

1. Defined legally and acting practically as a Jewish state, Israel places its approximately 1.5 million Palestinian-Arab citizens, who comprise 20% of Israel's population, under a system of discrimination and exclusion. The Israeli legal and political system creates a hierarchical citizenry that privileges Jews over non-Jews in Israel. The lack of a constitutionally-enshrined right to equality in Israel exposes the Palestinian community in Israel to direct and indirect racial, ethnic, and religious discrimination, as well as violence by and impunity of state authorities.
2. Structural discrimination against the Palestinian citizens of Israel is most evident in the area of land and housing rights. Whereas the Palestinian population in Israel has grown eight-folds since 1948, the Israeli government confiscated most of their lands and has not built even one single new locality for Palestinians in Israel. Currently, 93% of the lands in Israel are state-owned lands; Palestinian citizens have only 3.5% of Israel's land and their towns and villages are subject to discriminatory zoning laws that prevent their expansion. The case of the Palestinian Bedouin citizens of Israel in the Negev is one example of ethnic discrimination, land dispossession, and house demolitions.
3. Interrelatedly, the rise of incitement to violence by Jewish politicians and religious leaders and increasing extremism and racism in Israel led to the rise of police violence and to the enactment of tens of discriminatory laws against Palestinian citizens of Israel.

**I. Land and Housing Rights:**

4. During the second cycle of Israel's UPR in 2013, several recommendations by Member States addressed the combating of racism, discrimination, xenophobia and anti-discrimination.<sup>i</sup> The Member States called upon Israel to provide equal rights for all citizens regardless of their origin and confession, and to ensure non-discrimination particularly in the areas of property, housing, health, education, access to justice, employment and natural resources. The Member States recommended that Israel revise its discriminatory laws, and to explicitly include general non-discrimination provisions and enshrine the right to equality for all citizens in the framework of its basic laws.<sup>ii</sup> None of the recommendations have been implemented.

## **1) Israel passed the Kaminitz Law that will intensify house demolitions and evictions among Palestinian citizens of Israel**

5. On 5 April 2017, the Israeli Knesset passed an amendment to the 1965 Planning and Construction Law that came to be known as the Kaminitz Law, following a report of a team that was appointed in 2015 by the Israel's Attorney General and was headed by Erez Kaminitz to examine the phenomenon of illegal construction.<sup>iii</sup> This law facilitates a stronger enforcement of the planning and construction laws, however it is actually a legal and political initiative targeting unlicensed housing, particularly in the Palestinian-Arab towns and villages in Israel.<sup>iv</sup> Because Israeli authorities systematically deny Palestinians building permits, they undertake renovation and construction projects that are unlicensed.
6. The Kaminitz Law increases the administrative powers of governmental authorities to implement demolition and eviction orders, while restricting judicial discretion, and inflicts serious financial penalties for legal breaches. Bearing in mind that the absolute majority of the administrative demolition orders are against Palestinian structures (97% of the demolition orders issued between 2012-2014), this law and initiative, then, is directed specifically against the Palestinian citizens of Israel and will exacerbate the existing housing crisis.<sup>v</sup>
7. It is estimated that there are about 100,000 illegal structures within and near the Palestinian towns and villages in addition to similar number of Bedouin structures in the Negev (200,000 in total). Not only that the Israeli authorities have not built any new localities for the Palestinians since 1948, but also until the year 2000 all Palestinian localities in Israel had no new zoning plans and were restricted from expanding. Thus, Palestinian residents are unable to request building permits as required by the law.<sup>vi</sup> It is estimated that Palestinian citizens of Israel require an annual average of 13,000 homes; however, approximately half that number is constructed.<sup>vii</sup> The Israeli authorities act on a discriminatory basis in providing housing solutions. For example, "between 2005 and 2009 only 20% of the residential units planned in Arab towns and villages (about 30,000) were eventually marketed, compared with 70% of homes planned in the Jewish and mixed towns (about 140,000)."<sup>viii</sup>

## 2) Israel continues its efforts to forcefully displace and concentrate the Palestinian Bedouins of the Negev in urban centers

