

Situation Report: The State of Human Rights in Israel and the OPT 2015

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<http://www.acri.org.il/he/wp-content/uploads/2015/12/tmunat2015.pdf>

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The Recent Wave of Violence: Human Rights in Times of Emergency

Since September, the conflict that erupted in East Jerusalem has spread across Israel. Frequent violent incidents have led to casualties in Israel and the West Bank, sown fear and undermined the regular routine of life. The duty of the Israeli government in these times is twofold: It must respond to the reality that has transpired and protect the personal safety of every individual, regardless of his or her nationality; and at the same time, ensure that all of its actions uphold fundamental human rights principles, among them avoiding harm to the innocent, using enforcement measures in a proportional and appropriate manner and maintaining due process. The duty of the authorities to uphold human rights is not limited to routine and peaceful times; human rights are also intended to safeguard all of us in times of emergency, when both the risk of their infringement and the danger resulting from such infringements are multiplied.

Unfortunately, the response of Israeli authorities during this difficult time has been frequently characterized by a tendency to prefer extreme measures, unnecessary infringement on rights and liberties and excessive use of force. Among other things, the government decided to allow the police to use Ruger bullets against stone-throwers even within Israel and in East Jerusalem; administrative removals and restraining orders were issued against dozens of Palestinians and Israelis in the West Bank, East Jerusalem and Israel; in some cases, police stopped buses of protesters on their way to demonstrations in Nazareth; and the Minister of Interior initiated procedures to revoke the permanent residency status of Palestinians from East Jerusalem and threatened to revoke the citizenship of Palestinian citizens of Israel who are involved in violent incidents, on the grounds of “breach of trust.” In light of the involvement of minors in recent events, ministers and Knesset members proposed various amendments to laws and regulations – amendments that deviate from the principles of the Youth Law, which was formulated to protect the rights of minors and enable their rehabilitation. Against the backdrop of the security situation, the “Stop and Frisk” bill resurfaced; this proposed bill seeks to enable a police officer to stop a person on the street and conduct an invasive search, without having suspicion or any other justification to do so, thereby opening the door to arbitrary and humiliating body searches and discrimination.

Indeed, it is the responsibility of the government and Knesset to take effective measures to address difficult situations; yet they must find ways to do so without deviating so sharply from the basic principles of criminal law and while maintaining the principles of proportionality and reasonability. It is important to remember that such legislative amendments, which are hastily passed in times of turmoil, remain written in the book of laws even after the tension subsides. They continue to infringe on the human rights and protections afforded, in a democratic country, to suspects and defendants – and especially to minors.

In the atmosphere of fear and violence that has taken over the public sphere, statements made by public officials sometimes contributed to ‘fanning the flames’ rather than calming them. Public officials even publicly encouraged deviation from the law. Ministers, Knesset members, senior police officers and other public officials have explicitly called to take revenge on those who commit a stabbing, or are suspected of stabbing, by killing them. Public officials have encouraged the public to bear arms. Many in the media joined in promoting a similar approach, and the bodies that are supposed to supervise police activity – the State Attorney and Police Internal Investigations Department – were silent on the issue.

The intensified emotions that characterize such periods, in combination with such statements, prepared the ground for the horrific lynch that took place in Be’er Sheva’s central bus station where an Eritrean asylum seeker, who was suspected of being a terrorist, was murdered. This incident, which was etched into the public consciousness, was not the only one. It is important to emphasize that in all of these cases, civilians were not attempting to prevent a violent act and save lives. Rather these were situations in which the suspects had already been apprehended and neutralized and did not constitute a threat to anyone. In other words, the violence was motivated by revenge.

Another serious phenomenon involved security forces shooting to kill Palestinians who assaulted Israelis or were suspected of doing so, when there was no justification to do so according to the rules of engagement. This was a series of documented and publicized incidents where the most severe reaction was chosen – and accordingly, the outcome was fatal even though this was unnecessary. When the suspects in an assault were Jews, none of them were shot (except for a young Jewish man who was apparently thought to be a Palestinian). There is no dispute as to the severity of the incidents and the need to protect the public from stabbings and other assaults. However, it appears that in too many cases, rather than acting in a manner that was appropriate for each incident, police officers and soldiers were quick to open fire in order to kill.

During the tense period of these recent weeks, Arab citizens of Israel have been faced with a double challenge. Like all the other citizens, they fear for their lives and are worried about their family members and friends. In addition, they also experience exclusion in their daily lives: in the workplace, educational institutions and the public sphere. Aside from violent acts executed by Palestinians against Israelis, there were also reported incidents in which Jews assaulted Arabs (or Mizrahi Jews who were thought to be Arabs); and even organized a “hunt” by activists from the organization Lehava and other right-wing organizations. Like last year (during Operation Protective Edge), employers began to impose sanctions against employees, mainly Arabs, following their expressions online. In other cases, measures were taken against Arab citizens – at work, educational institutions and public spaces – merely because they are Arabs. For example, in several cities it was decided to prevent the entry of Arab workers into local educational facilities; and in several incidents, Arab passengers were removed from buses because they were suspected of being terrorists. It should be noted that according to the law, it is prohibited to harm employees or fire them because of their ethnicity

or nationality. But more importantly, fear and concern must not lead to humiliating and discriminating practices or to the indictment and labelling of an entire population. To the extent that security regulations in educational facilities and other places should be enhanced, they must apply equally to all employees or to the entire public.

Racism and Discrimination

The trend of the entrenchment of racist and anti-democratic attitudes in Israeli society, particularly among adolescents and young adults, is not new. Racism is manifested in different areas of life and in diverse forms, both overt and concealed. A review of all incidents of racism in Israel over the past year significantly exceeds the scope of this report. We will only mention a few significant matters:

Arabs: According to the “Hate Report” published by the Berl Katznelson Foundation, in August 2015, before the outbreak of the latest wave of violence, 35% of the racist discourse was aimed at Arabs. In 2015, like in every year, examples of exclusion and discrimination aimed against the Arab minority were exposed: hotels that “warn” against Arab vacationers, a housing project with founders who assure potential buyers that they do not sell apartments to Arabs, a car rental company that discriminates against Arab customers, discrimination in the hiring process and more. And as in previous years, instances of exclusion and discrimination were provoked by politicians’ statements.

