups during the second wave of the virus and thereafter. Several of these bills violate principles of separation of powers and the rule of law, for example by granting the executive sweeping powers to deal with the COVID-19 emergency with limited or delayed parliamentary oversight.

Impact on Human Rights

Question: Please explain the impact of the pandemic on the enjoyment of human rights and what actions have been taken by the State to respect, protect and fulfil human rights?

From the start of the COVID-19 outbreak in Israel, basic rights such as access to testing, health care and social benefits, and civil liberties have been denied on a discriminatory basis to Palestinian citizens of Israel, and in violation of their equal enjoyment of human rights. The government's emergency response has left some Palestinian communities in Israel exposed to the pandemic through substandard protection and limited access to testing and emergency medical services, particularly in the unrecognized Bedouin villages.

In March 2020, Adalah demanded testing centers in Palestinian Arab towns in Israel, and there was some increase in testing at the beginning of April, when testing facilities were made accessible in some major Arab communities and the criteria for testing eligibility were eased. Following that, testing done in Arab towns in April revealed hotspots: the Arab village of Deir Al-Asad in the Galilee and the Bedouin town of Hura in the Naqab both had the highest infection rates of all towns in Israel (source: Israeli Ministry of Health). During the second wave, many Arab towns and neighborhoods have emerged as major hotspots, including Umm al-Fahem, Rahat, Ar'ara, and the Ajami neighborhood of Yaffa (Jaffa).⁶

The Ministry of Health has published and updates an electronic map on its website to indicate "Points of exposure to confirmed COVID-19 cases", which provides detailed data on a town by town basis including epidemiological investigations and the location of COVID-19 cases with corresponding time data, however, this map only covers Jewish Israeli towns and the mixed Jewish-Arab cities.⁷ At the time of this writing, the map contains no information about COVID-19 patients in Palestinian Arab and Arab Bedouin towns and villages in Israel, with minor exceptions including single digit patients in the Arab towns of Kufr Qassem and I'bilin. Data is completely absent for the vast majority of Arab towns and villages, including, for example, the Bedouin township of Hura, one of the country's top COVID-19 "hotspots". The lack of published data concerning Arab towns and villages in Israel is not only an example of structural discrimination against the Palestinian minority in Israel, but also a major public health hazard for the population as of Israel and the OPT as a whole.

The precarious situation of the Bedouin in the Naqab has been exacerbated by the Ministry of Health's policy of collecting data only from the recognized towns, and not from the unrecognized villages, which are home to around 90,000 people. The lack of accurate data and under-reporting of the problem will necessarily result in poor decision-making and the inadequate provision of health care treatment and other solutions for these communities. In parallel, the Bedouin Authority and the Green Patrol are continuing to deliver demolition orders against Bedouin homes and other structures, and orders to raze agricultural land, even in the current exceptional circumstances.

⁶ Ministry of Health, Press Release: The Ministerial Committee for the Designation of "Restricted Areas" Has Decided to Extend the Designation of Neighborhood No. 2 in Ar'ara as a "Restricted Area", 25 June 2020, available at: https://www.gov.il/en/departments/news/25062020_02

⁷ Corona Exposure Locations, MOH (in Hebrew): <https://imoh.maps.arcgis.com/apps/webappviewer/index.html?id=20ded58639ff4d47a2e2e36af464c36e&locale=he&>

The COVID-19 outbreak has brought about a spike in unemployment, peaking at 27.8% in April 2020 (or about 1.15 million people) according to Israel's Employment Service,⁸ and Palestinian Arab citizens are overly-represented in the newly unemployed.⁹ The Palestinian minority in Israel is poorer in financial, medical and technical resources than the rest of the population in Israel, and as a result the damage caused by the outbreak will be more extensive and take longer to recover from.

Another major area of grave concern is access to education, including the lack of access of about 50,000 Bedouin children in the Naqab to remote education via internet connections, computers and tablets, as well as discrimination in access to funding and infrastructure for preparing schools to implement MOH hygiene and social distancing regulations. In response to legal petitions brought before it, including by Adalah, the Israeli Supreme Court has provided no solution for these children, who were left for months on end, since the nationwide closure of schools on 15 March 2020 due to the COVID-19 crisis without access to education. While the government ordered the reopening of schools in early May, dozens of cities and towns did not reopen on time or reopened and closed due to the discovery of COVID-19 cases. Now, the Israeli school system has entered the summer vacation period, and these Bedouin children will not now receive any formal education until September at the earliest.

Palestinian prisoners held in Israeli prisons and detention centers - particularly 4,200 individuals, predominantly from the OPT, classified by the Israel Prison Service as security prisoners - are being left isolated from the outside world and with little to no protection. Adalah has several pending prisoners' rights cases before the Israeli Supreme Court, covering demands for their access to visits/telephone calls by family members and lawyers, overcrowding problems, and the lack of adequate hygiene and sanitation, which the court has yet to resolve.

Question: Are there any measures put in place in your country following the pandemic which have had a limiting effect on human rights? If so, please list them, provide an explanation for their adoption and indicate the time-frame by which they will be lifted?

The Israeli government has and continues to resort to a large number of emergency regulations (ER) during the crisis. From late January 2020 onwards, the Israeli executive began to issue emergency regulations with the declared objective of halting the spread of the COVID-19 pandemic. Many of these regulations, which have had a limiting effect on human rights, include that which:

- Authorize the Shin Bet ("Shabak", GSS or ISA) intelligence services to engage in tracking and monitoring of citizens through various technological means, including cellphone surveillance (ER expired; government justified practice based existing law, which was rejected by the Supreme Court; new temporary legislation enacted July 2020 for 21 days);¹⁰
- Allow Israeli employers to dismiss pregnant women, women undergoing fertility treatments, women on maternity leave and 60 days thereafter without special permission

⁸ See: <https://www.haaretz.com/israel-news/business/economy-finance/.premium-panicky-response-to-israel-s-unemployment-surge-leaves-existing-problems-to-fester-1.8891468> (3 June 2020)

⁹ See: <https://omny.fm/shows/j-post/coronavirus-unemployment-crisis-deepening-for-arab%20>, 24 May 2020

¹⁰ HCJ 2109/20, *Adv. Shahar Ben Meir v. Knesset* (court joined with HCJ 2135/20, *ACRI v. Prime Minister*, HCJ 2141/20, *Adalah and the Joint List v. The Prime Minister, et. al* and HCJ 2187/20, *The Journalists' Union in Israel v. Prime Minister*). See Adalah's analysis of the Shin Bet coronavirus cellphone surveillance case, available at: https://www.adalah.org/uploads/uploads/Adalah_Initial_Analysis_Shin_Bet_Corona_Surveillance_Case_Final_04.05.2020.pdf

from the Ministry of Labor (expired and not renewed however, thousands of women were sent to leave);¹¹ and

- Permit the Israeli public security minister, at the recommendation of the Israel Prison Service (IPS) director or the Israeli police commissioner, to ban visits to prisoners and detainees and limit prisoners' consultation with a lawyer to telephone calls only with many restrictions (case pending; legislation in this regard now pending).¹²

As noted, Adalah filed petitions to the Israeli Supreme Court against these specific emergency regulations, arguing that they violated fundamental rights. These three petitions argue that the Emergency Regulations were decreed without legal authority, and constitute a disproportionate violation of rights.

In addition to the three specific cases, Adalah, together with the Joint List political party, also filed a general petition to the Supreme Court on 5 April 2020 challenging the government's authority – overall - to decree emergency regulations, without oversight by the Knesset, Israel's legislative body.¹³ While there was a period during which there was no Knesset (Israel held national elections on 2 March 2020, which were inconclusive), the Government continued to issue emergency regulations even after the Knesset resumed operations on 26 March 2020, thereby removing any practical obstacle to the exercise of its legislative authority both to examine the validity of the emergency situation and to enact primary legislation, as needed.

The petitioners argued that the government's continued imposition of these emergency regulations is exceeding the limits of its authority and that the Knesset must be involved in legislating laws related to coronavirus issues. During the period of the COVID-19 pandemic, the government has imposed more emergency regulations than at any other time in the history of Israel, which has been in an official "state of emergency" since 1948. Adalah contends, however, that this state of emergency applies to national security and cannot be relied upon for the imposition of scores of emergency regulations now related to the coronavirus health crisis. While there have been two hearings on the case, the petition remains pending over the last three months, with no decision yet by the Supreme Court regarding the government's authority to approve Emergency Regulations, as such.

New legislation to regulate the COVID-19 emergency

Currently, a new bill designed to regulate the COVID-19 emergency is in the process of being legislated by the Knesset as a temporary order, which would grant sweeping powers to the Government. The proposed COVID-19 emergency legislation grants the Executive the power to declare a state of emergency as well as to enact associated regulations, which would entail extreme restrictions on basic rights in all spheres of life, with ineffective supervision by the Knesset and almost no guidelines as to the manner in which these powers may be exercised.¹⁴

¹¹ HCJ 2486/20 MK Aida Touma Sulieman and Adalah v. The Prime Minister (court joined HCJ 2499/20, *The Women's International Zionist Organization (WIZO) et al. v. The Prime Minister*). See Adalah press release: <https://www.adalah.org/en/content/view/9993>

¹² HCJ 2282/20, *Attorney Abeer Baker, et. al. v. The Prime Minister* (case pending) (court joined with HCJ 2280/20 *Nawal Ghanem et. al v. Israel Prison Service*)

¹³ HCJ 2141/20, *Adalah and the Joint List v. The Prime Minister, et. al* (case pending).

¹⁴ On 30 June 2020, Adalah sent a position paper on the Special Powers to Deal with the Novel Coronavirus (Temporary Order) Bill, 2020 to Knesset Constitution and Law Committee in advance of their discussion of the bill (Hebrew). On file with Adalah.

Declarative powers of a state of emergency

The bill vests the power to declare a coronavirus-related state of emergency in the hands of the executive. The condition in which a state of emergency may be declared is defined in the bill as “a high probability of the spread of the coronavirus at a level that threatens public health”,¹⁵ which is an overly broad and subjective parameter. The bill does not require the executive to ground its declaration on an expert opinion (e.g. of epidemiologists), nor does it define the level of threat to public health that would warrant such declaration.