8. Only 13 percent of the Bedouin communities (about 11,000) remained within Israel in 1948. Most of them were expelled to become refugees and most of the remaining were displaced from their villages to join others in an enclosed zone north of Beersheba. Currently, the Bedouin number about 230,000 residents. The Israeli planning authorities excluded all Bedouin villages from Israeli zoning plans and maps, rendering them illegal and deprived of state services. Since the late 1960s, the Israeli authorities have focused on demolishing these villages and evicting the Bedouins in order to concentrate them in urban towns.
9. Simultaneously, Israel expropriated most Bedouin land. In 1970, the Israeli government initiated a process of land title settlement and demanded that Bedouin citizens file claims to lands they claim as their own; they claimed about 7% of the Negev. However, relying on British and Ottoman laws dating back to 1858, the Israeli government and courts denied any legal ownership rights, and instead offered low compensation. The Israeli government brought more than 500 court cases against the Bedouin and won all of them.<sup>ix</sup> Meezaan emphasizes that “Covenant rights, such as access to water services and protection from forced eviction, should not be made conditional on a person’s land tenure status, such as living in an informal settlement.”<sup>x</sup>
10. In addition to their call upon Israel to ensure equality and nullify discrimination against the Palestinian citizens in Israel, State Members called upon Israel to guarantee in particular property and housing rights of the Bedouin communities, and to ensure their equal treatment and access to social services, health, and education.<sup>xi</sup> Israel failed to fulfill its legal obligations and meet the recommendations by State Members. Instead, the annual house demolitions in the Bedouin localities have increased, recently reaching an average of about 1,000 annual demolitions.<sup>xii</sup>
11. **Prayer I and Prayer II:** The Israeli Knesset has been seeking to advance a special legislation since 2013 to “regularize Bedouin settlement in the Negev.” The Prayer Bill was prepared in 2012 and passed the first stage of

voting in the Knesset in 2013, but was later frozen.<sup>xiii</sup> A new similar Bill, called by some as Praver II, is being now discussed. These Bills deny Bedouin land claims, seek to concentrate the Bedouin in urban centers, and are expected to displace and relocate up to 70,000 Bedouin residents.<sup>xiv</sup> Despite the possibility of granting legal status to the Bedouin localities (as proven in alternative zoning plans prepared by civil society organizations), the Israeli authorities refuse such a resolution. Whereas the Bedouin population makes up 35% of the Negev's population, there are only 18 settlements designated for the Bedouin communities out of 144 settlements (15%). Further, while the state authorities offer various forms of residence for the Jewish communities (Kibbutz, Cooperative and community settlements), it fails to offer such communal and rural way of life for the Bedouin communities.<sup>xv</sup>

12. Israel continues its longstanding discrimination and historical injustices vis-à-vis the Palestinians in general and the Palestinian Bedouins in particular. The proposed legislation, accompanied by violent daily practices of eviction and demolition, are violations of the Palestinian communities' rights to equality, adequate housing, and restorative justice.

13. **Replacing the Um al-Hiran village with a Jewish settlement:** The village of Um al-Hiran is home to 1,000 Palestinian residents. These Palestinians lived in the area of Wadi Zubala in the western Negev, but in 1948 Israeli authorities ordered them to leave their residence for six months. This period was extended and followed by two other episodes of expulsion and resettlement, until their final resettlement in Um al-Hiran in 1956. Most of their original lands were given away to the Jewish Kibbutz of Shoal. Israeli authorities delivered to Um al-Hiran eviction and demolition orders in 2003. The Israeli government developed a plan to replace Um al-Hiran with a new Jewish settlement named Hiran. During the legal proceedings to cancel the orders, the residents asked for their village to receive a legal status instead of building a Jewish settlement, to become part of the future Hiran settlement, or alternatively to return to their original lands. The Israeli authorities rejected all proposals and argued that the Bedouins were trespassers. The Israeli Supreme Court ordered the eviction of the village in May 2015.

14. During the proceedings, the Israeli authorities began the infrastructural works for the new Jewish settlement, and following the court decision, the Israeli authorities ploughed the fields of Um al-Hiran and destroyed their crops. On 18 January 2017, in a warlike scenario, large numbers of Israeli police and bulldozers stormed the village before dawn, demolishing eight houses, arresting and injuring tens of residents, and killing Ya'qub Abu al-Qia'an. Israeli police shot Abu al-Qia'an, who then lost control of his vehicle, inadvertently striking a policeman, who died. Even though Abu al-Qia'an was already injured by a previous shot, Israeli police opened fire with live ammunition at him and prevented paramedics from providing any assistance for couple of hours. The forensic investigation concluded that Abu al-Qia'an bled for about 30 minutes before dying, indicating that he would have lived if he had received proper medical treatment. The Israeli police held Abu al-Qia'an's body for one week and released it for burial after a court order.<sup>xvi</sup>
15. As emphasized by the Committee on ESC Rights, "States parties must give due priority to those social groups living in unfavourable conditions by giving them particular consideration. Policies and legislation should correspondingly not be designed to benefit already advantaged social groups at the expense of others."<sup>xvii</sup> The Israeli government acts in contradiction with this and other legal obligations and favors Jewish residents over the Palestinian Bedouins. It fails to use all appropriate measures to promote the right to adequate housing and refrain from conducting forced evictions.