Ethiopian immigrants: The discrimination against Israelis of Ethiopian origin has come to the public’s awareness in a painful manner, following angry demonstrations that erupted after a police officer was documented beating a soldier of Ethiopian origin. Ironically, the protest exposed the very same “over policing” against which it was aimed, as once the demonstrations became heated the police employed extreme measures against the protesters, including use of batons, mounted horses, tear gas, stun grenades and even the “Skunk” spraying vehicle. It should be noted that the police force has invested great efforts in improving the cultural awareness of its officers and in enhancing its relationship with the Ethiopian community; but as with other issues relating to the freedom of expression and the right to protest, it appears that the policy has not yet trickled down and does not influence the conduct of officers on the ground. The protest must be understood in the context of many years of separation and segregation, which – even if at times were based on positive intentions – have led to feelings of discrimination.

The LGBT (lesbian, gay, bisexual and transgender) community: At the end of July 2015, marchers in the Jerusalem pride parade were brutally assaulted. A 16-year-old girl, Shira Banki was murdered, and five others were wounded. This shocking crime illustrated the fact that even if the status of the LGBT community in Israel has relatively improved from a legal

perspective, this is not the case from a public perspective. In the legal arena, this year we continued to see positive advancements, and several achievements and precedents were made with respect to the right to equality in employment and the right to parenthood. However, members of the LGBT community across the country continue to be exposed to discrimination, intolerance and violence in all spheres and aspects of life, including in public spaces, workplaces, schools, the media and internet, military service, businesses, health centers and even in the police force.

Women: At least twelve women, eight of them Arab, were murdered in Israel since the beginning of 2015 by their partners or relatives. The suicide of a woman who worked in the prostitution industry and the “Allenby 40” case briefly raised public awareness about the rape culture and abuse of women in Israel – and then were forgotten. In addition, we should also mention the series of sexual assault cases by senior police officers, which was exposed at the beginning of the year. The Gender Index, published by the Center for the Advancement of Women in the Public Sphere (WIPS) in the Van Leer Jerusalem Institute, indicated that the inequality between men and women remains significant in all areas, and particularly with regards to the labor market and representation in positions of power and decision-making. The issue of representation was also raised this year in the context of the elections, especially with regards to ultra-Orthodox women.

Additional groups in Israel also suffer from exclusion, discrimination and racism. For example, in the last year we saw the profiling of ultra-Orthodox men after the murder at the pride march; violence of immigration inspectors towards migrants and asylum seekers, and racial profiling that led to violent arrests of Israeli citizens or legal residents due to the color of their skin or their facial features; and many reports concerning the discrimination of schoolchildren of Sephardic origin, mostly girls, in the ultra-Orthodox education system.

It seems that the most concerning issue over the past year has been **the move from words to actions**. The murder at the pride march; the arson attack on the Church of the Multiplication; the arson attack on the Jewish-Arab school in Jerusalem; physical assaults of asylum seekers; and more – all of these acts were supported and inflamed by the statements of public officials and racial incitement on social media. President Reuven Rivlin, who voiced a firm position against racism, received death threats. In light of all of this, the importance of effective, comprehensive and continuous education against racism cannot be overemphasized – as part of a holistic process of achieving democracy, human rights and coexistence. These values should be integrated into the curriculum for all ages, in all educational streams and in every component of the teaching process. They must be incorporated into different subjects, and teachers need to be equipped with tools to adequately confront racism in school and in the classroom.

The Right to Live with Dignity

Debt Distress

Against the backdrop of the socioeconomic policy that has been in place in Israel over the last few decades, debt distress has become one of the main problems facing Israeli citizens. Debts can be particularly serious for people living in poverty. The debt collection system in Israel is decentralized, inconsistent and has the potential to severely violate human rights. Various authorities and bodies – such as the National Insurance Institute, water and sewage corporations, local authorities, Magen David Adom (Israel's national emergency medical service), the Tax Authority and others – have far-reaching powers to handle debt collection, which gravely infringe on the rights of the individual.

Over the past year, there were some significant developments concerning the rights of debtors. Among other things, the Knesset passed an amendment to the Execution Law, which intended to enable “debtors with limited resources,” whose debt is being collected by the Execution Office, to receive a discharge order (bankruptcy). This order in fact “resets” the debtor’s financial situation and writes off their debts, so that they may turn over a new leaf and break the cycle of debt and poverty. In addition, the Enforcement and Collection Authority has eliminated the option of capability inquiries conducted by private investigators; the statute of limitations on debts to the National Insurance Institute was established as seven years; and Magen David Adom published a draft version, for public comment, of the criteria for entitlement to reduced rates for ambulance services. These initial steps are all welcome, but there is still a long way to go towards establishing a modern debt collection system, which respects human rights and adequately balances the rights of the authorities or creditors to collect debts and the fundamental rights of debtors, particularly those who are without financial means.

Disconnecting essential services due to debt: In the last year, thanks to the work of various institutions, organizations and MKs, there were significant developments concerning the disconnection of people who fail to pay the bills and accumulate debts to the Israel Electric Corporation or water corporations. In April 2015, new regulations came into effect prohibiting **the water corporations** from disconnecting a consumer from the water supply because of a debt – without the explicit permission of the Water Authority’s director. This is a dramatic change with regard to disconnecting private consumers because of debts, and it is particularly significant for families living in poverty. The new regulations (that currently apply only to the water corporations and not to approximately 1,000 other water providers, primarily local authorities and regional councils) establish the terms and procedure under which a disconnection is permitted, and among other things state that the Water Authority will not allow the corporations to disconnect consumers without financial means from the water supply. The **Israel Electric Corporation** published, for public comment, draft regulations that are intended to outline procedures for the restriction or disconnection of

electricity due to debt. While these regulations are still far from affording consumers with sufficient protection, this is an important step in the right direction.