Enactment of regulations

Under the bill, the Government may enact single regulations in response to a declared state of emergency, “if it is convinced that this is required in order to prevent infection by the virus, to contain its spread, or to protect populations at risk”.¹⁶ Again, the criteria for enactment are vague and subjective, giving rise to fears of arbitrary decisions by the executive. This is all the more likely to happen since the procedure to enact such regulations is not specified in the bill, and it is left to the executive to define it, with no requirement of transparency regarding the grounds upon which each measure is deemed necessary. Moreover, the bill does not establish any progressive mechanisms of implementation that condition the resort to more extreme measures on the severity of the danger the coronavirus poses at any given time.

One of the most problematic provisions is §11 of the bill, relating to enforcement. This section allows the Government to define new criminal offences, without the prior approval of the Knesset, as is normally required by §2(b) of the Israeli Penal Code. Equally concerning is an article that imposes automatic limitations on the “restricted zones”,¹⁷ leaving the ministerial committee the power to reduce these limitations only as a retroactive corrective measure.

Policies that have a limiting effect on human rights and that have been authorized in the previously-passed COVID-19-related emergency regulations, now find their place in the proposed primary legislation. Such policies include authorizing the executive to empower the police and other non-police authorized agents to demand information, documents and detain individuals; to enter any place (except for private homes), including parked vehicles, as a general measure, without requiring necessity or proportionality or standards of reasonableness; and to use force without a statement that it cannot be used in a way that could threaten people’s life, limb or health.¹⁸

Ineffective checks on executive powers

The bill grants the executive wide discretion to decide what constitutes a state of emergency and what measures to utilize to deal with it. These acts are not contingent on prior approval by the Knesset, which is given only subsequent supervisory powers. In theory, the bill grants the Knesset the power to reverse a declaration of a state of emergency and calls for the *ex-poste* approval of governmental regulation. In effect, however, the approval process of the regulations anchored in §3(d) may take up to 17-24 days (depending on the measures adopted), during which the regulations are in force.

This is particularly problematic due to the fact that a later, instead of a prior, approval process may result in the entry into force of regulations that impose severe restrictions onto the public by which it must abide, only to be potentially reversed shortly thereafter by the Knesset,

¹⁵ Special Powers to Deal with the Novel Coronavirus (Temporary Order) Bill, 2020, §2.

¹⁶ Ibid. §3.

¹⁷ Ibid. §13.

¹⁸ Ibid. §26(2) and (3), §28(4) and (6).

leading the government to reintroduce new measures, which will themselves be subject to the same approval process. This back-and-forth will no doubt amplify the already existing uncertainty for those who are subject to these regulations, and promotes confusion as to the expected conduct, especially vis-à-vis the regulations entailing criminal and administrative punitive measures.

Thus, rather than providing a legislative check on the measures taken, in accordance with the principle of the separation of powers, the bill merely puts in place a formal framework of authorization that seeks to further ease the Government's ability to act and to confirm the controversial policies that were pursued prior to its enactment. If passed in its current form, it would provide a legal rubber stamp to the extreme and questionable measures adopted by the government via dozens of emergency regulations enacted up until this point. This is all the more of concern, since the mere passage of the proposed law – and regardless of the threat level the virus poses on the day of its enactment – would itself result in the entry into force of a state of emergency for 30 days,¹⁹ a period that can be extended for 45 days each time for up to ten months.

Statistical information

Question: Please share any information and data on the availability of health services to ensure access to testing, personal protective equipment and treatment. Please specify to what extent supply issues, economic, social or other barriers have limited access to testing, personal protective equipment and health care services, in particular for persons belonging to particular racial or ethnic groups, indigenous peoples, older persons, persons with disabilities, LGBT persons, persons living in poverty or in situation of homelessness, migrant workers, or persons without legal residency status.

This section (subsection on “Ineffectiveness of state measures taken vis-à-vis Palestinian citizens of Israel”) also contains information relevant to the following question:

Social protection

Question: Please provide information on implemented and planned adjustments to the social safety net in response to the crisis, to ensure that individuals who lost all or part of their income as a consequence of the pandemic have access to sufficient nutrition, housing, water and sanitation, health care, energy and other essential goods and services? How has the State ensured fair and equitable access to social safety net measures across lines of race, gender, sexual orientation and gender identity, membership of indigenous peoples, and others?

As of 3 July 2020, the Israeli Ministry of Health (MOH) reports that 27,611 people have tested positive for the coronavirus in Israel and 326 people have died.²⁰ A second outbreak is underway, which has led to the imposition of new restrictions in specific areas called “hotspots”, and new restrictions on public gatherings, in general.

Since the beginning of the COVID-19 crisis, the SoI has published general data on the number of people who have tested positive and who have died. However, the State has not collected or published detailed, disaggregated data on COVID-19 and Palestinian citizens of Israel, and much of the data it has presented contains inaccuracies and omissions. The available data is not sufficient to understand the specific situation of various groups.

¹⁹ Ibid. §41.

²⁰ Ministry of Health, “COVID-19 Pandemic in Israel - General Update” (in Hebrew) <https://datadashboard.health.gov.il/COVID-19/>

No disaggregated data by nationality, no data on small communities

The MOH publishes a daily update on COVID-19 town-by-town, which includes the number of residents in each town, the total number of COVID-19 cases, the percentage of new cases, the number of people who recovered, and the number of tests conducted.²¹ However, this daily update does not reflect the actual and accurate numbers of COVID-19 cases and the number of tests conducted among Palestinian citizens of Israel. The data published is not categorized based on nationality, and therefore the numbers show the situation of Palestinians in Israel *only* for those who live in Palestinian villages and towns in Israel; it does not include accurate data on the significant numbers of Palestinian citizens of Israel who live in mixed Jewish and Arab cities (such as Haifa, Acre, and Ramleh). This population suffers from systematic discrimination in these cities; they often live in segregated, overcrowded and poorer neighborhoods of the city that lack adequate health and social services, which puts them at a higher risk of contracting the disease.²²

Tellingly, a map published and updated by the MOH, indicating “Points of exposure to confirmed COVID-19 cases”, provides detailed data on a town by town basis including epidemiological investigations and the location of COVID-19 cases with corresponding time data, but only covers Jewish Israeli towns and village and the mixed cities.²³ However, at the time of this writing, the map contain no information about COVID-19 patients in Arab and Arab Bedouin towns and villages in Israel, with minor exceptions including single digit patients in the Arab towns of Kufr Qassem and I’bilin. Data is completely absent for the vast majority of Arab towns and villages, including, for example, the Bedouin township of Hura, one of the country’s top COVID-19 “hotspots”. The lack of published data concerning Arab towns and villages in Israel is not only an example of structural discrimination against the Palestinian Arab minority in Israel, but also a major public health hazard for the population in Israel and the OPT as a whole.

Additionally, from March to early May 2020, the daily MOH update excluded data on dozens of towns with a population of under 5,000 residents;²⁴ the data on these towns were presented together, with no division according to town or nationality. The lack of specific information on these towns was especially damaging because it was a crucial period for mapping the pandemic’s spread in different towns and across different communities in order to formulate specific interventions in communities under heightened risk.

Today, the data regarding Palestinian citizens of Israel remains unclear because the MOH is still not publishing data about mixed-cities according to nationality, and does not publish any specific data on towns with less than 2,000 residents. The contagious nature of the virus requires detailed, complete data regarding specific cases, their specific location, and numbers broken down to the level of village/town and nationality, in order to make the public aware and to most effectively contain its spread.

²¹ Ibid.

²² Regarding systemic discrimination in mixed cities in general, see The Israeli Democracy Institute (IDI), “Mixed cities, without equal opportunities”, 9 January 2019 (Hebrew): <https://www.idi.org.il/articles/25585>

²³ Corona Exposure Locations, MOH (in Hebrew):

<https://imoh.maps.arcgis.com/apps/webappviewer/index.html?id=20ded58639ff4d47a2e2e36af464c36e&locale=he&>

²⁴ On 6 April 2020, Adalah sent a letter to the Ministry of Health (MOH) demanding the publication of the number of confirmed coronavirus cases in towns with less than 5,000 residents. Following our letter, in mid-April the MOH amended the regulation and Arab local councils with under 5,000 residents were able to request the data from the Ministry. From early May 2020, the data has been published for towns with a population of over 2000 residents. Adalah’s letter (Hebrew) is available at:

<https://www.adalah.org/uploads/uploads/corona%20small%20towns.pdf>

Lack of data on Palestinian Bedouin citizens of Israel in the Naqab

Israel systematically fails to collect specific, detailed data on Palestinian Bedouin citizens of Israel, leaving them absent from many relevant surveys, statistical reports and other sources of data. The data collected by the Israeli Central Bureau of Statistics (CBS) has not included the Bedouin in its expenditure surveys between 2012 and 2015, for example.²⁵ Often, the state mentions the Bedouin only as part of the larger category of Palestinian citizens of Israel, and state sources may decide to include or exclude the Bedouin from different volumes of their regular statistical reports, leading to gaps and inconsistencies.

During the COVID-19 crisis, the lack of data collection by the SoI has hampered the process of monitoring cases, testing and other issues among Bedouin citizens of Israel. Bedouin communities were particularly affected by the SoI's policy of not publishing data on towns with under 5,000 and later 2,000 residents in the daily MOH update, since the majority of Bedouin towns and villages fall within these categories. Further, there was no data published on the 90,000 Palestinian Bedouin living in the 35 unrecognized villages. These villages are excluded from any governmental documents, reports and maps as a matter of policy, as the SoI does not recognize them. This community is under heightened risk during this health emergency, due to the lack of accessible health care, emergency medical services, water, sanitation, and the overcrowded, shanty-like structures in which most of the community lives.

The Arab Emergency Committee, Civil Society Organizations and the Palestinian Leadership in Israel to Counter State Inaction

In March 2020, Palestinian medical experts and others formed an emergency team under the auspices of the Arab Mayors Committee to fight against the coronavirus in the Palestinian community in Israel (hereafter: The Arab Emergency Committee). This team was formed because of the lack of state action, early on, to ensure access to adequate health information, health care, emergency medical services and testing.

Israel's national emergency team in charge of the country's COVID-19 response lacked representation of Palestinians in the Israel, and was built on the existing security emergency systems (e.g., military, state security apparatus) and therefore excluded Palestinian citizens.