## **II. Extra-Judicial Killings and Police Violence:**

16. Systemic state violence against minorities and marginalized communities is a symptom of structural discrimination and entrenched inequality that are intertwined with practices and discourses of stigmatization and dehumanization. Um al-Hiran is one of many villages and Abu al-Qia'an is the 62<sup>nd</sup> Palestinian victim of Israeli police forces since October 2000. Most recently, Israeli police killed 21-year old Mohammad Taha from Kafr Qasim (5 June 2017).<sup>xviii</sup> The persistent failure of accountability shapes and makes possible the continuance of a culture of police violence against Palestinian citizens. Within this culture, Israeli police forces are, in effect, granted immunity: the Israeli Police Investigation Department, which is part of the Ministry of Justice (known as "*Mahash*"), is thoroughly biased and there is no political pressure to punish Israeli police homicide.

17. Between 2011 and 2013, **11,282** complaints of police harassment and brutality were filed with *Mahash*. Given that most incidents remain unreported, this number of complaints is indicative of pervasive and extensive police violence and violations of citizens' rights. **93%** of these complaints were closed by *Mahash*; only **3.3%** of the cases filed (373 complaints) led to disciplinary actions against police officers and **2.7%** of the cases (306 files) led to criminal prosecution.<sup>xix</sup>
18. During the second cycle of Israel's UPR in 2013, some State Members called upon Israel to investigate allegations of violence and ill-treatment by the Police Forces.<sup>xx</sup> However, the vast majority of crimes go unpunished. In October 2000, Israeli police and security forces killed 13 Palestinian citizens and injured hundreds. Despite findings by an Israeli official inquiry commission that there was no legal justification for using deadly force, not a single member of the security forces has been indicted. For example, the Israeli police shot Hamdan on 8 November 2014 despite the fact of not posing imminent threat to lives. *Mahash* closed the complaint, and the family's appeal to the Israeli Attorney General was also dismissed (June/2017).

### **III. The Emergency Regulations and the Anti-Terror Law**

19. Since 2000, and under the pretext of the global War on Terror, the Israeli government has increased its use of The Defense (Emergency) Regulations (1945),<sup>xxi</sup> a British colonial emergency legislation that predates Israel's creation but remains in force. The Emergency Regulations enable the government to conduct incommunicado detention, enact house demolitions, declare associations as "unlawful," conduct sweeping searches, ban newspapers, conduct deportations, and more. Though the British colonial administration enacted the emergency regulations during a time of violent unrest in Palestine to target paramilitary groups, these regulations became part of Israeli law since 1948, due to the uninterrupted State of Emergency in Israel.<sup>xxii</sup> Since 1967, these regulations have been implemented primarily in the Occupied Palestinian Territories, however, their use in Israel has recently intensified.

**1) The Israeli Counter-Terrorism Law normalizes the Emergency Regulations:**

20. In its national report submitted to the Human Rights Council during its second UPR cycle, Israel reported that it was working on a legislation that will ensure countering terrorism while protecting human rights. Further, this legislation will annul current long-standing legislation related to terrorism and some provisions in the *Defense Regulations*.<sup>xxiii</sup> The legislative attempt came after serious critique to Israel's permanent situation of emergency and the exploitation of laws that ought to be exceptional and temporary. The Counter-Terrorism Law passed on 15 June 2016 and has mainly incorporated several emergency regulations. This law includes draconian measures for investigating political detainees, expands the use of secret evidence, and substantially expands the powers of the police and the General Security Services.<sup>xxiv</sup> Palestinian citizens are the primary targets of these oppressive measures.

**2) Silencing political dissent and violating freedom of assembly:**

21. Up until 2000, Israel had declared only 55 organizations to be "terrorist" and/or "unlawful." Between 2001 and 2015, Israel declared 320 organizations to be unlawful/terrorist. These occurrences reflect increased and widespread Israeli policies (and Israeli public acceptance) of discrimination and harassment against Palestinians. Israel's exploitation of these emergency laws to criminalize social and political peaceful activity has reached absurdity: on 15 November 2015, the Israeli government outlawed the Islamic Movement, a key religious, social, and political organization in Israel, along with twenty other civil society organizations, and ordered the forfeiture of their properties (**See Appendix I**).