Welfare Benefits

This year, we were informed that child benefit allowances will be increased from NIS 140 to NIS 150-188 and that every month, the state will transfer NIS 50 to a designated savings account until the child reaches the age of 18. In addition, supplemental security income benefits were increased for people who have reached the age of retirement and receive old-age, survivors or dependants benefits. Increasing these benefits is a positive and welcome step, but as in the past, the current change was made arbitrarily without consideration of the amount needed to live with dignity. The High Court of Justice (HCJ) acknowledged the right to live with dignity over a decade ago - and found that welfare benefits are a basic component in realizing this right. Nevertheless, the state still knowingly avoids conducting a professional and comprehensive review of what this right entails and how to quantify it.

This year, the government decided to establish a new poverty index, which will take into account the discounts and benefits provided by the state to families living in poverty. However, this fails to review the benefits equally and ignores, for example, the income of the top percentiles from benefits and tax exemptions. Therefore, there are concerns that the index could create a false image of lower poverty and inequality rates.

The Right to Housing

A Change of Direction in Public Housing?

For years, Israeli governments implemented a policy that led to the destruction of the public housing enterprise. The result was a steady decline in the number of available apartments, and public housing has become a solution for only a small sector of the population that meets extremely restricted criteria. The work of the Ministry of Construction and Housing in the area of public housing over the last year might reflect a change of direction. This year, the ministry presented a plan to address the public housing crisis, which includes: a commitment to populating apartments that currently stand vacant for various reasons; an assurance that 5% of all apartments marketed by the state will be designated for new public housing; an intention to expand the pool through projects of urban renewal; purchasing small housing units for elderly entitled persons in assisted living projects; and a massive investment in renovating all public housing units in the coming years. We hope that this plan will not only remain on paper and that it will constitute a first, practical step in the resurgence of public housing as a real solution for individuals and families living in poverty.

One of the key points in the plan presented by the Ministry of Construction and Housing is urban renewal projects: demolishing public housing complexes and constructing more compact buildings, that will include apartments to be sold in the free market alongside public housing units. In response to pressure from different organizations, the ministry's instructions on this matter were recently changed and new regulations were established, which, if executed, could protect the rights of public housing residents in the "upgraded" complexes and prevent them from being evicted.

One Decade since the Disengagement Plan: Still Awaiting a Solution

In 2005 approximately 9,000 Israeli citizens were evicted from settlements in the Gaza Strip and northern Samaria, in accordance with the "Disengagement Plan". Despite an investment of resources and effort, reports by both a government inquiry commission and the State Comptroller, which were published approximately five years ago, described failures, shortcomings and delays in dealing with those who were evicted. Today – a decade after the disengagement and time for the planned closure at the end of 2015 of the Tnufa Administration that was established to assist those evicted – the rehabilitation of those who were evicted has not yet been completed. Only about 75% of the families moved into permanent housing. Approximately 12% of the people evicted, who are of working-age, are unemployed or under-employed. A plan that was formulated in 2008 to review the physical and mental health of the people evicted has still not been implemented.

Labor Rights: Direct Employment

Hundreds of thousands of workers in Israel are employed through contractors, many of them in the public sector. In recent years, this type of employment, which was previously limited to providing services such as cleaning and security, has spread to professions such as teaching, high-tech, social work, training and more. Indirect employment is characterized by low wages, infringement on social rights, frequent layoffs and lack of job security. It undermines the employee's feeling of belonging and creates two separate classes in the workplace: direct employees, who are entitled to all rights, and contract workers (or indirect) employees, who work alongside them and perform the same tasks, in worse conditions. Despite the prevalence of indirect employment in the public sector and its impact on workers' rights, the State of Israel has no idea how many people it employs in this manner.

For over a decade, human rights organizations have been leading the struggle against the violation of the rights of workers employed through contractors and have promoted moving towards direct employment. In the last year, this effort finally began to bear fruit. One reason for this is that the Histadrut (Israel's largest labor union) joined the campaign. In July 2015, the Ministry of Finance and the Histadrut signed an agreement arranging the return to direct employment of approximately 15,000 workers in the public service; ensuring significant improvement in the working conditions of approximately 35,000 additional contract workers; and an end to indirect employment according to the "shoulder-to-shoulder" method (in which contract workers and direct workers are employed for the same work). In addition, the Histadrut signed an agreement with the Business Organizations Presidency (an umbrella organization of private employers), which is intended to ensure absorption into direct employment after nine months of work, for contract workers employed in professions that are central to the employer's occupation (e.g. tellers in banks, assembly line workers in factories, housekeepers in hotels). The agreement also compares the conditions and salaries of contract workers who are not absorbed into direct employment to those of workers who are employed directly. In October, the Histadrut also signed an agreement with Clalit Health Services (Israel's largest healthcare organization), according to which thousands of cleaners working at Clalit's hospitals will be absorbed into direct employment. While currently only a small minority of contract workers are enjoying these achievements, they are important and meaningful first steps on the road back to direct employment. These wins are proof that a continued and persistent public campaign yields results.

Rights of the Arab Minority

The Right to Housing: “The 120 Days Team”

Due to many years of institutionalized discrimination of the Arab population in areas of land and planning, the Arab society in Israel suffers from a severe and ongoing shortage of land and housing. In June 2015, “The 120 Days Team” published its recommendations. This team was appointed by the government to review different planning arrangements and increase the supply of land available for building in the Arab sector. The team determined, among other things, that the tools previously employed by the government in an attempt to solve the housing crisis in Arab communities failed because they were incompatible with the needs of the population. The team offered many recommendations, including: locating new construction sites for housing, employment, infrastructure and public use; empowering local planning committees and establishing new ones; expanding development areas in Arab communities; adapting tenders and marketing to the needs of the Arab population; arranging the planning status of existing construction; and removing obstacles and providing incentives for construction on private land.



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The recommendations of “The 120 Days Team” generated some optimism: This is the first time that a government committee formulated detailed, concrete and extensive recommendations for solving the housing crisis in the Arab society. The government decided to adopt these recommendations in principle, and some of them were included in the proposed

Arrangements Law for 2015-2016; however in a later version of the law they were narrowed and removed. Other recommendations were due to be implemented by government ministries and other authorities. Without real commitment on behalf of the government to implement these recommendations, including the allocation of budgets that will enable their implementation, the team's positive recommendations will remain meaningless.