The Arab Emergency Committee, along with civil society organizations and the Palestinian political leadership in Israel took a major role in undertaking work that the State did not do, including assessing and managing the data published by MOH and mapping the spread of the virus, and the tests provided (or not provided) to the community.

At the end of March 2020, a few weeks after the outbreak of COVID-19 in Israel, Palestinian health experts started warning that the number of cases among Palestinian citizens of Israel was suspiciously low (1%).²⁶ This data was surprising as the Palestinian community is a high risk population, due to the relatively high percentage of people suffering from chronic illnesses, their overcrowded living conditions, and their poor average socio-economic conditions. This unexpectedly low rate of recorded cases corresponded with fact that at the

²⁵ Israeli Central Bureau of Statistics, *Household Expenditure Survey 2016- Introduction - General, Main Findings, Survey Methods, Definitions and Explanations*, p. 17, available at: https://www.cbs.gov.il/he/publications/doclib/2019/1719/intro_e.pdf

²⁶ Jack Houry and Nir Hasson, "Israel's Coronavirus Blind Spot: The Arab Community," 29 March 2020: <https://www.haaretz.com/israel-news/.premium-israel-s-coronavirus-blind-spot-the-arab-community-1.8720161>

end of March, there had been almost no coronavirus testing in Palestinian villages and towns in Israel.²⁷

At the beginning of the COVID-19 outbreak in Israel, testing was carried out by the Magen David Adom (MADA) emergency medical service, and this testing was then supplemented by drive-in testing centers only in four major cities. However, the MADA often refuses to enter Palestinian towns and villages in Israel, and as a policy does not enter unrecognized villages in the Naqab.²⁸ In addition, there are no public hospitals in any Palestinian towns in Israel, and only a number of small private European hospitals in the town of Nazareth that were underprepared to treat COVID-19 patients.²⁹ There are no MADA centers in these towns, and instead emergency medical services are mostly provided by private companies (600 ambulances); earlier on in the pandemic, the employees of these companies were not trained in COVID-19 testing or in the proper evacuation of patients.³⁰

On 30 March, after demands by Adalah,³¹ other civil society organizations, and the Palestinian political leadership in Israel, some mobile testing centers began operating in several Arab towns.³²

Question: Please provide us with data indicating the social-economic impact of the economic downturn triggered by COVID-19 such as changes to household income, increase of unemployment, access to food and traditional livelihoods, poverty or homelessness in your country, region or locality, disaggregated by nationality, race, ethnicity, age, gender, sexual orientation and gender identity, disability, religion or immigration status.

Effect on the Israeli economy as a whole

The Israeli economy is facing a severe recession this year as a result of the COVID-19 crisis: The Bank of Israel expects GDP to contract by 4.5%, while the OECD puts the decrease by at least 6.2%. As a result of the COVID-19 crisis, the accumulative budget deficit from January through May 2020 stands at NIS 46.2 billion (about US \$13.5 billion), compared with a deficit of NIS 15.1 billion (about US \$4.4 billion) during the same period last year. The economy should recover but only gradually, as GDP and unemployment levels are not expected to bounce back to pre-crisis levels, even by the end of 2021. The main measures taken by the government to mitigate the crisis include: broadened eligibility for unemployment benefits, grants to companies to rehire furloughed workers, direct payments to vulnerable groups such as the elderly, families with children and the self-employed, as well as

²⁷ Dr. Nihaya Daoud, "The Reluctance to Test Israeli Arabs for COVID-19 Is a Ticking Time-bomb," *Haaretz*, 31 March 2020: <https://www.haaretz.com/opinion/.premium-israel-pays-a-price-for-ignoring-the-arab-community-in-its-coronavirus-response-1.8729117>

²⁸ Ibid.

²⁹ On 29 March 2020, Adalah and Arab Knesset Member Aida Touma-Sliman sent a letter to Israeli Health Ministry demanding Nazareth hospitals be properly equipped to effectively treat coronavirus patients. Letter (Hebrew) available at: <https://www.adalah.org/uploads/uploads/nazarith%20hospitals%20letter.pdf>

³⁰ Ibid.

³¹ Letters sent by Adalah demanding access to coronavirus testing in Arab towns (Hebrew), available at: https://www.adalah.org/uploads/uploads/MOH_letter_220320.pdf (22 March 2020); https://www.adalah.org/uploads/uploads/Triangle_corona_letter230320.pdf (23 March 2020); <https://www.adalah.org/uploads/uploads/Naqab%20tests.pdf> (29 March 2020); and https://www.adalah.org/uploads/uploads/drive_in_triangle_300320.pdf (30 March 2020).

³² Jack Khoury and Nir Hasson, "Israel Ramps Up Coronavirus Testing in Arab Cities Where Infection Rate Relatively Low," 2 April 2020: <https://www.haaretz.com/.premium-israel-ramps-up-covid-19-testing-in-arab-cities-where-infection-rate-relatively-low-1.8729607>

a temporary reduction in property taxes and subsidies to small businesses to cover fixed costs.³³

Disparate impact of COVID-19 on Palestinian municipalities and small businesses in Israel

Since the outbreak of the COVID-19 crisis in March 2020, the Arab municipalities have lost about NIS 70 million (US \$20 million) every month, with a total expected loss of NIS 210 million (US \$60 million). Municipal expenses have increased during this period as local authorities have worked to fight the virus.

Existing Israeli municipality tax laws lead to budget discrimination against Arab municipalities since – in the absence of industrial zones and business complexes – the bulk of Arab municipal income comes only from residential property taxes.

On 7 April 2020, the Knesset amended the Basic Law: State Economy to approve an emergency budget allocation, but the government provided aid to local councils for loss of commercial municipal taxes without considering the loss of residential taxes, resulting in discrimination against Arab municipalities. According to these formulae, Arab municipalities were slated to receive just 1.7 percent of aid provided to all municipalities nationwide, while Arab citizens comprise 20% of the population.

Adalah, on behalf of the National Committee of the Heads of Arab Local Authorities in Israel (The Arab Mayors' Committee) filed a petition to the Israeli Supreme Court demanding equitable budgets for Arab municipalities to mitigate financial damages caused by the coronavirus crisis.³⁴ Adalah argued that the existing budget criteria would lead to severe economic harm and to a potential financial collapse of Arab towns, jeopardizing the provision of essential public services. It was only in response to this legal action that the authorities agreed to increase budget allowances to Arab towns, and later, the Knesset Finance Committee confirmed NIS 200 million (US \$57.2 million).³⁵

Small businesses (which were almost totally closed down for two months) suffered more damage by the coronavirus crisis than large businesses, and about 89% of Arab-owned businesses are small businesses, compared to 83% among the Israeli Jewish population. 67% of retail trade businesses and 45.4% of the construction industry reported over 50% damage to business revenue in April 2020, and 57% of Arab-owned businesses are in retail trade and construction.³⁶

According to data from the Small and Medium Business Agency, in March-April 2020, approximately 2,400 requests financial assistance for business were received from Palestinian

³³ Israeli Ministry of Finance, "Preliminary estimate of budget execution and government deficit and funding: May 2020" (Hebrew); Bank of Israel, "Research Department Staff Forecast, May 2020" (Hebrew); and OECD, "Israel Economic Snapshot-Economic Forecast Summary (June 2020).

³⁴ HCJ 2936/20, *The National Committee of the Heads of Arab Local Authorities v. The Prime Minister, et. al.* (petition withdrawn)

³⁵ Adalah Press Release, "Adalah, Arab mayors petition Israeli Supreme Court to demand equitable budgets for Arab towns confronting COVID-19 financial damage," 11 May 2020: <https://www.adalah.org/en/content/view/10007>

³⁶ The Knesset Research and Information Center, "The effects of the Coronavirus crisis on employment and businesses in the Arab community", 11 May 2020, p. 17, available in Hebrew at:

<https://www.nevo.co.il/ancayot/בנסת%20ישראל/מסמכי%20מרכז%20המחקר%20והמידע/השפעות%20משבר%20נגיף%20קורונה%20על%20התעסוקה%20והעסקים%20במגזר%20הערבי.pdf>

Arab citizens, twice the number in the corresponding period last year.³⁷ As of May 2020, of the 25,000 approved State guaranteed loans, only 11%, around 2,700, were approved for businesses in the Palestinian Arab community.³⁸

Ineffectiveness of state measures taken vis-à-vis Palestinian citizens of Israel

Economic measures taken by the government to date were not effective for Palestinian citizens of Israel, for workers or for households, due to existing structural discrimination and socio-economic gaps.

Palestinian citizen workers

Significant numbers of Palestinian citizens of Israel are not employed as permanent employees, and are therefore relatively more vulnerable to being laid off during the COVID-19 crisis.³⁹ During the COVID-19 crisis, this short-term employment affected the eligibility of many Palestinian workers to receive unemployment benefits, which are contingent on the worker having been employed for a minimum period prior to receiving the benefits.⁴⁰

Eligibility for unemployment benefits depends in large part on the age of the claimant, which also determines the duration of time for which the benefits are payable, as well as the amount paid. A large number of Palestinian citizen workers who were fired or who otherwise lost their jobs during the COVID-19 were young people.⁴¹

The Israeli National Insurance Law – 1995, limits eligibility for unemployment benefits to persons who are 20 years of age or older; workers under the age of 20 are generally not eligible to receive these benefits. Furthermore, the younger the claimant, the lower the percentage of their wages covered by benefits, and the shorter the time period of coverage. For example, individuals under 28 years of age receive up to only 60% of their income as benefits, while those over 28 may receive up to 80% of their monthly income.⁴²

In the context of the COVID-19 crisis, Adalah sent letters to the Minister of Labor, Social Affairs and Welfare Services seeking to lower the age of eligibility for unemployment benefits to include 18 and 19-year-olds.⁴³ Adalah argued that the receipt of these benefits, during this time of crisis, is crucial as poverty-stricken families are often reliant on the income of all working members of the family, including those aged 18 and 19 years. Further, Palestinian families in Israel are among the most badly affected, as they suffer from higher

³⁷ Around 740 of these inquiries requested assistance in the application process for credit for their businesses. The Knesset Research and Information Center, “The effects of the Coronavirus crisis on employment and businesses in the Arab community”, 11 May 2020, p. 1.

