



# Situation Report:

## The State of Human Rights in Israel and the OPT

### 2017

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## Introduction

As far as human rights are concerned, Israel in 2017 appears to have gone back in time. It has become painfully clear that values that appeared to have become universally respected over the years, such as the right to equality and freedom of expression, still require protection. Even the basic foundations of democracy, such as the rule of law, separation of powers, respect for human rights, and protection of minority rights against the tyranny of the majority, are now endangered.

ACRI has been warning for several years of the alarming shrinking democratic space in Israel. This year, the situation reached a new low. Developments were seen in familiar areas, such as the silencing of opinions and public criticism; attacks on pluralism; the delegitimization of political rivals, journalists, and human rights organizations, and so forth. These were exacerbated this year by a new phenomenon: alarming attempts to curtail the power, authorities, and activities of the “gatekeeper” institutions that provide the checks and balances that are vital in a democracy and that ensure the rule of law, proper administration, respect for human rights, and the absence of corruption.

Almost three decades after the abolition of censorship on plays, we have seen a worrying return to the days when the government could censor cultural works and silence artists on political grounds. The Supreme Court has been forced to defend the basic right to demonstrate and protest after the police presented demonstrators with spurious and unlawful demands. Another disturbing example of the attack on freedom of expression is legislation concerning the internet that seeks to grant powers to the state to block citizens’ access to websites or to remove content from the web.

The government’s attitude toward the Arab minority was also characterized this year by incitement and by discriminatory and racist bills. The government continues to place obstacles in the way of asylum seekers that in some cases are no less than cruel in an attempt to force them to leave Israel. Trends toward segregation and exclusion threatened the status of women in Israel and their right to equality and dignity as attempts were made to relegate them to the margins of society. The shrinking democratic space has included deterioration in the fields of freedom of religion, freedom from religion, and Jewish pluralism.

The occupation casts a shadow over all these fields. This year, the fiftieth year of occupation, saw a further deepening of the combination of annexation and occupation, based on a completely distorted perception regarding the essence of equality, human rights, and democracy. The government refuses to acknowledge or discuss the grave moral ramifications of the settlements or the systematic violation of the human rights of the Palestinians who have lived under Israeli military rule for five decades. The nation’s leaders are not only unconcerned at the presence of two legal systems in the Territories, one for Palestinians and the other for Israelis, but actually seek to entrench these two systems still further. Over the past year, this trend led to proposed laws for direct or indirect annexation, culminating (to date) in the enactment of the “Expropriation Law.”

We are not giving up hope. Things that seemed impossible three decades ago came to be taken for granted over the years, and will again come to be universally respected. A tentative silver lining may be found in the field of social rights. Slowly and step-by-step, the state is beginning to recognize its obligation to realize our rights to a dignified existence, health, and housing. This recognition, which is at least in part the outcome of the work of civil society organizations over many years, shows that persistent efforts can change public discourse and ultimately create a new reality on the ground.

## Shrinking Democratic Space

Over recent years, ACRI has repeatedly warned of the shrinking democratic space in Israel. This year, the phenomenon reached new depths. The political majority continues to violate basic rights, challenging and pushing back to the limits the most basic rules of the democratic regime, such as the rule of law, separation of powers, respect for human rights, freedom of expression, and protection of minority rights. The gravity of the situation was underscored by the unprecedented remarks made over the year by the State President and the Attorney General. The President warned of attacks against the “gatekeepers” of democracy, and in particular criticized attempts to weaken the judicial authority and the media. The Attorney General declared: “The combination of all of these bills is a big problem which can... harm human rights and equality before the law. They do not increase governing stability, they harm it. The way to increase governing stability is to guard the law.”