The Right to Equality: Entitlement to Income Tax Benefits

In May 2012, the HCJ ruled in petitions against a government decision from 2005 to grant income tax reductions to residents of certain locations. The decision was subsequently enshrined in the Income Tax Order. Originally, these reductions were intended to benefit the residents of the "Gaza Envelope." However, due to political considerations other locations were added to the list during the legislative process – without any pertinent, common or transparent criteria. Despite the fact that Arab communities are at the bottom of Israel's socioeconomic ladder, not even one of them was included in the list of locations entitled to benefits. The High Court ruled that the amendment to the Income Tax Order violated the right to equality in a way that contravenes the Basic Law: Human Dignity and Liberty – and the amendment was annulled. The Court nullified the arbitrary addition of five Jewish communities to the list of those entitled to benefits and added three Arab communities. In light of the financial ramifications for residents of communities whose entitlements were nullified, the Court ruled that the revocation of those benefits will be postponed by one year. There was hope that during this period, the government and Knesset would act to amend the law in order to rearrange the issuing of tax benefits to communities according to fair criteria.

Approximately three and a half years have passed since this ruling was granted, and approximately two and a half years have passed since it was supposed to come into effect. During this time, the High Court repeatedly accepted the requests of communities whose entitlement was revoked and the state repeatedly postponed the date on which the ruling is to come into effect. Towards the end of November it was reported that the Finance Committee has expanded the list of communities entitled to benefits, and established clear criteria for determining which communities to include. On November 30, 2015 the law passed the second and third reading in the Knesset.

The Right to Language and Culture: Making Public Services Accessible

The state's obligation to respect the use of the Arab language is derived from the rights of the Arab minority to dignity and equality, to maintain their national identity and cultural uniqueness, and for Arab citizens of Israel to enjoy public services and facilities like all other citizens. Despite this, Arabic is absent from many public services and arenas across the country. Aside from the infringement on rights, the absence of Arabic "erases" the Arab citizens of Israel from the public sphere and delivers the message, to both the Arab minority

and the Jewish majority, that Arabs are not real partners in society. Due to the work of human rights organizations, there has been progress in making the public sphere and public services more accessible to the Arab minority. However, this is sometimes executed slowly and not yet perceived as an obvious requirement. Below are some recent examples.

Public transportation: The absence of Arabic is noticeable in the static and electronic signs in bus stops. Even in some of the Arabic communities, these signs are only in Hebrew. The Ministry of Transport and Road Safety has stated that efforts are being made to improve the accessibility of information in Arabic to passengers, and that the website, smartphone apps and interactive voice responses are planned to be accessible in Arabic in early 2016.

Execution Office: Most of the services in Execution Offices around Israel, as well as the information on the Enforcement and Collection Authority's website, are not available in Arabic. The Enforcement and Collection Authority stated that it is working to make the information and procedures accessible to Arabic speakers. Warnings notices have already been translated into Arabic and are now being sent to debtors in two languages.

Higher education institutions: A study conducted by the organizations Sikkuy and Dirasat across four universities found that "the Hebrew culture and language have abundant and extensive representation and presence. The Arab-Palestinian culture is almost completely absent from these campuses, and insufficient place is reserved for the Arabic language, in such a way that it almost disappears." At the same time, the researchers note achievements and improvements in certain areas and in some of the universities.

Cultural institutions: A report by the Ministry of Culture and Sport, which was recently exposed in the media, reinforces claims made by human rights organizations for years concerning discrimination against the Arab population in the area of culture. For example, in 32% of all Arab localities there are no public libraries; and there is no museum, cinematheque or art school in an Arab locality. It was recently published that the Minister of Culture and Sport, Miri Regev, plans to change the criteria for budgetary support to cultural institutions, so that preference is given to the geographical and social periphery, and to the Arab sector.

Libraries in Nazareth Illit: The main public library in the city of Nazareth Illit, and its two neighborhood branches, have tens of thousands of books and magazines on different topics and in different languages. However, until recently they did not have a single book in Arabic. Following a petition filed by ACRI, the executive director of the Association of Community Centers in Nazareth Illit expressed a commitment to making the main library and its branches accessible to the city's Arab residents, and the Nazareth District Court instructed the two parties to jointly plan the timeline and implementation of this.

Arab school in Nazareth Illit: In the city of Nazareth Illit, where approximately 2,000 Arab children and adolescents reside, there is not even one school which teaches in Arabic. These students have no choice but to attend Arab schools outside of the city, mostly in Nazareth.

This situation infringes on the right of Arab residents to realize their residency in an equal manner and to enjoy an accessible and available education for their children.

The Bedouin in the Negev

No changes were made this year to the discriminatory policy aimed against the Negev Bedouin in the area of land and planning. House demolitions continue and there is no indication towards the advancement of an adequate, equal and inclusive planning policy – one that will take into account the reality on the ground, the historic affinity of the Bedouin citizens to the land, their right to equality and dignity and their right as an indigenous minority to preserve their unique culture and way of life. Two rulings granted this year demonstrate the discriminatory policy in land and planning:

Umm al-Hiran: The residents of the unrecognized village Atir/Umm al-Hiran were transferred from their original village, Khirbet Zbala, to the current location of Umm al-Hiran under a military order in the 1950s. Today the village has approximately 750 - 1,000 residents. For over a decade, the residents have been fighting against the government's decision to remove them from their village in order to build the Jewish village of Hiran in its place. In May 2015, another stage in their struggle ended in disappointment, when the HCJ rejected their request for an appeal concerning the decision to evict them. Since this ruling was granted, legal proceedings have been initiated in an attempt to postpone the demolition of the village houses. A request was filed for an additional consideration of the ruling in the Supreme Court, but at the same time, construction work for the establishment of the Jewish village Hiran has already begun.

Alukabi: Another ruling granted in May concerned the Alukabi family's claim of ownership of land in the Negev and the state's demand to register the land in the state's name. The Supreme Court accepted the state's claims and rejected the family's appeal. The ruling determined that in the current legal situation, the bar for proving Bedouin ownership over Negev land is extremely high and almost impossible to attain.