³⁸ Protocol of Knesset’s Special Committee on Welfare and Labor Affairs, 18 May 2020, p. 2

³⁹ The Workers’ Hotline, “Arabs in the Labor Market: Workers without Rights,” 2014 (Hebrew): <https://www.kavlaoved.org.il/wp-content/uploads/2014/12/HEB-book-NET.pdf>

⁴⁰ Israeli National Insurance Institute, Eligibility Conditions- Unemployment (Hebrew): <https://www.btl.gov.il/benefits/Unemployment/Pages/zakaut.aspx>

⁴¹ Information provided to Adalah by The Arab Economic Forum, Shefa-Amr, Israel.

⁴² Israeli National Insurance Institute “For how long are unemployment benefits granted? (Hebrew): https://www.btl.gov.il/benefits/Unemployment/Pages/tkufat_zakaut.aspx

See also: Israeli National Insurance Institute, “Benefits Amount - Unemployment” (Hebrew): <https://www.btl.gov.il/benefits/Unemployment/Pages/sum.aspx>

⁴³ Adalah’s letter, sent on 2 April 2020 to the AG and the Minister of Labor, Social Affairs, and Social Services, available at (Hebrew): <https://www.adalah.org/uploads/uploads/Unemployment.pdf>
Adalah’s second letter, sent on 12 May 2020 to the Ministry of Justice, the Minister of Labor, Social Affairs, and Social Services, and the National Insurance Institute, available at (Hebrew) : <https://www.adalah.org/uploads/uploads/Second%20Letter%20Unemployment.pdf>

poverty rates than the general population.⁴⁴ The Minister of Labor and Welfare has discretion to expand eligibility for the benefits under Article 160 (d) of the National Insurance Law.

Adalah further argued that the denial of unemployment benefits to adults under the age of 20 discriminated against members of the Palestinian Arab minority in Israel not only on the basis of age, but also on the basis of nationality, both because they are most badly affected by poverty, and also because, unlike their Jewish counterparts, the majority of Arab citizens of Israel are exempt from and do not perform compulsory military service from the age of 18. Given that most Jewish youth enter the labor market from the age of 20 onwards – after military service – the main group affected by the restriction are young Palestinian Arab citizens and their families.

The Ministry's responses to Adalah's letters demonstrate its lack of willingness to alter the criteria of eligibility for this age group for the purposes of alleviating the socio-economic impact of the COVID-19 crisis for Palestinian citizens of Israel. In the responses the state authorities admit that one of the reasons why the law does not grant unemployment benefits to individuals under 20 years of age is the fact that these are the years at which military service is performed, and hence there is no need to grant unemployment benefits for this group.

Entrenching poverty among Palestinian citizens of Israel

Prior to the crisis, the average net income of Jewish Israeli households was 55% higher than that of Palestinian households in Israel, and the wage gap between the Jewish Israeli and Palestinian citizens in Israel was 50%-60%.⁴⁵ The COVID-19 crisis exacerbated the already high relative poverty rates among Palestinian households in Israel: while 45.3% of Palestinian households in Israel lived below the poverty line prior to COVID-19, the figures had risen 48.9% by mid-May 2020, with more than 13,000 families now falling below the poverty line, due to large numbers of dismissals and employees being placed on unpaid leave. A further 9,000 families remain just above the poverty line, only as a result of the government's intervention to mitigate the crisis. By comparison, the poverty rate among Jewish Israeli families had risen marginally increased from 13.4% prior to the COVID-19 crisis, to 14.4% by mid-May.⁴⁶

The severe economic damage to Palestinian families in Israel continues to increase, as many workers remain unemployed after the first wave of COVID-19.

Disparate impact of COVID-19 based on labor force sector

According to data from the Knesset Research and Information Center, Palestinian citizens of Israel are over-represented in industries that have seen high rates of dismissals and unpaid leave as a result of the COVID-19 crisis.⁴⁷ Fewer Palestinian citizens of Israel work in more protected industries, such as the high-tech and financial services sectors.

⁴⁴ According to the National Insurance Institute, poverty rates among Arab families stood at 45.3% in 2018, 47.3% among Arab individuals, and 57.85% among Arab children. National Insurance Institute, Research and Planning Department, Dimension of poverty and social gaps, Annual Report 2018, Table 12, p. 28, December 2019.

⁴⁵ The Knesset Research and Information Center, "The effects of the coronavirus crisis on employment and businesses in the Arab community," 11 May 2020 (Hebrew): https://fs.knesset.gov.il/globaldocs/MMM/8b8b2270-1078-ea11-8113-00155d0af32a/2_8b8b2270-1078-ea11-8113-00155d0af32a_11_13831.pdf

⁴⁶ Information provided to Adalah by "The Arab Economic Forum", Shefa'amr, Israel.

⁴⁷ The Knesset Research and Information Center, "The effects of the coronavirus crisis on employment and businesses in the Arab community," 11 May 2020 (Hebrew)

According to a recent survey conducted by the Israeli Central Bureau of Statistics (CBS), COVID-19 has had disparate impacts on different industries. For example, in the high-tech industry, in which Palestinian citizens of Israel constitute only 2.1% of the workforce, the unemployment rates stood at 13.9%. However, in other industries with a greater percentage of Palestinian citizen workers, the unemployment rates are far higher, for example: 50% in retail trade, 29.8% in construction, and 26.7% in industrial work.⁴⁸

The Israeli Employment Service, a state body, estimates that about 34% of Palestinian citizen workers were dismissed or put on unpaid leave during the first two months of the COVID-19 crisis, compared to 23% of Israeli Jewish workers.⁴⁹ Additionally, according to data published by the Israeli Employment Service, 12% of newly-unemployed Palestinian Bedouin citizens are also claimants of basic income guarantee payments, a rate 3.5 times higher than that of the general population in Israel.⁵⁰

Protection of various groups at risk and indigenous peoples

Question: What measures have public authorities taken to protect high-risk populations from COVID-19, including: a) health care and social workers, b) older persons, c) other persons with a possibly reduced immune system such as indigenous peoples, or persons living with HIV, d) detained and incarcerated persons, including persons under state custody; e) persons living in care homes, f) children and adults living in institutions, camps, shelters or collective accommodation, g) persons with disabilities, h) homeless persons; i) persons living in informal settlements or overcrowded homes; j) refugees, IDPs and k) migrant workers.

Question: Can you inform us about particular measures taken to mitigate the impact of the COVID-19 pandemic for communities and groups subject to structural discrimination and disadvantage?

This section (subsection on “Inaccessibility of online, remote education”) also contains information relevant to the following question:

Internet

Question: The internet and social media were increasingly used for work, education, shopping for food and other goods, awareness raising sharing of information, freedom of expression, religious ceremonies, cultural and social interaction, consultation and political decision making. What challenges and obstacles has the pandemic highlighted in terms of access for all to internet? Has the recent situation given rise to increased violations of human rights, mobbing and bullying online? If so, how was this addressed?

During the Covid-19 pandemic, the State of Israel took insufficient measures to protect high-risk populations from the COVID-19 pandemic. Many measures that it did take came as the result of legal interventions before the Israeli Supreme Court and state authorities, and significant pressure by the Arab Emergency Committee and the Arab political leadership in Israel. Due to the lack of effective measures to protect Palestinians at risk, Adalah brought numerous legal cases before the Israeli Supreme Court and sent legal letter to state authorities in order to secure some protection for at-risk groups including:

⁴⁸ The Knesset Research and Information Center, “The effects of the coronavirus crisis on employment and businesses in the Arab community,” 11 May 2020 (Hebrew)

⁴⁹ Information provided to Adalah by The Arab Economic Forum, Shefa-‘Amr, Israel.

⁵⁰ “Employment Service: How the coronavirus worsened the situation of Bedouins in Naqab,” 24 May 2020 (in Hebrew): <https://www.calcalist.co.il/local/articles/0,7340,L-3826471,00.html>

- Palestinian Bedouin citizens of Israel living in unrecognized villages in Naqab,
- Palestinian political prisoners (predominantly from the OPT), and
- Palestinian West Bank workers in Israel.

Palestinian Bedouin citizens of Israel living in Unrecognized Villages in Naqab

One of the most at-risk groups is the Palestinian Bedouin citizens of Israel living in Naqab, and most significantly those living in the unrecognized villages. These citizens of Israel have faced decades of structural discrimination and racism by the SoI, including the policies of forced displacement and forced urbanization.

The state refers to the 35 unrecognized Palestinian Bedouin villages in the Naqab as “illegal villages”, and to their inhabitants as “trespassers” on state land. These villages do not appear on any official maps. Most unrecognized villages contain no health, educational facilities or basic infrastructure, including connection to the national electricity grid, running water, paved roads and sewage disposal systems. Their residents have no representation in the various local governmental bodies and cannot register to participate in municipal elections.⁵¹ The denial of basic services to the Bedouin in the unrecognized villages is an integral part of the state's policy of trying to forcibly displace them, and aims at making their living conditions so difficult as to compel the Bedouin to abandon their ancestral land and relocate to recognized townships and villages. The COVID-19 crisis has a particularly grave impact on this group, who are dealing with the pandemic while also living in fear of the implementation of home demolition and evacuation orders.

The deliberate denial of basic services severely limits the ability of the Bedouin population to protect their health from the spread of COVID-19, e.g. lack of clean running water, electricity, sewage disposal, paved roads, emergency health services, medical clinics, and more. Additionally, the overcrowded living conditions in these villages make it very difficult for people to isolate themselves. Most of the 11 Palestinian Bedouin villages that the SoI recognized from 1999 onwards remain in an almost identical condition to the villages that remain unrecognized, almost two decades after they gained official recognition from the state. All of the seven Bedouin government-planned townships are characterized by poverty, deprivation, high unemployment, crime and social tension, as well as inadequate provision of state services. Since the last week of May, these towns now top the list of highly-impacted towns in Israel, with an average of 6.5% confirmed positive cases of the total tests conducted.⁵²

In the absence of effective measures taken by the state to assist the Bedouin population in protecting itself from the COVID-19 pandemic, Adalah submitted three petitions to the Israeli Supreme Court dealing with the health and education rights of the Bedouin. None of these cases have resulted in a decision by the Supreme Court ordering the state to take positive measures.