The attack on democracy, particularly by means of initiatives and statements by members of the government and the ruling coalition, was manifested in diverse fields. Each one, and in particular all of them together, represent a deliberate and systemic attempt to erode the foundations of democracy to a point that risks its collapse. These aspects include: silencing opinions and public criticism; attacks on pluralism and a refusal to acknowledge the legitimacy of diverse views, thoughts, and opinions; the delegitimization of political enemies, journalists, minorities, and human rights organizations, including their stigmatization as “traitors;” damage to freedom of association; and actions intended to curtail those whose positions or activities are unpopular with the political majority. Over the past year, a particularly prominent phenomenon has been attempts to erode the power, authorities, and actions of the “gatekeeper” institutions that compose the system of checks and balances that is vital to any democracy, and that ensure the rule of law, proper governance, protection of human rights, and the absence of corruption.

It is particularly alarming that one of the main arenas in which democracy is being trampled on and the rules of the democratic game are being attacked is parliament itself, which should serve as a symbol of Israeli democracy and devote itself to its protection. The statements and

actions of senior figures within the Israeli political system, and particularly those that stem from the Knesset, have a profound impact on the attitudes and positions of the Israeli public toward democracy and human rights and toward political, social, ethnic, and other minorities.

The following section will present some of the initiatives and proposed laws raised over the past year that threaten democratic space in Israel. These are merely examples illustrating a worsening trend.

**Attacks on the “gatekeepers” of democracy:** Members of the government took numerous steps over the year that reflect their belief that the role of civil servants – legal advisors, judges, and even the State Comptroller – is merely to advance government policy, and not to audit or curtail the government’s actions. These steps included: an initiative by the coalition to restrict the authorities of the State Comptroller; disregard for the recommendations of the Attorney General and an attempt to limit his authority; and significant steps to facilitate political appointments in the civil service, government companies, and the legal system, including initiatives to permit the political appointment of legal advisors and deputy directors in government ministries and attempts to interfere in the work of the committee responsible for appointing the civil service commissioner. These initiatives were accompanied by unprecedented attacks by Prime Minister Benjamin Netanyahu and members of the government and the coalition against the “gatekeepers” whenever the latter criticized government policy, acted against its opinion, or pursued investigations as required by their positions. The targets of these attacks include the State President, the Attorney General (whose authority was reduced), the police and its Chief Commissioner, and the Supreme Court justices.

**Attempts to attack the judicial system, and particularly the status of the Supreme Court:** Ministers announced their intention to promote legislative amendments limiting the ability of the Supreme Court to disqualify legislation (the “supremacy clause”); a proposed law that has not yet been promoted seeks to limit the ability of public petitioners, such as organizations, to petition the Supreme Court (“judicial standing”); proposed laws seek to strengthen the status of Jewish religious law; the Minister of Justice presented an initiative (later abandoned) to change the “seniority method,” according to which the most senior justice on the Supreme Court is elected its president; initiatives were launched to politicize the Judicial Selection Committee; and a government law proposal seeks to grant the rabbinical courts parallel authority on civil matters, threatening the substantive division of the legal system,.

**Attacks on the media and the silencing of criticism:** The law seeking to divide the Public Broadcasting Corporation, with the goal of politicizing the News Division, is still pending before the Supreme Court; the law also includes a proposal to close the corporation; the Prime Minister and members of the coalition attacked media outlets and journalists who performed their function by criticizing the government or reporting on the investigations against the Prime Minister.

**Changes in the work of the Knesset:** The Knesset Ethics Committee discussed a proposal (which was not promoted) to limit overseas travel by Members of Knesset on the basis of the positions or activities of the inviting bodies – a proposal that would damage freedom of political expression and the ability of Members of Knesset to represent their electors. The Knesset Committee discussed a series of initiatives seeking to reform the relationship between the Knesset and the government, including empowering Knesset Committees to summons to their hearings private bodies and the restriction of private legislation. These initiatives are ostensibly based on the desire to strengthen the Knesset’s role in inspecting the executive authority – an important component in ensuring a vibrant and efficient democracy. However, given the existing conditions in Israel, where the government uses its majority in the Knesset to control every proceeding, discussion, decision, or proposed law, it is extremely important to scrutinize the details of such legislation in order to ensure that it does not ultimately strengthen and empower the government even further.