Asylum Seekers and Refugees

In August 2015, the HCJ ruled on the third petition against the "Anti-Infiltration Law," which enabled the holding of asylum seekers in the Holot facility in the Negev. The HCJ determined that holding asylum seekers in Holot for a period of up to 20 months is not proportional, and it granted the Knesset six months to legislate a proportional maximum period. The HCJ further ordered the release, within 15 days, of any person who had been staying in Holot for 12 months or more. At the same time, the Court rejected a petition against the incarceration of

asylum seekers in the Saharonim prison for a period of three months upon their arrival in Israel, in order to identify them and review the option to deport them. The HCJ rejected the petition pertaining to the authority to order asylum seekers to stay in the Holot facility and thereby approved the holding of asylum seekers at Holot for many months. Now, a “revolving door” situation is expected, in which those held in Holot will be released and thousands of others sent there in their place.

Before the ruling was granted, the Population, Immigration and Border Authority had broadened the criteria for summoning persons to Holot, and after the ruling it expanded them even further. Now, the criteria enable the summoning not only of veteran asylum seekers, as was the case in the past, but also thousands of others. Holot is defined as an open staying facility, but it is run by the Israel Prison Service and administered by regulations that apply in prisons, such as obligatory presence at night, penalties for disciplinary offenses, restrictions on keeping personal items and a ban on bringing in food.

Following the ruling in the petition against the “Anti-Infiltration Law,” approximately 1,200 Eritrean and Sudanese asylum seekers were released from Holot at the end of August. They were released without any housing, employment solutions or medical coverage. They were forbidden from living and working in Tel Aviv or Eilat, yet this prohibition was not accompanied by incentives to encourage employers throughout the country to absorb them.

The State of Israel also continues its efforts to make life unbearable for the asylum seekers outside of Holot. The designated bureaus for asylum seekers in the cities of Bnei Brak, Be’er Sheva and Eilat, where asylum seekers are required to appear once in a while in order to renew their permits, are characterized by dreadful conditions, discriminatory service and humiliating treatment.

Another policy that has been implemented by the state this year in its attempt to get rid of asylum seekers is the forced deportation of Eritrean and Sudanese citizens to a “third country” – Uganda and Rwanda – and the decision to incarcerate in Saharonim those who refuse to leave. The arrangement between Israel and these countries remains secret: it is unclear what protections the agreement affords and what status will be granted, and there is no known supervising mechanism in place. The testimonies and information collected so far indicate that those who enter Uganda and Rwanda remain without any legal status or rights and are exposed to incarceration and deportation to their countries of origin, which is prohibited even according to Israel. Israel does not deport asylum seekers directly to their countries of origin, but it sends them to a place in which they are unsafe, in violation of the Convention Relating to the Status of Refugees to which Israel is a signatory. In November 2015 the Be’er Sheva District Court rejected a petition filed by human rights organizations against the deportation to a “third country”. An appeal to the Supreme Court against this decision is still pending.

Migrant Workers

This year marked a stark decline in the rights of migrant workers in Israel, when the government decided to bring 20,000 construction workers from China in the absence of a bilateral agreement. This contravenes other government decisions of recent years, which stated that Israel would recruit migrant workers only in accordance with bilateral agreements with their countries of origin. Past experience shows that bringing migrant workers through contractor companies opens the door to abuse for migrant workers and severe violations of their rights, including the collection of outrageously high commissions.

Migrant workers who are recruited through bilateral agreements are also not protected from the systematic violation of their rights. For example, this year a report by Human Rights Watch exposed harsh incidents of abuse of Thai workers employed in agriculture across Israel. A relatively new phenomenon is the exploitation of agricultural students from Asia and Africa, who pay for “practical training” in the framework of a “study program,” but find out after their arrival in Israel that the purpose of this program is in fact to bypass the quota of migrant workers in agriculture and to provide cheap labor to Israeli farmers. In January 2015, the revocation of legal migrant workers’ entitlements to 2.25 benefit points on income tax also came into effect. This means a reduction of hundreds of shekels each month from their already low salaries. A petition filed by the Histadrut to the HCJ against the revocation of this entitlement is still pending.

Despite severe infringements on the rights of migrant workers in all areas of employment, the state’s enforcement activities and penalties for employers who break the law are far from being sufficient and effective. The State Comptroller’s report published this year reinforced repeated claims made by human rights organizations against the state and determined that the actions of the Population and Immigration Authority to enforce the rights of migrant workers are characterized by bureaucratic impediments, lack of basic coordination with other authorities and avoidance of using their authority. The State Comptroller’s report further states that the main body responsible for enforcing the workers’ rights, the Ministry of the Economy, fails to fulfil its duty in an effective manner.

A painful problem that briefly came to public awareness early this year under tragic circumstances, is the state of the migrant community’s unauthorized kindergartens in which some 3,000 babies and toddlers experience risk and neglect. At the beginning of this year, five infants died in these kindergartens within six weeks. The State Comptroller warned against this in 2013 but only this year, following the deaths and intensive work by organizations, the Prime Minister’s Office approved a designated budget for these kindergartens. As of November 2015, the full amount has not yet been transferred.

The Rights of Persons with Disabilities: Guardianship

The right of every person to make decisions concerning their own life, body and property is the most basic right available. A person who is assigned a legal guardian loses this liberty, and the guardian receives complete control over this person's life. In Israel, about 50,000 people are defined as "wards" and a guardian manages their affairs. Information gathered by organizations in this field, as well as repeated reviews by the State Comptroller over the last 25 years, paint a troubling picture of appointing guardians, without the person participating in the process and on the basis of insufficient evidence; granting guardians general and sweeping appointment letters, which are not suited for the needs of the wards; inadequate training of guardians; and poor supervision over the guardians by the state.

In the last year, there have been some encouraging developments in advancing the rights of persons with mental or cognitive disability to dignity and liberty. The Ministry of Justice published a bill to amend the Legal Capacity and Guardianship Act, in order to update the law in accordance with current social perceptions of people with mental and cognitive disabilities and the elderly. The General Guardian also published a draft regulation that addresses, for the first time in Israel, the activities of guardianship corporations. Until now these corporations acted without any binding instructions or procedures for wards to be involved in the process, and they frequently received harsh criticism concerning their services. The arrangements proposed in the amendment to the law and in the draft regulation represent a step in the right direction, but are still insufficient. Despite ongoing problems, legislative reform offers an opportunity to ground arrangements concerning legal capacity and guardianship on principles that promote human dignity and the right of the individual to autonomy.