⁵¹ “Violations of the ICESCR by Israel against the Arab Bedouin in the Negev/Naqab desert”, Joint NGO Report: UN Committee on Economic, Social and Cultural Rights, Adalah and NCF, January 2019:

https://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/ISR/INT_CESCR_ICO_ISR_33538_E.pdf

⁵² “The high morbidity rates among the Bedouin population in the Negev also continued last week,” The National Center for Knowledge and Information for Corona Campaign, 22 June 2020 (in Hebrew):

https://www.gov.il/BlobFolder/reports/research-report-n138-negev/he/research-report_research-report-n138-negev.pdf

COVID-19 testing

On 1 April 2020, Adalah filed an urgent petition to the Israeli Supreme Court (SCT) demanding that the state establish COVID-19 drive-in test centers for Bedouin villages in the Naqab (Negev) or, alternatively, a mobile testing center.⁵³ Adalah also called for allocation of additional ambulances in Naqab as current emergency medical vehicles were only sufficient to provide partial services. The state responded to the petition citing a lack of specific medical cause and need. On 14 April 2020, the SCT dismissed the petition, ruling that it was not prepared to intervene in the allocation of state resources, even on behalf of this vulnerable group during the pandemic. Eventually, the health maintenance organization (CLALIT) deployed mobile testing vehicles and set up some drive-in testing facilities in the Naqab, once the virus became established in the area, and after intensive pressure from the Arab Emergency Committee in the south and from community groups.

In May and June 2020, when Israel started to ease movement restrictions nationwide, the number of cases among Palestinian citizens of Israel began to rise, especially among the Bedouins in the Naqab. For example, on 18 June 2020, data released by the Arab Emergency Committee based on an analysis of MOH data (which excludes the mixed cities), indicated that the number of cases among Palestinian citizens increased by 10% in one week (to 1,516 cases), while the cases among Jewish Israelis increased by just 3.8% in the same week. During the same week, the percentage of Palestinians who recovered from the virus was 66% (1,010 patients) compared to 80% among Jewish Israeli citizens. Despite the sharp increase in infections, only 10.3% of tests conducted were carried out on Palestinian citizens of Israel, although they constitute about 20% of the total population.⁵⁴ Notably, as of 3 June 2020, MOH data indicated that while 5% of the total population of Israel has been tested for COVID-19, only 1% of Palestinian Bedouin citizens in the unrecognized villages in Naqab have been tested, despite the fact that they are at heightened risk from the disease.⁵⁵

Lack of suitable conditions for Bedouin women for COVID-19 isolation

On 21 May 2020, Adalah filed a petition to the SCT against the Ministries of Interior, Health and other authorities, demanding suitable isolation conditions for Palestinian Arab Bedouin women living in the unrecognized villages, in order to comply with Health Ministry recommendations during the coronavirus pandemic.⁵⁶ The petitioners asked for temporary buildings to be placed in two unrecognized villages and a plan for other villages. Adalah argued that the women did not have suitable conditions for isolation in their homes or villages, and that social norms prevented the women from staying in hotels outside their villages, as proposed by the state.

⁵³ HCJ 2359/20, *Adalah et al. v. The Prime Minister*. Petition filed on behalf of Adalah, the High Follow-Up Committee for Arab Citizens of Israel, the Arab Doctors Association in the Naqab, the Negev Coexistence Forum for Civil Equality (NCF), and the Regional Council for Unrecognized Villages in the Naqab (RCUV). See also: “Before disaster strikes: Adalah submits urgent Israeli Supreme Court petition demanding immediate access to coronavirus testing, bolstered ambulance services in Bedouin villages”, Adalah, 14 April 2020:

<https://www.adalah.org/en/content/view/9948>

⁵⁴ The Arab Emergency Committee, “Corona cases are on the rise and the situation is worrying,” 18 June 2020 (in Arabic): <https://www.arab48.com/عاجلة-اخبار/الأخبار/2020/06/18/العربية-الهيئة/> -ارتفاع-في-كورونا-إصابات-للطوارئ-العربية-الهيئة/مقلق-الوضع

⁵⁵ Ministry of Health, “COVID-19 Pandemic in Israel - General Update” (in Hebrew) <https://datadashboard.health.gov.il/COVID-19/>

⁵⁶ HCJ 3301/20, *Adalah et al. v. Ministry of Interior et al.* Petition filed on behalf of eight women’s rights groups, the Regional Council for the Unrecognized Villages in the Naqab, the Negev Coexistence Forum and the Arab Center for Alternative Planning. See also: “Adalah, women’s rights groups demand COVID-19 isolation options for Bedouin women” Adalah, 11 June 2020: <https://www.adalah.org/en/content/view/10025>

Without these buildings for the purpose of isolation, the women and their families remain unprotected from the spread of the virus. The petitioners argued that the state was obliged to take special measures to meet the needs of this distinct sub-group. On 24 June 2020, without a hearing, the SCT rejected the petition and accepted the state's claim that such special measures were not necessary because individual claims had not been submitted by women in need. This argument is extremely problematic because the state should be preparing for the second wave of the virus, now underway in the Naqab, and because such need for appropriate isolation facilities has been identified by social workers and women living in these villages.

Inaccessibility of online, remote education

A further SCT case concerns the right to education, specifically the lack of access to online, remote education during the pandemic. As a result of the nationwide closure of schools in Israel on 15 March 2020, around 50,000 Bedouin children in unrecognized and recognized villages in the Naqab were unable to participate in online distance learning, because they live in villages that the state has not connected to the electricity grid or the Internet.⁵⁷ Most of these children also do not have a computer. The Sol's continued refusal to connect the unrecognized villages to basic infrastructure has prevented these children from receiving education during the COVID-19 crisis and violated their right to education.

On 5 April 2020, Adalah submitted a petition to the Israeli SCT demanding that the Ministry of Education immediately connect the students to the Internet and/or provide them with mobile routers and provide them with the equipment needed to connect to the educational distance learning system.⁵⁸ Despite the fact that the COVID-19 state of emergency is not over and that the authorities themselves had warned against a second wave of the pandemic, which is now indeed occurring, on 17 May 2020, the state asked the SCT dismiss the petition on the grounds that schools had resumed regular operations.

While Israel had announced a general return to school, most schoolchildren from Bedouin villages in the Naqab remained in their homes because of classroom overcrowding and schools' lack of preparedness for the MOH's coronavirus-related safeguards. Most Bedouin schoolchildren in the Naqab have not yet returned to regular classes.

For decades, official reports have documented that Arab Bedouin pupils suffer from large gaps in the quality of education and low educational attainment, as compared with their Israeli Jewish counterparts, and among this group, the general poverty rate stands at around 70%. The lack of access to the Internet for this group is therefore particularly damaging and is likely to severely impair Bedouin students' right to education and personal development, and to increase existing socio-economic disparities.

The SCT held a hearing on the case on 20 May, and while thousands of Bedouin children have not returned to school, the court dismissed the petition because the government had declared a return to school, accepting the state's argument. The SCT recommended that the petitioners pursue their claims with the new Education Minister and if not resolved within three months, to revert back to the SCT. Some of the schools that serve these children contend

⁵⁷ Approximately 26,000 elementary and middle school students are currently living in 37 unrecognized villages in the Naqab, and another 25,000 pupils live in 11 newly-recognized villages that have no internet infrastructure and are not connected to the electricity network. The reason for the State of Israel's deliberate neglect of the residents of the unrecognized Bedouin villages is to pressure them to comply with their forced evacuation from their ancestral land and their relocation and concentration in recognized areas.

⁵⁸ HCJ 2398/20, *Adalah et al. v. The Prime Minister et al.* The petition was submitted on behalf of five children from the unrecognized villages in the Naqab who do not have a computer and are not connected to electricity or the Internet because the state does not provide basic infrastructure in their villages.

that they cannot reopen because they cannot fulfil the Health Ministry's guidelines, while others are located in coronavirus "hot spots" where schooling has not resumed.

Lack of access to unemployment benefits in Bedouin communities

The COVID-19 crisis has resulted in a major spike in unemployment in Israel. It has hit the Bedouin in the Naqab particularly hard since their rate of unemployment was substantially greater than the national average even before the arrival of the pandemic. The major increase in applications for unemployment benefits that has resulted from the COVID-19 crisis has put pressure on the existing service infrastructure amid rules for social distancing. In response, the Ministry of Labor, Social Affairs and Social Services decided to allow citizens to apply for unemployment benefits via an online application. This solution is, however, not practical for large numbers of Bedouin citizens in the Naqab given the lack of electricity connections and Internet provision in their villages. The problem is exacerbated by the dearth of local unemployment offices, after movement restrictions imposed during the crisis made existing offices located in surrounding towns less accessible. Since this community is among the most impoverished in the state, the lack of access to unemployment benefits presents a grave threat to their basic welfare.

On 16 April 2020, Adalah sent a letter to the Ministry of Labor, Social Affairs and Social Services to raise the issue of a lack of access to unemployment benefits' centers, lack of access to internet and computers, and to request a solution. Adalah sent three reminder letters to the Ministry on 28 April, 4 May and 15 June 2020, but has received no response to date.⁵⁹

Palestinian Prisoners

Currently, there are about 5,000 Palestinian prisoners from the OPT, including 432 administrative detainees and 183 child prisoners in Israeli prisons.⁶⁰ Numerous prisoners are under 16-years of age, chronically ill, elderly, or members of other vulnerable groups.

While persons deprived of their liberty around the world are more likely to be vulnerable to a COVID-19 outbreak than the general population, COVID-19 presents a particularly acute and immediate danger to Palestinian prisoners and detainees, who already endure dire detention conditions, including systematic torture and ill-treatment, pervasive medical negligence, overcrowding, lack of proper ventilation and access to sanitary products, including sanitizers and disinfectants, poor nutrition, and, in certain cases, complete bans on family visits. These conditions make Israeli prisons dangerous breeding grounds for COVID-19 and compound the vulnerability of Palestinian prisoners and detainees, with hundreds currently detained suffering from chronic diseases that go untreated.⁶¹

During the COVID19 crisis, the Israeli authorities issued emergency regulations which have restricted the prisoners' contact with the outside world and left them in almost total isolation. At the same time, however, the Israel Prison Service (IPS) has not taken measures to protect the health and lives of prisoners, who live in overcrowded, unhygienic conditions, in violation

⁵⁹ Letters on file with Adalah (Hebrew).