**Curtailing the actions of human rights organizations and other bodies:** The mistaken and dangerous belief that human rights organizations work against the state and must be curtailed was manifested this year in a virulent manner by none other than the Minister of Justice. Minister Ayelet Shaked declared that Zionism will not lower its head before human rights. In this spirit, the past year saw countless initiatives, statements, and proposed laws that sought to delegitimize and stigmatize organizations and activists whose agenda differs from that of the political majority. The Knesset passed the so-called “V15” law, which restricts the activities of NGOs during election campaigns and is liable to damage freedom of association and freedom of political expression. Another law prevents certain organizations from receiving National Service volunteers. The Knesset also discussed a proposed law that seeks to deny income tax recognition (Section 46A) to certain organizations on the basis of their ideological positions and to harm those who hold positions the government considers unacceptable. A further proposed law (which was not promoted) sought to deny exemption from payment of the levy on freedom of information requests to organizations funded primarily by overseas governments. As in previous years, a proposal was again raised to establish a parliamentary committee of inquiry to investigate the funding of civil society organizations.

**Attacks on the status or rights of the Arab minority in Israel:** Laws and proposed laws seeking to attack the status and rights of the Arab minority in Israel are contrary to a basic principle of democracy – the protection of the minority against the tyranny of the majority. This year, the Knesset continued to initiate and promote such proposals, including the “Nation-State Law” and the “Muezzin Law.” For further details, see below in the section The Rights of the Arab Minority.

**Attacks on freedom of expression and pluralism:** The Knesset passed an amendment denying entry to Israel to anyone who advocates a boycott of Israel; a proposed law was tabled seeking to restrict appearances in schools by organizations whose positions differ from those of the government; attempts continued, particularly by the Minister of Culture, to deny funding to cultural institutions or prevent the holding of events due to the expression of certain political

views, and so forth. All these phenomena will be discussed below in the section Freedom of Expression. A particularly prominent feature over the past year was attacks on Jewish pluralism, as discussed below in the section Freedom of Religion and Freedom from Religion.

It is possible that certain of the initiatives mentioned above might deserve discussion and consideration. Moreover, as noted, not all the initiatives are implemented fully or at all. However, the danger lies in the cumulative damage caused to democratic space in Israel by these initiatives **as a whole**. Silencing criticism of government policy and engaging in incitement against institutions, organizations, and sections of the population prevents public debate and inflames hatred. The shrinking democratic space creates a deterrent and leads to self-censorship. This has a chilling effect on Israeli society, whereby instead of seeking to address problems and resolve disagreements, it becomes increasingly difficult to discuss these issues openly. The attacks on the “gatekeepers” remove limits on the executive authority and undermine the rule of law.

## Human Rights Violations in the Occupied Territories

### **Fifty Years of Occupation and Creeping Annexation**

On 6 June 2017, the Knesset convened to mark the fiftieth anniversary of the Six Day War of 1967. The day was dominated by a single issue: the settlements. In the plenum, Members of Knesset discussed ways to strengthen and expand the settlements and to develop the relations between the Knesset and the settlements. The Yesha Council was a partner in the main event of the day and participated in discussions in the committees, while Members of Knesset from the opposition were denied the opportunity to table alternative subjects for discussion. Justice Minister Ayelet Shaked announced a new provision declaring that the Ministerial Committee for Legislative Affairs will no longer discuss government proposed laws unless they address the manner of realization of the law in the settlements.

The devotion of the Knesset to supporting the settlements, while excluding all the opposition factions, illustrates the approach taken by Israel’s 34<sup>th</sup> government since it was formed some two years ago. The government refuses to consider or discuss the grave diplomatic and moral ramifications of the settlement enterprise or the systematic violation of the human rights of the Palestinians who have lived under Israeli military rule for half a century. The nation’s leadership is unconcerned at the existence of two separate legal systems in the Territories, one for Palestinians and another for Israelis, and indeed seeks to intensify this separation.