The General Guardian also began a pilot program for supervision of how guardians manage the personal affairs (health, welfare, housing and more) of those under their responsibility. Until now, there was only supervision over the management of property. A national coordinator responsible for representing elderly persons and wards was appointed, for the first time, in the Ministry of Justice's Department of Legal Aid. Her role is to promote the legal recognition of their rights as independent persons and the possibility to protect them without ignoring their will. In the last two years, there has also been a positive trend in court rulings, of acknowledging supported decision making as an alternative model to guardianship. The rationale for this model is that someone's legal capacity should not be negated even when their cognitive functions deteriorate, and that he or she should be assisted, in a manner that suits their needs to maintain control over their lives as much as possible. Decision-making support persons act in accordance with the person's will, and their role is to assist, accompany, represent and make information accessible to the person; rather than imposing decisions on him or her.

Freedom of Expression

The Right to Demonstrate

Use of Exceptional Measures to Disperse Demonstrations: In January 2015, a Bedouin citizen was shot and killed by a police officer during a police raid on drug dealers in his neighborhood in the city of Rahat. During his funeral, clashes erupted between Bedouin residents and the police, which resulted in the death of another citizen, apparently from tear-gas inhalation. In late April and early May, during demonstrations by the Ethiopian community in Jerusalem and Tel Aviv, the police initially responded in a restrained manner. However their responses escalated to using very extreme crowd dispersal measures, including batons, mounted horses, tear gas, stun grenades and even the “Skunk” vehicle – without prior warning and without giving the demonstrators a reasonable opportunity to leave beforehand. The use of exceptional measures is particularly troubling at demonstrations of minority groups; as it raises the concern that the identity of the demonstrators, and not their actions alone, is related to the severity of the measures used against them. There is no dispute that the police must act to maintain public order and prevent riots; but the police have the experience, tools and capacity to handle complex situations that might lead to the disruption of public order. Police officers are supposed to know how to act during demonstrations, even if protesters did not request the necessary permit and even if the protests are less tranquil in their nature. When there is no alternative and the demonstration must be dispersed, the officers should use proportional measures and adhere to the regulations governing these measures.

Treatment of the media at demonstrations: Due to the importance of the freedom of the press, especially when covering events that have public significance, the military and police are required to do everything that they can to enable the work of journalists. In the past year, more and more testimonies were collected concerning assaults on journalists and photographers while they were documenting demonstrations and similar events; as well as wrongful attempts by police to interfere with their work.

Freedom of Political Expression in Art

The beginning of the new government’s term in office marked an attempt to narrow the freedom of political expression as manifested in art and cultural works. For example, the Minister of Education Naftali Bennett decided to remove from the cultural budget a play based on the story of a security prisoner, even though the repertoire committee found that it included no offensive or inciting content. The Minister of Culture and Sport, Miri Regev announced that she will review the funding of some cultural institutions because of the content of films and plays. Minister Regev also wanted to promote a bill preventing the funding of public bodies due to “incitement, damage to state symbols and inciting terrorism” and distributed similar criteria for funding to cultural institutions. Following an appeal by

ACRI, the Attorney General's deputies clarified that the Minister is not authorized to evaluate the content of art works when considering their funding, and that the criteria for resource allocation must be artistic and professional only.

Restrictions on the freedom of political and cultural expression were also imposed by local authorities. For example, cultural institutions in Haifa refused to rent out a hall to the organization Zochrot, which planned to screen films that address the Palestinian Nakba; and in Sderot, Be'er Sheva and Yeruham, the municipalities caved in to political pressure and prevented the screening of a film about the psychological difficulties experienced by residents of Gaza following Operation Protective Edge.

Each of these decisions poses severe threats to democracy and the freedom of expression, especially when they are considered together. Beyond the specific impact of each decision, together they have the potential for creating a 'domino effect', which may lead to self-censorship by artists and cultural institutions, and influence the decisions of donors supporting works of art and culture. It is important to note that under the current law, the state does not have to support a cultural event that constitutes a breach of the law or clearly incites racism or violence. Moreover, we must remember that art is sensitive and complex, and cannot be viewed in a simplified manner. The attempt to censor culture and stifle challenging and thought provoking art undermines the opportunity to hold a profound and open public debate about the most significant and controversial issues in Israeli society; which is necessary in a democratic country.

Rights in Criminal Proceedings

Crowded prisons: The living space currently allocated to most prisoners and detainees in Israel is less than 3 square meters on average, per prisoner – including the area of the bed, toilet and shower. As a result, the prisoner is often forced to conduct their entire daily routine in bed; including eating, with little ability to walk around the cell and no possibility for a number of prisoners to stand at the same time in the limited space available. The crowdedness creates congested and suffocating conditions in cells, damages the prisoners' health and leads to enhanced tensions between them. The living space that is allocated to a prisoner in Israel is far from the standard adopted by international organizations and in Western countries. The average cell size amounts to half of the 'adequate living space' officially prescribed by the Israel Prison Service (IPS), and is significantly lower than the minimal standard established by international law and the Convention against Torture. Despite the fact that this is a very severe phenomenon that has been known to the authorities for many years, and despite construction and renovation efforts made by the IPS, there has been almost no change in the

living space allocated to prisoners over the past three decades. A petition to the HCJ on this matter, filed by ACRI, the College of Law and Business, and Physicians for Human Rights, is currently pending.



SITUATION REPORT 2015

Criminalizing poverty – indictments for ‘survival’ offenses: According to a report by the Public Defender’s Office, in recent years there have been more and more indictments served for offenses that are the result of extreme economic distress and are committed, it appears, for the sake of survival; including theft of basic food products such as baby food, invading unoccupied apartments in public housing, pirated connections to water or electricity and so on. It is poor people, who most need the protection and support of the authorities, who find themselves in trouble with the authorities. The Public Defender’s Office notes that “serving indictments in such cases does not properly promote the goals of criminal law and does not constitute a proportional and adequate social response. The police and prosecution authorities should act to forward such cases to welfare and social services, in order to find an appropriate solution for economic and survival distress, rather than taking criminal measures that add even more difficulties and diminish the person’s chances of breaking the cycle of poverty and distress.”