⁶⁰ Information provided by Addameer Prisoner Support and Human Rights Association. See joint NGO statement: "On Palestinian Prisoners' Day, civil society calls for urgent release of Palestinian prisoners and detainees in Israeli prisons", 17 April 2020, available at: https://www.adalah.org/en/content/view/9985#_edn3

⁶¹ Al-Haq, "Addameer and Al-Haq Send Appeal to UN Special Procedures on the Situation of Palestinian Prisoners in Israeli Prisons amidst Concerns over COVID-19 Exposure," 2 April 2020, available at: <http://www.alhaq.org/advocacy/16674.html>

of Health Ministry guidelines, and which put them at particularly high risk of contracting and spreading the virus.⁶²

Adalah has brought two petitions before the Israeli SCT to address these matters. Despite the urgency of the cases, and the potential danger posed to the prisoners, the SCT has delayed hearings, demonstrated a reluctance to intervene, and failed to issue decisions to protect the prisoners.

Based on the same concerns, the UN Special Rapporteur on the situation of human rights in the Palestinian Territory occupied since 1967, Professor Michael Lynk, together with other Special Rapporteurs and human rights experts, “urged Israel not to discriminate against thousands of Palestinian prisoners facing high-risk exposure to COVID-19 and to release the most vulnerable”.⁶³ Israel has released hundreds of prisoners as a precaution to slow down the contagion, but the measure was not applied to any Palestinian prisoner, even though hundreds belong to vulnerable categories, including 183 children, 43 women and 700 individuals with pre-existing, chronic medical conditions. The experts also highlighted other actions taken by the Israeli authorities, which clearly show that health keeps being disregarded in favor of interventions labeled as “security measures”.

Ban on visits to prisoners

On 15 March 2020, the Israeli government issued emergency regulations granting the Israeli Public Security Minister the authority to ban visits of lawyers and family members to prisoners and detainees. For prisoners classified by the Israel Prison Service (IPS) as “security prisoners”, a category often used against Palestinians engaged in political activity against the occupation, contact with the outside world was limited to telephone calls made to them by their lawyers, and only 14 days in advance of an upcoming court hearing. Criminal prisoners have also been banned from receiving visits from lawyers and family members, but are permitted to make telephone calls. While the new regulations harm all prisoners held in Israeli facilities, they have a particularly harsh impact on Palestinian prisoners, since they are only allowed to receive telephone calls from lawyers – but cannot themselves initiate contact with their lawyers – and are otherwise denied contact with the outside world and left unable to report to family members or lawyers about health problems and other violations of their rights inside prison.

The regulation impeding the right to counsel, which is *per se* a denial of fundamental human rights, has raised even more concerns. On 26 March 2020, Adalah, Addameer and Attorney Abeer Baker petitioned the Israeli SCT, demanding the cancellation of the emergency regulations, and for prisoners’ access to legal consultation through lawyers’ visits, in addition to access to telephone communications with their families, a right which is entirely forbidden for all Palestinian political prisoners in a discriminatory manner.⁶⁴

The petition described, for example, a telephone conversation between co-petitioner Attorney Abeer Baker and a Palestinian prisoner held in Israel’s Ofer prison, which was broadcast via

⁶² For more information, see joint NGO statement: “On Palestinian Prisoners’ Day, civil society calls for urgent release of Palestinian prisoners and detainees in Israeli prisons”, 17 April 2020, available at: https://www.adalah.org/en/content/view/9985#_edn3

⁶³ “COVID-19: Israel must release Palestinian prisoners in vulnerable situation, say UN experts”, 24 April 2020: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25822&LangID=E>

⁶⁴ HCJ 2282/20, *Attorney Abeer Baker et al. v. The Prime Minister* (joined with HCJ 2280/20 *Nawal Ghanem et al. v. Israel Prison Service*). See also: “Urgent petition filed with Israeli Supreme Court calls for cancellation of coronavirus emergency regulations banning prisoners from meeting with lawyers, family” Adalah, 26 June 2020: <https://www.adalah.org/en/content/view/9929>

loudspeaker before prison guards and other inmates. Adalah argued in the petition that, while there is no disputing the IPS's duty to ensure the health of prisoners and detainees, the emergency regulations banning visits overwhelmingly and disproportionately violate the prisoners' rights and therefore must be repealed.

Since, after almost one month, the Court did not issue any decision, Adalah asked for a temporary injunction against the regulations, for an "order to show cause" (*order nisi*) and for another hearing. While not addressing the core issue, the Court asked the State and the IPS to reply to the suggestions of allowing prisoners to contact their family in case they contracted the virus or were placed in quarantine, and one call for Muslim prisoners during Ramadan: the two suggestions were accepted, excluding 90 prisoners from Gaza, and no mention was made regarding the meetings or phone calls with attorneys.

Adalah continued to demand an injunction to freeze the regulations, but the case is still pending. Three months after submission of the petition, there have been two hearings on the case but the SCT has not yet issued any decision on the case and the violations of the prisoners' right to counsel continue. The IPS claims that the visiting situation regarding lawyers has returned to normal but is, in fact, imposing many additional restrictions. For example, no lawyers' visits are permitted unless a court hearing for the prisoner is scheduled within 14 days; the visits are allowed for one hour only – in case the prisoner is due to attend an evidentiary hearing, it is rarely possible to review the relevant material and make the necessary preparations during this time; attorneys are only allowed to visit one prisoner per day, which constitutes a serious limitation, since prisons are situated in distant locations and it is very time-consuming to conduct such visits. In the past, lawyers would often visit multiple prisoners in a single day. Following court hearings, the state is slightly modifying the rules to make them more acceptable, however, the SCT has not enforced the fundamental right to access to counsel, despite the risks posed to prisoners' health by the COVID-19 virus.

Moreover, the Knesset is currently considering a new bill that would enshrine these regulations into law for one year, entitled, "Prevention of visitors and attorneys' entry into detention centers, police stations and prisons, military prisons and prisons (Temporary Order), 2020".⁶⁵ On 14 June 2020, Adalah sent a letter to the Israeli Attorney General, the Justice and Public Security Ministers, and Knesset Members seeking the withdrawal of the bill on the ground that it disproportionately violates the constitutional rights of prisoners and detainees.⁶⁶

The bill authorizes the Minister of Public Security to ban visits by family members and lawyers to all of these facilities to prevent the spread of COVID-19, after receiving an opinion from the Ministry of Health, and on the recommendation of the Israeli Prison Commissioner or Inspector General, and in consultation with the Minister of Justice.

The bill violates the fundamental right of detainees and prisoners to consult with their lawyers, as derived from the right of personal liberty. The importance of the right to counsel is a key to guaranteeing other constitutional rights such as: the right to body integrity, the right to receive medical treatment, the right to human dignity and the like. Attorneys' visits are also of great importance in the context of torture prevention and inhumane treatment. In light of the COVID-19 crisis, the visit of a lawyer serves as the first external evaluation of what has been done, including the treatment of the disease in prisons.

The bill gives the commissioner sweeping authority to determine conditions and arrangements for entry, without clear criteria or concrete standards for its operation. Such regulation should

⁶⁵ The text of the bill (Hebrew) is available at: https://fs.knesset.gov.il/23/law/23_ls1_573009.pdf.

⁶⁶ Letter on file with Adalah (Hebrew).

be grounded in legislation and not discretionary. Further, a provision which provides for a telephone call between a prisoner and his/her attorney, as an alternative, is insufficient and infringes on the right to counsel. The bill also amounts to a violation of prisoners' constitutional rights to due process and to access the courts.

While the alternatives to meeting with a lawyer adopted by the bill stem from the interest in maintaining public health, including that of the detainees and prisoners, in view of the danger posed by the COVID-19 virus, the spread of the virus does not prevent the entry and exit of staff in the prison service. The measure is disproportionate and the purpose is improper, namely to save costs for the IPS of coordinating meetings between prisoners and their lawyers. These face-to-face meetings could take place with a lawyer's health statement or health test, and social distancing can be maintained.

Inadequate health and hygiene measures

While the state claimed that issuing the ban on visits aimed at preventing the spread of the COVID-19, the authorities took inadequate measures to uphold the health and hygiene of prisoners. Despite the need to prevent the spread of COVID-19 in detention settings, conditions in Israeli prisons continue to deteriorate. Prisoners have reported that the IPS has imposed new restrictions on purchases from prison canteens that make it difficult for them to obtain necessary sanitary products and maintain proper hygiene. At the same time, IPS officers routinely search prisoners' rooms and conduct counts of prisoners five times a day, while failing to consistently wear protective gear and gloves and medical face masks. Overcrowding in prisons and detention facilities is now a greater problem than ever, since it prevents social distancing and facilitates the spread of the virus among this population. Palestinians are the main victims since, while UN experts have called for the release of prisoners and detainees in response to the COVID-19 pandemic, Israel has thus far refused to release Palestinian prisoners and administrative detainees on this basis.⁶⁷

Adalah submitted an urgent petition to the Israeli SCT on 7 May 2020 demanding that Israel take all necessary actions to protect 450 security prisoners, held at Gilboa prison, from a COVID-19 outbreak.⁶⁸ Adalah argued that the IPS and the Public Security Ministry failed to implement the Health Ministry guidelines and demanded that the IPS Service give daily updates on the measures taken *de facto* and on the health conditions of detainees. The Court scheduled a hearing for 20 July 2020, almost two months and a half after submitting the petition, despite the urgency of the issue and the immediate danger that threatens the health and life of prisoners.

Palestinian West Bank workers in Israel

Palestinian West Bank workers in Israel constitute a vulnerable group whose human rights and safety have been compromised by the actions of the Israeli authorities during the COVID-19 pandemic.