Over the past year, this approach led to an increased flow of proposed laws for direct or indirect annexation, including a proposed law to annex Ma’ale Adumim, a proposed law to annex the Gush Etzion area, the “Greater Jerusalem” proposed law, a proposal to reverse Israel’s “disengagement” from an area in northern Samaria, and so forth. To date, most of

these initiatives have not been promoted and have served mainly to win media headlines. However, they have the effect of making annexation seem like a normative option to the Israeli public, which is expected to ignore the fact that the form of “annexation” proposed is highly partial and excludes the Palestinian residents.

The accelerated annexation reached its peak in February this year, with the adoption of the “Expropriation Law.” The law “regulates” the theft of private Palestinian land in order to leave in place settlements and buildings constructed illegally on such land, often by the state authorities themselves. The law, which was passed despite the opposition of the Attorney General, violates absolute prohibitions in the laws of occupation against the confiscation of property, except for immediate security needs. It also violates Israel’s own Basic Laws. Human rights organizations petitioned the Supreme Court against the law, together with Palestinian council heads and landowners, and its implementation is currently frozen.

The “Expropriation Law” marks a watershed moment in Israeli policy and a new stage in the history of the occupation. Until now, the Knesset empowered the military commander to enact direct legislation in the Territories, as required in accordance with International Humanitarian Law. Now it is exercising its sovereignty in this area, in an act of de facto and partial annexation. The Members of Knesset seek to impose sovereignty on the Territories in a manner that will grant rights and equality to Jews only, while Palestinians continue to be controlled by a full military regime. This is unthinkable in a democratic state and reflects a perception of “sovereignty” based on the deliberate blurring of political boundaries, gross and institutionalized discrimination, and brute force. This approach negates fundamental principles, such as the rule of law and equality before the law, and accordingly it is being implemented while ignoring checks intended to protect the rule of law and equality in a democracy, such as the Supreme Court and the legal advisors. Thus, for example, the “Expropriation Law” effectively seeks to prevent the submission of petitions to the Supreme Court against outposts and homes in settlements constructed illegally on private Palestinian land. After the Attorney General refused to defend the law before the Supreme Court, the government hired the services of a private attorney for this purpose.

The creeping annexation of the settlements is inevitably accompanied by the heightened oppression and dispossession of the Palestinians. In areas the Israeli government is particularly interested in annexing – Ma’ale Adumim, the Jordan Valley, Hebron, and the south Hebron hills – it is acting particularly vigorously, through the military, to demolish homes, schools, livestock pens, and wells. The IDF confiscates water pipes and solar panels serving communities Israel refuses to connect to the water and electricity supply; blocks access roads serving Palestinian communities; and even holds military exercises in the vicinity of Palestinian communities. These actions are intended to displace Palestinians into the enclaves of Area A and B, thereby preparing the ground for Israel to take full control of Area C, which accounts for 60 percent of the West Bank.

The past year saw the heightened use of military orders intended to “bypass” the lengthy proceedings entailed in the enforcement of planning and building laws in the West Bank. The military increasingly issued confiscation orders permitting the immediate seizure of new prefabricated buildings. The confiscation is implemented immediately, without a hearing and without any administrative or judicial proceeding giving residents a chance to change the decree. As a result, they are left homeless. An even more extreme military order was recently issued against the communities of ‘Ein al-Hilweh and Umm Jamal in the northern Jordan Valley. The order declares the villages a “confined area” and demands that the residents evacuate within eight days “all property present in the declaration area.” Since no-one can live in a place without any possessions, the order effectively constitutes an act of forcible transfer – something that is prohibited under the international humanitarian law applying in an occupied area. This step marks a further worsening of the illegal and immoral policy toward disadvantaged and impoverished Palestinian communities in Area C.