22. All of these organizations were properly registered with the Israeli Official Registrar of Companies and were abiding by Israeli laws. They served half a million Palestinian citizens in the fields of health, education, relief, and media. Their board members have no criminal records and all their funding and fiscal activities are transparent and properly reported. Having failed to find any violations, the Israeli government denied these organizations due process by exploiting the emergency regulations.<sup>xxv</sup>

23. Under the Counter-Terrorism Law these "unlawful Organizations" were unfairly labeled "Terrorist Organizations." In a sweeping demonstration of discrimination and oppression, Israeli authorities labeled all their activities (assisting orphans and university students, education and media) as

“terrorist.” Furthermore, in March 2017, the Israeli authorities arrested and prosecuted a number of Palestinian citizen activists under the Counter-Terrorism Law. They were accused of continuing the work of the above-mentioned organizations and thus supporting terrorism by taking part in various humanitarian projects (assistance and relief to the needy). This law is, in actuality, an unjust and discriminatory criminalization of humanitarian activities and human rights promotion.

24. The Israeli government continues to fail to meet its international legal obligations of protecting the right to political participation, equality, fair trial, life, freedom of assembly, and more. The Counter-Terrorism Law does not reconcile its countering terrorism measures with human rights protection, in contradiction with the recommendations of State Members.

### **Conclusion and Recommendations**

25. Rather than working towards minimizing the longstanding gaps that resulted from structural discrimination against its Palestinian citizens, Israel has been enacting discriminatory laws and increasing its violent measures against them. Israel must stop the growing incitement to violence, the increasing discriminatory legislative activities, and the culture of police impunity. Israel must comply with its legal obligations and fulfill the recommendations of its 2013 UPR review. Meezaan recommends that the State under review:

- Legislate a law that cancels the Jewish character of the state and instead enshrine the value of equality and non-discrimination for all citizens;
- Enact legislation that addresses the historical injustice of land dispossession and house demolitions; legalize existing unlicensed homes and return lands to their owners; and build new localities for Palestinian citizens;
- Immediately replace the Kaminitz Law and Praver II Bill, and cease all house demolitions and eviction orders against Palestinian homes in Israel;
- Stop the culture of police impunity and establish an independent system of investigation and prosecution;
- Cancel the Anti-Terror Law and the Emergency Regulations and cease the situation of emergency;
- Comply with its legal obligation under international human rights and international humanitarian law.