⁶⁷ On 27 March 2020, the Israeli authorities released 400 Israeli common law prisoners who are serving lighter sentences and nearing the end of their time in prison, selected on the basis of health condition and age. See The Jerusalem Post, "Israel releases 230 prisoners early to reduce crowding amid COVID-19 fears," 29 March 2020, available at: <https://www.jpost.com/breaking-news/israel-releases-230-prisoners-early-to-reduce-crowding-amid-covid-19-fears-622844>

⁶⁸ HCJ 2904/20, Adalah et al v. Israel Prison Service et al. See Also: "Adalah demands Israel protect prisoners in overcrowded Gilboa prison from COVID-19 outbreak", Adalah, 12 May 2020: <https://www.adalah.org/en/content/view/10008>

In early March, a security lockdown was imposed by Israel on the entire West Bank, stopping all non-essential movement from and into the territory and limiting the movement within it. At the same time, 55,000 Palestinian workers were granted a special permit to leave the West Bank and work in Israel in sectors considered essential, namely agriculture, health and construction.⁶⁹ Particular emphasis was placed on the Israeli construction sector, since it is highly reliant on low-paid Palestinian manual laborers from the West Bank: of the approximately 300,000 construction workers in Israel in 2019, over 21% (around 65,000) were West Bank residents.⁷⁰

Arrangements were made for these employees to enter Israel, on the condition that they do not return the West Bank for at least one month and in some cases for two months. Notably the previous policy would allow only 15,000 workers from the West Bank to stay overnight, on alleged security grounds. No clear regulations were introduced regarding health conditions for the 55,000 workers, which created a situation in which many employers/contractors left them in inadequate living and working conditions. For example, sleeping areas have been overcrowded and often located on construction sites in warehouses on factory grounds, where social distancing and basic hygiene could not be properly maintained; in addition, access to healthcare services and testing arrangements were not initially provided. Instead, workers who contracted the virus at work were sent back to the West Bank, where 74% of COVID-19 cases originated from Palestinian workers employed in the Israeli economy.⁷¹

Rather than taking measures to protect the health rights of these workers and stem the spread of the virus, the Israeli authorities focused on measures of control and surveillance. Control over the movement of the workers was carried out via the withholding of their IDs by employers and through the use of technology such as the Al Munasiq (“The Coordinator”) app, which give the Israeli military authorities access to the workers’ cellphone location, data stored and transmitted, microphone and camera, with the necessary authorization to use them “for any purpose, including for military purposes”. Thus, arguably, the authorities have used the COVID-19 emergency to activate a more active and pervasive form of surveillance and control over the Palestinian workers’ permit regime.⁷²

On 30 March 2020, Adalah issued a letter to different Israeli authorities highlighting the critical consequences of some of these measures and the lack of protection for the Palestinian West Bank workers from the spread of COVID-19. However, the authorities, did not respond until May, noting that the subject of the letter corresponded to that of a petition filed by other organizations to the SCT, and it will deal with these issues under that procedure.⁷³

⁶⁹ “Exploited and Essential: Palestinian Labour Under Covid-19”, Who Profits, June 2020: <https://whoprofits.org/wp-content/uploads/2020/06/Exploited-and-Essential-Palestinian-Labour-under-Covid-19-2.pdf>

⁷⁰ “Contractors: The denial of entry for Palestinian to Israel because of corona will delay the delivery of 70 thousand apartments” 6 March 2020 (in Hebrew): https://www.calcalist.co.il/real_estate/articles/0,7340,L-3799030,00.html

⁷¹ “Exploited and Essential: Palestinian Labour Under Covid-19”, Who Profits, June 2020

⁷² Ibid.

⁷³ The Worker’s Hotline for Refugees and Migrants, ACRI and PHR-I submitted a petition to the SCT on 28 April 2020 against the Ministries of Health, Labor and Social Services, Interior, Construction and Housing, and the Minister of Defense. In response to the petition, in early May, the state responded that it will require that the Palestinian workers, many of whom are employed in dangerous industries, be provided with health insurance, will be treated by clinics or hospitals if needed, that the employers’ obligations regarding living conditions will be specified now in the emergency regulations, and that employers may not take personal documents from employees to restrict their movement. See: https://www.english.acri.org.il/post/_166

In light of the second wave of COVID-19, the Israeli authorities decided to again impose restrictive measures on Palestinian West Bank workers starting from 28 June 2020, mandating that the 40,000 Palestinian construction workers must stay in Israel for at least three weeks, and that their health and living conditions were to be handled by their employers/contractors. Notably, the statements made by Israeli authorities clearly put more weight on the Israeli economy and the fear of loss in the construction sector, and almost no weight to the health and safety of the workers.⁷⁴

Palestinian Residents of Occupied East Jerusalem

Residents of Palestinian neighborhoods in Occupied East Jerusalem that lie behind the Separation Wall constitute another vulnerable group during the COVID-19 pandemic, due to the structural discrimination they face from the Israeli authorities.

150,000 Palestinians, who have permanent residency status in Israel, live in Kufr Aqab, the Shuafat refugee camp, and the adjacent neighborhoods. These areas are located behind the Separation Wall, and while officially they are part of the jurisdiction of the Israeli Municipality of Jerusalem, they receive no services from it. These residential areas are among the most overcrowded and densely-populated neighborhoods in Jerusalem, a fact that puts their residents at grave risk for contracting and spreading the coronavirus. The Israeli Health Ministry is responsible for ensuring their health and well-being.

In the first phase of the COVID-19 outbreak, these Palestinian residents of Jerusalem living in four neighborhoods including Kufr Aqab, Samiramis, Al-Matar and Zagier, as well as residents of five neighborhoods including the Shuafat refugee camp, Ras Khamis, Ras Shehadeh, the Dahayat al-Salam and the new Anata neighborhood had no access to COVID-19 testing.

On 8 April 2020 Adalah, in coordination with the Civic Coalition for Palestinian Rights in Jerusalem, submitted a petition and a request for an urgent hearing to the Israeli Supreme Court against the Israeli Ministry of Health (MOH) to demand coronavirus testing for Palestinians with Israeli-issued Jerusalem ID cards living in these areas.⁷⁵

The petitioners asked the Court to issue an order to show cause (*order nisi*) requiring the MOH to legally justify the lack of drive-in test centers or an accessible mobile testing complex for the neighborhoods' residents. The petitioners also asked the MOH to explain the reason for not ordering additional remedies to make the detection tests available to residents of these neighborhoods, including through training local clinics in these neighborhoods to conduct such coronavirus tests as an alternative.

Adalah argued in the petition that, according to the Israeli MOH's own criteria, these neighborhoods must be given priority in accessing COVID-19 testing and that the Ministry's failure to do so amounted to endangering the residents' lives. Not only are the existing health facilities in these neighborhoods extremely poor, but also the Health Ministry did not provide any basic infrastructure to prevent the spread of the coronavirus, as it did in other

⁷⁴ Globes, "Starting Sunday: Palestinian construction workers in the construction field will be forced to stay in Israel", 25 June 2020 (Hebrew): <https://www.globes.co.il/news/article.aspx?did=1001333656>

⁷⁵ HCJ 2471/20, Adalah et al. v. Ministry of Health. See also: "Adalah files urgent Israeli Supreme Court petition: Coronavirus testing for 150,000 Palestinians in East Jerusalem" Adalah, 8 April 2020: <https://www.adalah.org/en/content/view/9975>. The petition was filed on behalf of Adalah, Munir Zagier, the Chairman of the Northern Neighborhoods Committee (Kufr Aqab), four residents of Kufr Aqab, and four NGOs in the Shuafat refugee camp: the Palestinian Child Center, the Feminist Center, the Al Quds Association for Training and Special Education, and the Youth Center.

communities.⁷⁶ In these neighborhoods, there are no health clinics that provide any preventive care for the virus; the Magen David Adom (MADA) emergency ambulances do not enter these areas as a matter of policy; no coronavirus testing is conducted by local clinics; there is no training for residents, and there is no information provided to residents about the virus by the Health Ministry. In the Shuafat refugee camp, there is an UNRWA clinic that exclusively serves residents who carry a refugee certificate. However, this clinic is not authorized or equipped to carry out the testing.

While these neighborhoods are not officially under the responsibility of the Palestinian Authority (PA), their residents must cross checkpoints in order to travel to other parts of Jerusalem for treatment, as if crossing a state's borders, which makes it very difficult for them to access any health services.

Moreover, in these neighborhoods, women, the elderly, people with disabilities and children are much less independent in terms of their mobility and thus have little ability to access health services in other parts of Jerusalem. A significant number of women and the elderly do not drive, have no access to private cars, and there is no public transport. If someone is experiencing coronavirus symptoms, this person must be transported by a family member in a car and through checkpoints, also increasing the risk of infection to the family member-driver. If possible at all, such a trip will take at least one and a half hours in each direction. Residents fear that, in fact, they will not be able to travel to Jerusalem even if symptoms develop and they fulfil the criteria for coronavirus testing. Furthermore, restrictions put in place by the PA from 25 March 2020 prohibit most movement between East Jerusalem and the rest of the West Bank, between West Bank governorates, and between and inside West Bank cities and villages.⁷⁷

In response to Adalah's urgent SCT petition, Israeli health authorities opened clinics and testing centers via the Clalit HMO in the Shuafat refugee camp and Kufr Aqab neighborhoods, on 14 April 2020. An additional clinic was opened in the Silwan neighborhood. Later, drive-in centers were opened, as requested in the petition, at the entrance of both Kufr Aqab and the Shuafat refugee camp to enable the residents of the area to be tested without crossing the checkpoint into Jerusalem.⁷⁸

The SCT issued a decision to delete Adalah's petition without a hearing or a decision on the substance of the petitioner's arguments and fully accepted the state's solution despite the concern of the petitioners regarding the ability of these clinics to provide tests for non-members.