In East Jerusalem, too, annexation is accompanied by the expropriation and displacement of the Palestinians. Over the year, the Jerusalem Municipality continued to demolish Palestinian homes due to the lack of building permits, ignoring the fact that it is virtually impossible for Palestinians to secure such permits. The authorities (the municipality, the Israel Police, the Ministry of the Interior, the Custodian of Absentee Property, and others) cooperate with settler associations in order to seize control of homes and displace Palestinians from neighborhoods in the heart of Jerusalem, including the Old City, Silwan, and Sheikh Jarah. Some politicians are now suggesting that the Palestinian neighborhoods of Jerusalem left on the “other” side of the Separation Barrier should be excluded completely from the municipal boundaries of the city.

The nation’s leaders and representatives of the settlements often use the language of human rights, democracy, and equality in order to advocate the formal annexation of the settlements and the application of the same law to settlers as inside the sovereign state of Israel. In Jerusalem, the seizure of homes in the middle of Palestinian neighborhoods is depicted as the simple right of any person to live where they wish, regardless of religion or nationality. But universal rights cannot be granted to one population and denied to another. Those who wax lyrical about human rights are willing to challenge demolition orders, violent detentions, and torture during interrogation only when the victims are Jews. While waving the banner of equality with one hand, they continue with the other to deepen the already enormous gulf between the two legal systems Israel maintains in the West Bank, and to encourage institutionalized discrimination in East Jerusalem. Annexation and occupation are based on an inherently distorted perception of equality, human rights, and democracy. This year, as the occupation completed its fiftieth year, this distorted perception was entrenched still further.

### **The Gaza Strip**

The year in the Gaza Strip began with a serious electricity crisis in the middle of winter. In winter the power station in the area was shut down due to disagreements between the Palestinian Authority and Hamas concerning the supply of fuel to the station, and in June the

Israeli political-security cabinet decided to cut the quantity of electricity Israel sells to the Gaza Strip. As a result, the already limited electric supply in the area was cut to a cycle of four hours' power followed by 12 hours without electricity. The limited supply endangered human life and created health and environmental hazards. The serious lack of electricity led to a shortage of flowing water, since electricity is needed to operate the pumps. Every aspect of the lives of two million people in the area was affected, from the use of domestic appliances to the proper functioning of hospitals.

In July 2017 the United Nations published an alarming forecast suggesting that by the year 2020 the Gaza Strip could become "unfit for human habitation." The forecast was based on the limited electricity supply, almost entirely polluted water sources, flowing sewage, collapsing medical services and other vital functions, and soaring poverty and unemployment. According to media reports, Israeli military officials also warned several times over the year that the Gaza Strip is on the brink of a human crisis due to the total collapse of civilian infrastructures.

Toward the end of the year, after a decade of isolation that made life in Gaza virtually unbearable, there is at last some room for cautious optimism. Twelve years after the closure of the border crossings around the Gaza Strip, following the seizure of power in the area by Hamas, responsibility for the crossings began to be transferred to the Palestinian Authority, after the two sides signed a reconciliation agreement. For the beleaguered residents of the Gaza Strip, the anticipated return to full functioning of Rafah Crossing is particularly important, as this facility provides an exit and entry point with the rest of the world. It is to be hoped that the transfer of control at the crossings to the Palestinian Authority will encourage international action to rehabilitate the Gaza Strip following three rounds of fighting with Israel that led to the destruction of flimsy infrastructures, and after a decade of closure that caused the extreme and protracted violation of the residents' basic human rights and prevented the development and reconstruction of the area.

Another development that may improve the situation in the Gaza Strip is the resumption of the activities of the Joint Water Committee of Israel and the Palestinian Authority in January 2017, after it failed to convene for six years. The committee is now due to formulate agreements for the development of the water and sewage infrastructures in the West Bank and Gaza Strip. In addition, in July 2017 Israel, Jordan, and the Palestinian Authority signed the "Red-Dead Canal" agreement, which among other functions is due to permit the sale of 10 million cubic meters of water to the Gaza Strip.