East Jerusalem

Excessive Use of Force by Police

Since the summer of 2014, and again with the outbreak of the bloody events at the end of September 2015, the situation in Jerusalem has become even more volatile and explosive than usual. It is unquestionable that the challenges encountered by police in these tough times are complicated, and that dealing with assailants and riots is an extremely difficult task. However, it is precisely in times like these that the police must maintain order and public safety while ensuring legal, appropriate and proper conduct and a rational, proportional and calculated use of power. Testimonies gathered by ACRI indicate that during this period, the police and border police have adopted an excessive use of force, in a manner that has caused severe and unjustified harm to the general population.

Sponge bullets: In July 2014, police in East Jerusalem began using black sponge-tipped bullets as a means to disperse demonstrations and riots, instead of the blue sponge-tipped bullets that had been previously used. The black bullets are twice as hard and heavy and their potential to cause injury is much greater. The use of these bullets in a manner that deviates from police regulations has led to the injury of dozens of East Jerusalem residents, including minors. More than 12 residents have lost an eye as a result of being hit by a sponge bullet, and approximately half of them are children. These severe injuries indicate that treating the new sponge-tipped bullets as a non-lethal weapon is unreasonable, and that they are not an appropriate means for dispersing demonstrations and riots.

Skunk spray: Since July 2014, police in East Jerusalem have been using the “Skunk” spraying vehicle in an excessive and unreasonable manner and against regulations, which has caused great damage to property and even bodily harm to Palestinian residents. In early 2015, the police decided that using the Skunk spray vehicle in the Jerusalem District would require the approval of the district commander or his deputy. Police also decided to review the regulation addressing the use of the Skunk spraying vehicle, yet in practice its excessive use around residential units continues.

Blockade of neighborhoods: Over the past year and a half, and particularly after the recent wave of violence, the Jerusalem Police blocked entrances to Palestinian neighborhoods several times, using cement blocks that were left in place for days, weeks and even months. These barricades prevent the passage of ambulances and fire engines, which play a vital role in saving human lives. They disrupt the movement of public transportation and private vehicles and the daily routine of local residents. The law allows the police to place temporary barricades following a specific incident, but the Police Ordinance grants no authority to blockade entire neighborhoods for an unlimited period of time. This type of collective punishment of an entire population is wrongful and illegitimate.

Denying entry into the Old City: In response to fatal stabbing incidents in the Old City, the police imposed for the first time ever, a 48-hour, sweeping prohibition on entry to the Old City for Palestinian residents of East Jerusalem, except for those who live, work or study in the Old City. The police had legitimate alternatives available to them that were less harmful, such as searching every person who enters the Old City. The profiling that police officers were required to perform at all of the entrances to the Old City, in order to enforce this denial of entry, is itself a wrongful and humiliating measure.

Increased and selective enforcement: In September 2015, police sources announced that they intended to exert pressure on the population of East Jerusalem by using increased law enforcement, in collaboration with different enforcement bodies such as municipal inspectors, Tax Authority, business licensing authorities and Traffic Police. Indeed, in October, municipal inspectors issued fines to Palestinian business owners in the Old City who failed to display signs prohibiting smoking. The Justice Minister declared that the state uses “integrated enforcement” on families of terrorists, in areas such as building, municipal fees and taxes. At the beginning of the year it was exposed that the police and GSS provide the Jerusalem municipality with lists of the names of East Jerusalem residents who are suspected of participating in violent demonstrations, for the purpose of increased municipal enforcement against them and their family members. Using municipal enforcement measures against people only because they are suspected of committing unrelated offenses clearly constitutes selective enforcement, which is driven by wrongful and illegitimate reasons and infringes on the right to equality before the law. Employing enforcement measures against a suspect’s family constitutes collective punishment. This mode of conduct undermines the validity of criminal procedures and the basic right to due process.

The Neighborhoods beyond the Wall

In July 2005, the Israeli government passed a decision that established a mechanism for the provision of services to the Palestinian neighborhoods beyond the Separation Wall in Jerusalem. This decision was intended to ensure that the construction of the wall would not undermine the daily routine of the tens of thousands of residents that were left behind it, and so that they would continue to be entitled to all of the services they deserve as Israeli identity card holders. One decade after this government decision, most of the obligations remain on paper. While all Palestinian neighborhoods in East Jerusalem face severe neglect on behalf of the municipality and government authorities in the areas of infrastructure and services, in the neighborhoods beyond the wall the situation is much harsher and only continues to deteriorate. Since the construction of the wall, this area has become complete wasteland. There is no police presence in the neighborhoods and Magen David Adom ambulances no longer enter the area. Basic infrastructure such as water and sewage have collapsed and sanitary conditions are extremely poor. There are no minimal services of garbage disposal, road repairs or streetlight installation. The state’s promises to build hospitals and healthcare

centers were not kept. The municipality operates only four schools, even though tens of thousands of students live in this area and there is a severe need for more educational facilities. The residents' freedom of movement is severely violated due to frequent delays at checkpoints and the constant congestion in the few roads that lead to them. Repeated appeals concerning these issues have received no response from the authorities.

Human Rights Violations in the Occupied Territories

Settler Violence against Palestinians – Lack of Law Enforcement

The arson attack on the home of the Dawabsheh family in the Palestinian village of Duma, which caused the death of baby Ali and both his parents, was the culmination of a long series of settler assaults on Palestinians and their property over the years, including land seizures, harassments during olive harvests, burning and cutting down trees, physical assaults and even arson attacks on houses. Reports published this year revealed that the “price tag” actions which began in 2008 and are commonly perceived as connected to a few “bad apples,” are in fact an organized and institutionalized phenomenon, and that various organizations that encourage “price tag” actions receive public funding.