During the past month, there has been a surge in the number of infections among Palestinian residents in East Jerusalem, with over 150 new confirmed cases recorded between 17 to 30 June 2020.⁷⁹ In comparison, on 8 June 2020, one new case was registered, the first case to be reported in East Jerusalem in almost a month.⁸⁰

⁷⁶ Jack Khoury and Nir Hasson, "Israel's Coronavirus Blind Spot: The Arab Community," 29 March 2020:

<https://www.haaretz.com/israel-news/.premium-israel-s-coronavirus-blind-spot-the-arab-community-1.8720161>

⁷⁷ Adalah, "Adalah files urgent Israeli Supreme Court petition: Coronavirus testing for 150,000 Palestinians in East Jerusalem", 8 April 2020: <https://www.adalah.org/en/content/view/9975>

⁷⁸ Adalah, "Following Adalah's Supreme Court petition, Israel to open coronavirus testing centers in East Jerusalem neighborhoods beyond the Separation Wall", 14 April 2020: <https://www.adalah.org/en/content/view/9979>

⁷⁹ COVID-19 Emergency Situation Report 12 (17-30 June 2020), OCHA, p. 3, available at: https://www.ochaopt.org/sites/default/files/sitrep_12.pdf

⁸⁰ COVID-19 Emergency Situation Report 11 (3 - 16 June 2020), OCHA, p. 2. Available at: https://www.ochaopt.org/sites/default/files/sitrep_11_covid-19.pdf

Participation and consultation

Question: If emergency regulations have been imposed, to what extent have they affected official processes ensuring public participation and consultation? Have women and groups particularly affected by the pandemic and the response measures participated in such decision-making processes?

In February 2020, Israeli Prime Minister authorized the National Security Council (NSC) to manage the coronavirus crisis. The NSC's role is defined by law "as the council for the Prime Minister and the Government on foreign and security affairs of the State of Israel", and its area of expertise does not include epidemiological matters.

The NSC appointed an experts committee in order to assist it to manage the COVID-19 crisis. The lack of representation of Palestinian citizens in general and Palestinian women in particular among these experts is likely to result in the unique situations and characteristics of these groups not being taken into adequate consideration during the process of policy formulation designed to contain the spread of the COVID-19 epidemic. For example, the occurrence of religious holidays such as the Muslim holy month of Ramadan and associated social customs were not properly considered, or social norms among the Bedouin community that prevent Bedouin women who do not have suitable conditions of isolation in their homes or villages from staying in distant hotels, the solution suggested by the Israeli authorities.

On 12 April 2020, Adalah sent a letter on behalf of MK Yousef Jabareen to the Israeli Attorney General and the Prime Minister to request that they take measures to provide adequate representation for Palestinian citizens of Israel, men and women, on the team of experts. On 12 May 2020, Adalah sent an additional letter to the NSC, the Attorney General and the Prime Minister to demand the revocation of the PM's decision to authorize the NSC to manage the coronavirus crisis, and to establish a civil body instead, while ensuring proper representation for the entire population, including Palestinian citizens of Israel.⁸¹ Adalah argued that the NSC was not qualified to manage the crisis, and that it had excluded various groups of citizens and residents, including women, from the process of managing the crisis. The NSC responded to Adalah's letter on 8 June 2020, stating that it was operating within the scope of a law that authorizes it to perform its role "in any other realm determined by the Prime Minister".⁸²

In parallel, over a dozen civil society organizations filed a petition to the SCT requesting adequate representation of women from various groups (including Palestinian citizens of Israel and ultra-Orthodox Jews) in the experts committee appointed by the NSC to manage the coronavirus crisis.⁸³

Awareness raising and technology

Question: What awareness-raising activities have been undertaken by the State to inform groups in vulnerable situation, indigenous people and other populations living in remote or conflict-affected areas of health risks associated with COVID-19?

In the initial stages of its response to the COVID-19 pandemic, the SoI failed to provide essential real-time COVID-19 updates and public health information in Arabic. Updates related to the pandemic were issued only in Hebrew on the website of the Ministry of Health,

⁸¹ Adalah's letter, sent on 12 May 2020 (Hebrew), available at:

<https://www.adalah.org/uploads/uploads/cancellation%20of%20authorization%20of%20NSC.pdf>

⁸² Correspondence on file with Adalah.

⁸³ HCJ 2541/20, *Women Lawyers for Social Justice, et al. v. The Prime Minister, et al.*

and Arabic-language updates were issued only after significant delays. As of 2 July 2020, the Ministry's Hebrew website page on the COVID-19 virus was fully updated,⁸⁴ whereas its Arabic page was last updated on 16 June 2020.⁸⁵ In addition, the Ministry's smartphone app is accessible only in Hebrew. This practice not only violates the right to equality but also constitutes an immediate danger to public health.

On 9 March 2020, Adalah sent an urgent letter to the MOH on behalf of Arab Knesset Member Sami Abu Shehadeh to demand that all information and directives relating to coronavirus be immediately made accessible to the Arabic-speaking public on all its communications platforms, social media, and smartphone apps, and that it provide all updates and information in Arabic in a timely manner and on an equal basis with Hebrew. On 10 March, the MOH published additional information in Arabic, although delayed in comparison with the same information in Hebrew and missing some basic details, including the latest guidelines for individuals required to remain in quarantine. The MOH opened an official page in Arabic on its Facebook account but information remains missing in Arabic on its social media platforms and coronavirus app. The State complied and began publishing some information in Arabic only after legal action was initiated.

Accountability and justice

Question: Could you kindly share information on emergency regulations and COVID-19 response measures that may have been reviewed or suspended by national or constitutional courts in your country?

The beginning of the COVID-19 outbreak in Israel came immediately on the heels of Knesset elections, held on 2 March 2020, which were the third consecutive round of elections held within the space of a year. The third round of elections, too, was not conclusive and did not result in the formation of a ruling coalition. The demands of the COVID-19 pandemic eventually pushed the leading parties to enter into a coalition agreement in mid-May 2020 that is intended to focus on managing the crisis.

From March-May 2020, a caretaker government led by Prime Minister Netanyahu, who is under criminal indictment, decreed a series of emergency regulations to contain and manage the crisis. The executive branch took these measures without the oversight of the legislature, and in contravention of the Basic Law: The Government.⁸⁶

The Knesset resumed operations on 26 March 2020, acting on a provisional basis in the absence of a government coalition. The Government, however, continued to issue emergency regulations, even after the Knesset resumed activities, and some of the obstacles to the exercise of its legislative authority to examine the validity of the emergency situation were removed. In bypassing the Knesset, the executive granted itself extensive new powers, undermining the rule of law, the principle of the separation of powers and the system of checks and balances between the branches of government.

The coalition agreement was not signed until 20 April 2020, when the SoI was deeply into the COVID-19 crisis, and the new government was sworn in on 17 May 2020, when the first wave of the virus was coming to an end. Thus, for a period of about two months, a caretaker government issued a large numbers of emergency regulations, at height of the crisis, with a partially-functioning Knesset and in the absence of ministers.

⁸⁴ Ministry of Health website in Hebrew: https://www.gov.il/he/departments/ministry_of_health

⁸⁵ Ministry of Health website in Arabic: <https://www.health.gov.il/Arabic/Pages/default.aspx>

⁸⁶ https://knesset.gov.il/laws/special/eng/basic14_eng.htm

Within this context, the lower courts were closed and the SCT operated on a limited basis, holding hearings only on COVID-19-related cases, as well as cases challenging the authority of Prime Minister Netanyahu to form and lead a new government as an indicted figure.

Despite the legal and constitutional questions raised by the COVID-19 crisis and the delayed formation of the new government coalition, the Supreme Court, Israel's highest court, did not issue any decisions against the government on petitions brought before it challenging the various new emergency regulations. The Court has sufficed, at most, with making statements voicing its disapproval of aspects of the regulations, during the course of legal proceedings.

Adalah brought four cases before the Israeli SCT challenging emergency regulations that:

- Authorize the Shin Bet ("Shabak", GSS or ISA) intelligence services to engage in tracking and monitoring of citizens through various technological means, including cellphone surveillance (emergency regulations expired; government justified practice based on existing law, which was not accepted by the SCT; new temporary law for 21- days enacted 1 July 2020);⁸⁷
- Allow Israeli employers to dismiss pregnant women, women undergoing fertility treatments, women on maternity leave and 60 days thereafter without special permission from the Ministry of Labor (expired and not renewed however, thousands of women were sent to leave);⁸⁸ and
- Permit the Israeli public security minister, at the recommendation of the Israel Prison Service (IPS) director or the Israeli police commissioner, to ban visits to prisoners and detainees and limit prisoners' consultation with a lawyer to telephone calls only with many restrictions (case remains pending; legislation in this regard now pending).⁸⁹

In addition to the three specific cases, Adalah, together with the Joint List political party, filed a petition to the Israeli SCT on 5 April 2020 challenging the government's authority to approve emergency regulations, without oversight by the Knesset.⁹⁰ Although the SCT has held two hearings, the Court has not issued a decision and the petition remains pending.

As such, the Court is allowing human rights violations created by the emergency regulations to persist. Some emergency regulations have been left to expire without the Court having ruled on their legality, while in the meantime, and in the absence of limits imposed by the Court, the Government is promoting a bill to regulate the COVID-19 emergency, which grants it (the executive branch) extremely broad authority to issue emergency regulations, and would provide, in many instances, a legal rubber stamp to the regulations decreed by the Government to date.⁹¹

⁸⁷ HCJ 2109/20, *Adv. Shahar Ben Meir v. Knesset* (court joined with HCJ 2135/20, *ACRI v. Prime Minister*, HCJ 2141/20, *Adalah and the Joint List v. The Prime Minister, et. al* and HCJ 2187/20, *The Journalists' Union in Israel v. Prime Minister*). See Adalah's analysis of the Shin Bet coronavirus cellphone surveillance case, available at:

https://www.adalah.org/uploads/uploads/Adalah_Initial_Analysis_Shin_Bet_Corona_Surveillance_Case_Final_04.05.2020.pdf

See also: <https://www.haaretz.com/israel-news/.premium-knesset-passes-bill-allowing-digital-tracking-of-covid-19-patients-by-shin-bet-1.8961520>

⁸⁸ HCJ 2486/20 *MK Aida Touma Sulieman and Adalah v. The Prime Minister* (court joined HCJ 2499/20, *The Women's International Zionist Organization (WIZO) et al. v. The Prime Minister*). See Adalah press release: <https://www.adalah.org/en/content/view/9993>

⁸⁹ HCJ 2282/20, *Attorney Abeer Baker, et. al. v. The Prime Minister* (case pending) (court joined with HCJ 2280/20 *Nawal Ghanem et. al v. Israel Prison Service*)

⁹⁰ HCJ 2141/20, *Adalah and the Joint List v. The Prime Minister, et. al* (pending).

⁹¹ Special Powers to Deal with the Novel Coronavirus (Temporary Order) Bill, 2020.