Despite these hopes for improvement and change, however, it is important to recall the gravity of the problems facing the Gaza Strip. Even before Israel's "Disengagement," the infrastructures in the area were unable to meet the needs of the Palestinian population, and certainly could not provide appropriate living conditions for the twenty-first century. After four decades of direct occupation, and a further decade of indirect control, the Gaza Strip is dependent on Israeli electricity, water, and communications lines. The residents of the area

are dependent on Israel and Egypt in order to leave the area for medical treatment, studies, family visits, and so forth – and even in order to fish the waters around the Gaza Strip. Israel, Egypt, and the Palestinian Authority will all need to change their policies dramatically in order to enable the Gaza Strip to make a fresh start.

## Freedom of Expression

### **The Right to Demonstrate**

The public embraced protest this year and made it a visible and effective tool in the country's life. Protests were held on a wide range of issues by groups and individuals: demonstrations against corruption outside the Attorney General's home in Petach Tikva; demonstrations by people with disabilities demanding an increase in disability benefits; demonstration by the LGBTIQ community against the Welfare Ministry's position on adoption; demonstrations by Haredim against the drafting of yeshiva students; demonstrations against the murder of women; demonstrations demanding recognition of the affair surrounding children from Yemen, the Middle East, and the Balkans – and many more. The large number of demonstrations, the persistence of the demonstrators, and their diverse demographic profile reflect a positive phenomenon of active civil involvement with the goal of influencing the public agenda.

However, those who seek to demonstrate in Israel still face many obstacles. In recent years, obtaining a permit for a demonstration has become an exhausting bureaucratic saga. In some cases, the police present the organizers of demonstrations with bizarre demands, some of which lack any legal basis. For example, a woman contacted the police in Netanya to request a permit for a demonstration, although it later emerged that there was no need for a permit. She was presented with a long list of unreasonable and even illegal demands, including restrictions on the pictures she would be permitted to display and a prohibition on the use of a megaphone. The demands presented to demonstrators are not consistent – they may vary from one police station to another, impeding efforts by demonstrators to organize in advance. Moreover, the police often interprets the law incorrectly, demanding that demonstrators obtain a permit even when there is no legal requirement for them to do so.

The Supreme Court was required to rule this year on the balance between the right to demonstrate and the police requirements. In October, the Court accepted a petition against the restrictions imposed by the police on the demonstrations opposite the Attorney General's home in Petach Tikva. The Court rejected the police demand for the demonstrators to obtain a permit in advance. The groundbreaking ruling significantly limited the legal obligation to obtain a police permit for demonstrations, which the Court described as “a remnant of the British Mandate that it would seem should now be removed from the Israeli statute book.” In

the same month, the police was forced under pressure from the Court to allow the headquarters of the struggle by people with disabilities to demonstrate outside a film festival in Haifa. Following a petition submitted by ACRI, the police also began this year to publish on its website the permits it issues for demonstrations, as the law requires.

A further development over the past year relates to the restrictions imposed by local authorities on the freedom of protest. Following a petition submitted by ACRI, the Jerusalem Municipality changes its procedure for protests in the city, removing many of the unreasonable restrictions that had appeared in the old procedure.

Three petitions were submitted this year against police restrictions on media coverage of demonstrations in Jerusalem. The police claimed that journalists were “creating provocations” and encountered restrictions in their access to the sites of incidents, particularly in and around the Old City. In several cases, police officers harassed journalists and used violence against them. The petitions are pending.