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- <sup>i</sup> Recommendations pertaining to racism, discrimination, xenophobia and anti-discrimination: supported by Israel: 136.17; 136.18; 136.19; 136.21; 136.43; 136.59; 136.61; 136.82; rejected by Israel: 136.20; 136.44; 136.54.
- <sup>ii</sup> Recommendations 136.43, 136.44, 136.54, 136.55, 137.2, 136.20, 136.17, 136.18, 136.63, 136.107, 136.58, 136.57, 136.59, 136.110, 136.53, 136.146, 136.27.
- <sup>iii</sup> The Kaminitz Team's Report, available at <http://www.justice.gov.il/Pubilcations/News/Documents/FullIllegalBuildingReport.pdf> (in Hebrew)
- <sup>iv</sup> The Government passed on June 1, 2016 Resolution No. 15591; Position paper by NGOs, "Kaminitz Law (Draft Planning and Construction Law) (Amendment 109) 5776-2016", available at, <http://www.acri.org.il/en/wp-content/uploads/2017/02/2017.2.5-keminitz-law-position-paper-eng.pdf>
- <sup>v</sup> Special Report by the State Comptroller on "The Housing Crisis", available at, [http://www.mevaker.gov.il/he/Reports/Report\\_279/f43ab2c3-db98-447c-8e49-8b3977bc660d/003-diur-1-new.pdf](http://www.mevaker.gov.il/he/Reports/Report_279/f43ab2c3-db98-447c-8e49-8b3977bc660d/003-diur-1-new.pdf) (in Hebrew); see also, <https://www.adalah.org/en/content/view/9074>; [https://www.adalah.org/en/content/view/9068#\\_edn4](https://www.adalah.org/en/content/view/9068#_edn4);
- <sup>vi</sup> Knesset Research and Information Center, Illegal Construction and Demolition of Houses in Israel 14 (2015), available at, <https://www.knesset.gov.il/mmm/data/pdf/m03658.pdf> (in Hebrew)
- <sup>vii</sup> See, <http://mossawa.org/en/article/view/645>
- <sup>viii</sup> Position Paper based on study of the Knesset Research Center, <http://www.acri.org.il/en/wp-content/uploads/2017/02/2017.2.5-keminitz-law-position-paper-eng.pdf>
- <sup>ix</sup> Ahmad Amara, The Negev Land Question: Between Denial and Recognition, *Journal of Palestine Studies*, 42:3, 2013, 27-47.
- <sup>x</sup> General Comment No. 20 of the Committee on Economic, Social and Cultural Rights, para. 1, 25, E/C.12/GC/20.
- <sup>xi</sup> Recommendations supported by Israel, 136.94, 136.96, 136.97, 136.98, 136.99, 136.100, 136.101, 136.102, 136.103.
- <sup>xii</sup> Enforcing Distress: House Demolition Policy in the Bedouin Community in the Negev (June 2016), there were 697 demolitions in 2013; 1073 in 2014; 982 in 2015, [http://www.dukium.org/wp-content/uploads/2016/06/HDR\\_2016\\_ENG-1.pdf](http://www.dukium.org/wp-content/uploads/2016/06/HDR_2016_ENG-1.pdf)
- <sup>xiii</sup> On Praver Plan see, Ahmad Amara and Oren Yiftachel, Confrontation in the Negev: Israeli Land Politics and the Indigenous Bedouin-Arabs, *Rosa Luxemburg Fund, Special Issue*, 2014.
- <sup>xiv</sup> On "Praver II" see, Suhad Bishara, The Israeli Government's New Plan to Forcibly Displace and Dispossess Palestinian Bedouin Citizens of Israel from their Land in the Naqab (Negev), Position Paper, available at, [https://www.adalah.org/uploads/uploads/Adalah\\_Position\\_Paper\\_Praver\\_II\\_23.1.2017.pdf](https://www.adalah.org/uploads/uploads/Adalah_Position_Paper_Praver_II_23.1.2017.pdf); see also, The Praver Plan, <https://www.adalah.org/en/content/view/7589>.

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<sup>xv</sup> Discrimination in Numbers – Collection of Statistical Data – The Bedouin Community in the Negev/Naqab | January 2017, [http://www.dukium.org/wp-content/uploads/2014/07/DINSC\\_JAN\\_2017\\_ENG.pdf](http://www.dukium.org/wp-content/uploads/2014/07/DINSC_JAN_2017_ENG.pdf)

<sup>xvi</sup> Position Paper: The Time has Come for Israel to Recognize the Bedouin Villages of ‘Atīr and Umm al-Ḥīrān, <http://www.dukium.org/wp-content/uploads/2015/12/Umm-al-Hiran-and-Atir-PP-Final.pdf>

<sup>xvii</sup> Committee on ESC Rights, General Comment No. 4, para. 11, E/1992/23.

<sup>xviii</sup> Palestinian shot dead in Kafr Qasim clash, <http://www.aljazeera.com/news/2017/06/palestinian-shot-dead-kafr-qasim-clash-170606114511983.html>

<sup>xix</sup> See Adalah Report, “Mahash: Green Light for Police Brutality.” September 2014, Available at, <http://www.adalah.org/uploads/oldfiles/Public/files/English/Newsletter/Sep-2014/Adalah-Mahash-Data-Report-Sep-2014.pdf>

<sup>xx</sup> Recommendations 136.65; 136.22; 136.201; 136.208; 136.201.

<sup>xxi</sup> Full text available at, <http://nolegalfrontiers.org/military-orders/mil02?lang=en>

<sup>xxii</sup> The Israeli Parliament (Knesset) is authorized by the law to declare a State of Emergency of up to one year, and every six months or one year the Knesset extends the State of Emergency.

<sup>xxiii</sup> Paragraphs 99-102 of the report, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/ILSession3.aspx>, stated that the legislation will replace the *Fight against Terrorism Ordinance 5708-1948, Prohibition of Financing Terrorism Law 5765-2005*.

<sup>xxiv</sup> See commentary and position paper on the law, <https://www.adalah.org/en/law/view/598>, <http://www.acri.org.il/en/wp-content/uploads/2013/06/ACRI-Position-Paper-CounterTerrorism-Bill.pdf>

<sup>xxv</sup> Ahmad Amara, “Israel’s Perpetual “State of Emergency”: Criminalizing Palestinian Civil Society and Political Dissent,” available at, [http://meezaan.org/?mod=book\\_details&ID=68](http://meezaan.org/?mod=book_details&ID=68)