Of course, violent incidents in the Occupied Territories are not limited to one side only, and there are also severe assaults on settlers by Palestinians. For example, the shooting on the Henkin family's car in early October, which took the parents' lives. However, unlike the vigorous investigations conducted by law enforcement authorities when Israeli citizens are assaulted, and the stringent enforcement against Palestinians that attack Jews, the state demonstrates extreme incompetence when addressing violence aimed by Jews against Palestinians. A report published this year by the organization Yesh Din describes failures and shortcomings in all stages of investigation by the Judea and Samaria District of Police, when handling complaints by Palestinians that Israeli citizens harmed them or their property. As a result, only 7.4% of investigations conducted by the district police in this field lead to indictments. A Palestinian who files a complaint to the police has only a 1.9% chance that his or her complaint will lead to an effective investigation, the location of a suspect, the suspect's indictment and eventually a conviction.

The severity of assaults by settlers and failed investigations of these assaults is exacerbated by the fact that in many cases, these actions are backed by the silence and blind eye of the soldiers present. In this way, the military ignores its responsibility, under human rights law and international humanitarian law, to protect the Palestinians who are under occupation. According to another report published by Yesh Din, the military has thus far avoided formulating a clear and accurate directive on this matter, the soldiers are unaware of their obligation to protect the Palestinian population and do not know how they are required to act

during a violent incident in which Israeli citizens attack Palestinian residents. The Israeli media recently exposed that in the last year, soldiers were given a new order; according to which they must address violence by Jews and Palestinians in an identical manner and to intervene in any assault on Palestinians or their property. Four soldiers have been punished for “standing by.” However, according to the article, the orders are not given in a sufficiently consistent manner and there is still confusion on the ground.

Arrests of Minors

In the West Bank, there are two separate and different systems of criminal law – Israeli law and military law. Even minors experience the distinction between settlers and Palestinians in the criminal process: An Israeli child will be tried under Israeli criminal law before a court in Israel, and will be afforded the extensive rights and protections granted to minors under Israeli law, which promote the minor’s wellbeing. By contrast, a Palestinian child who committed a similar offense will be tried in a military court and under military law, which is much more stringent and does not sufficiently address the unique needs of minors.

According to figures published by Military Court Watch, in January-August 2015 an average of 165 Palestinian minors were held in Israeli prisons and detention facilities each month. In recent years, significant amendments were made to military legislation with regard to the rights of Palestinian minors involved in criminal procedures in the territories. However, it is still difficult to know the extent to which these amendments are implemented on the ground and how much impact they have had, in practice, on the situation and status of Palestinian minors in the criminal procedure. Furthermore, even after these amendments were passed, severe infringements of the basic rights of Palestinian minors occur at every stage of the criminal process, and particularly in the initial stages of detainment and arrest conducted by military forces.

For example, the practice of night-time arrests, whereby soldiers arrive at the family home during the late hours of the night or early morning and arrest the minor, who was generally asleep in bed. Despite the military’s refusal to abolish this wrongful and harmful practice, in 2014 it initiated a pilot of summoning minors to an interrogation as an alternative to night-time arrests in some cases and under certain conditions and circumstances. However, the details of this pilot – such as where it was implemented, how, to whom it applied and according to what criteria – remain unknown. There was no transparency with respect to the conclusions derived from the pilot and whether it was discontinued or became a permanent procedure. Another problematic issue is the detainment of minors under the age of 12 – the age of criminal responsibility. According to military regulations, it is explicitly prohibited to arrest minors under the age of criminal responsibility, but there is no similar prohibition on their detainment; and in practice sometimes even very young children are detained. According to ACRI’s position, detaining minors under the age of criminal responsibility should be

arranged through detailed regulations, which should clearly determine what soldiers can and cannot do in this area.

Administrative Detentions

Administrative detentions and administrative restraining orders are illegitimate means to bypass the standard criminal procedure. They enable imposing restrictions on a person's liberty, in the absence of a fair trial and without providing the person with the opportunity to defend him or herself. Detentions and restraining orders are founded on classified material. The person's degree of threat is estimated, as a rule, on the basis of their prior actions or on intentions attributed to this person, without obliging the state to prove these actions or intentions beyond a reasonable doubt, in the framework of a fair criminal trial.

Administrative detentions are routinely used against Palestinians in the Occupied Territories. Compared with the peak of the Intifada, in recent years there has been a general decline in the number of Palestinian administrative detainees, but since the abduction and murder of three Jewish teenagers in the summer of 2014, this number has risen again. According to publications, this is due to the lowering of the level of suspicion required in order to hold a person in administrative detention. As of late August 2015, Israel was holding 341 Palestinians in administrative detention; on average, in each of the months between January and August 2015, there were approximately 390 administrative detainees.

Following the murders in the Palestinian village of Duma in July 2015, security authorities have also employed administrative detentions against Jewish-Israeli residents of the territories. The authorities have also initiated an unusual wave of administrative removal and restraining orders imposed on Jews, including minors. In October 2015, a police representative stated that administrative removal orders had been recently issued against 54 Jewish-Israelis living in the West Bank, some of whom were removed to communities within the Green Line. Administrative removal orders have also been issued against 62 Muslim-Palestinian residents of East Jerusalem and citizens living in Israel. These orders prohibit them from entering the Temple Mount (Haram al-Sharif), the Old City, or Jerusalem as a whole for a period of up to six months. Following the wave of violence in Autumn 2015, there was an exceptional use of administrative arrests against Arab citizens who live in Nazareth and Palestinians from Jerusalem who have permanent residency status, including three minors. To the best of our knowledge, this is the first time in which minors who have a status in Israel, have been held in administrative detention.

Forced Feeding

At the end of July 2015, the Knesset passed a legislative amendment that enabled the forced treatment, including feeding, of prisoners on hunger strikes, against the prisoner's will. This amendment is intended to enable the authorities to deal with security prisoners who go on

hunger strikes in order to protest the conditions of their incarceration. Prisoner hunger strikes present significant challenges to physicians and prison authorities. However, there is a general agreement in international law and among medical professionals that, as a rule, the forced feeding of persons on hunger strike, who are mentally capable and refuse treatment of their own free will, is prohibited; as it violates the person's right to dignity and autonomy over their own body. Three petitions against this law, filed in the HCJ by the Israel Medical Association and other human rights organizations, are currently pending.