### **Attacks on Freedom of Political Expression in Art**

Since Culture Minister Miri Regev entered her position some two and a half years ago, she has attempted to restrict freedom of political expression as manifested in artistic and cultural works. We have discussed this issue extensively in the past, and we confined ourselves here to some further examples from the past year. Minister Regev contacted the Mayor of Jerusalem and the Mayor of Haifa, demanding that they refrain from holding certain events in their cities; she attempted to reintroduce censorship on plays, which was abolished in 1991; she opposed the reciting of poems by the Palestinian poet Mahmud Darwish at various events; she demanded that performances including nudity as part of the Israel Festival not be submitted for support; she demanded that the Finance Minister cut the budget to the Jaffa Theater due to the content of various events held at the theater; and she attacked the film *Foxtrot* and the Israeli film industry.

Minister Regev has continued to ignore repeated clarifications by Deputy Attorney General Dina Zilber that the minister is not empowered to deny funding to cultural institutions on the basis of the content of their performances and events. In May, Zilber noted that “there is an alarming accumulation of cases that convey a problematic message that the activities of cultural institutions and artists are constantly under the scrutiny of the state and are subject to persistent inspection and monitoring by the state – an inspection that relates to the very essence of the freedom of expression.”

A petition submitted by ACRI to the Supreme Court challenges the amendments introduced by Minister Regev in 2016 to the criteria for support for theaters, dance troupes, and musical groups. The amendments provide additional funding for bodies that perform in the settlements and reduce funding for those that decline to do so. During a hearing in the petition in July 2017, the justices criticized the imposition of a fine on a cultural institution that refrains to appear in the settlements. They suggested that the minister reconsider this fine, but Minister Regev declined to do so. The petition is pending.

## **Threats against Freedom of Expression on the Internet**

Legislation relating to the internet shows an alarming tendency to jeopardize freedom of expression by granting the state powers to block websites or remove content from the net. Although these laws and legislative initiatives are motivated by the understandable desire to combat serious offenses and cope with particularly dangerous and damaging online publications, the mechanisms they create are broad-based and vague. This is liable to lead to the serious and disproportionate erosion of freedom of expression and freedom of access to information.

In July 2017, the Knesset approved a law permitting the blocking of access by Israelis to websites used to commit serious crimes (pedophilic publications, drug dealing, advertisement of prostitution and gambling services, and the websites “of terror organizations.”) The restriction of access to websites entails the risk of “collateral damage” to other websites that are not an arena for offences. Moreover, during the discussions of the proposed law in the Constitution Committee, changes were made that render the ultimate blocking procedure far less transparent. The proceeding established in the law allows the state to block websites without the public being able to monitor and know how it is exercising this authority, what sites were blocked, and what the reasons were for this action.

The Knesset Constitution Committee and Science and Technology Committee are currently discussing the so-called “Facebook Bill.” This proposed law seeks to empower the court to grant an order for the removal of content from the internet, if it is convinced that the publication constitutes a criminal offence and there is a tangible danger that ongoing publication will damage a person’s security, public security, or state security. The proposed arrangement is not confined to specific offenses, and effectively established a low threshold for determining that a publication is “criminal.” This creates a potential slippery slope that could cause extensive damage to freedom of expression. Moreover, it is unclear why a judicial tool is required for the removal of content, given that other solutions are available, some of which are already in use and provide an efficient and preferable response.

## **The Right to a Dignified Human Existence**

### **Disability Benefits**

Over the past year, organizations representing people with disabilities staged demonstrations and blocked highways around Israel. The organizations demanded an increase in the disability benefit, which offers no chance of a dignified existence. At the very least, the organizations insisted that the benefit must be brought up to the level of the minimum wage. Two professional committees – the Zelekha Committee and the Simchon Committee – discussed the issue over the year, and following the protests the government promised to increase the

disability benefit gradually and according to the level of disability. However, the agreement signed by government representatives and some of the organizations at the end of September met with sharp criticism from professionals, and it remains unclear whether and how it will be implemented. Some of the organizations of people with disabilities also oppose the proposed solution and are continuing to hold demonstrations.

Toward the end of the year, it was also reported that the Ministry of Welfare is seeking to cut hundreds of shekels from the mobility allowance for the blind provided to some recipients. Following a discussion in the Knesset Labor and Welfare Affairs Committee, it was reported that the allowance will not be cut. However, it should be noted that the allowance, is completely inadequate for its intended purpose.

Disability and mobility allowances in Israel are determined in a completely arbitrary manner, and this is one reason why they do not allow Israeli citizens and residents to enjoy a dignified existence. By way of example, a response to a freedom of information request submitted by ACRI revealed that the mobility allowance for the blind was set arbitrarily on the basis of an agreement reached 30 years ago between representative organizations of the blind and the Ministry of Welfare. Other benefits, such as supplementary income and rental support, are also not based on any grounded calculation. In order to ensure that people with disabilities, senior citizens, and those on low income can enjoy a dignified existence, the state must define the components and cost of such an existence and adjust benefits accordingly.

## Rights of the Arab Minority

### **The Government Attack on the Arab Population**

In recent years, elected officials in Israel have become accustomed to using racist comments and institutionalized incitement against Palestinian citizens of Israel as a tool for acquiring political capital. Such attacks have become an integral part of political and public discourse, particularly during emergency situations or following serious incidents. One of the clearest examples of this practice over recent years involved the wave of forest fires that erupted around Israel in November 2016. Before the facts had been clarified, senior public figures, including Public Security Minister Gilad Erdan, rushed to declare that Israel was facing “torching terror,” blaming an entire minority population for the fires. Those who launched a campaign of incitement against Arab citizens ignored the extreme weather conditions at the time, as well as the fact that serious fires also occurred in Arab communities in Israel and in the neighboring countries. At the end of the day, not a single indictment was served on charges of nationalistically-motivated arson. However, the wave of incitement shaped the public perception of the events as a nationalist attack rather than an extreme natural phenomenon. Later in the year, government ministers were quick to blame Arab Members of

Knesset for terror attacks, once again conveying the message to the Jewish majority that it is legitimate to mark the Arab minority and its representatives as a hostile and undesirable element.

Against the background of ongoing incitement, it is hardly surprising that the Israel Police shows a trigger-happy approach in its interactions with Arab citizens. This was made painfully clear during the incidents at Umm al-Hiran in January 2017, which led to the death of local resident Yaqub al-Qian and the police officer Erez Levy. Once again, the police and the public security minister did not wait for the facts to be clarified before irresponsibly claiming that Al-Qian had deliberately attempted to run over police officers. The subsequent investigation by the Police Investigation Department found no evidence of such an intention, instead highlighting failings in the police handling of the incident. In June, Muhammad Taha was shot dead by a security guard during clashes between citizens and police officers in the Arab city of Kafr Qassem, and at the end of July Mahdi Sa'adi was shot and killed while fleeing from police officers in Jaffa. It is true that the police sometimes uses excessive force against demonstrators from other sections of the population (while showing a remarkably lenient attitude toward different groups). However, Arab citizens are the only group in Israel that faces the use of live fire.

### **Racist Statements by Jewish Religious Figures**

As already noted, incitement to racism by prominent figures in Israeli public life is a common phenomenon. Despite this, in most cases the enforcement agencies do not provide an effective response. Silence and inaction in the face of incitement to racism by senior public servants are liable to be interpreted as support by the state for their remarks, thereby legitimizing incitement and attacks against the Arab minority and perpetuating discrimination. Against this worrying background, the past year saw some important developments relating to racist statements by opinion leaders among the religious Jewish public.

In March, the Civil Service Tribunal imposed a grave reprimand on Rabbi Elikim Levanon, rabbi of Samaria Regional Council. The reprimand concerned the rabbi's racist statements supporting the segregation of Jewish and Arab mothers in maternity wards. Rabbi Levanon also claimed that an Arab vehicle is a terror institution, and accordingly Arab vehicles should not be allowed to leave Arab locales. In June an indictment was filed against Rabbi Yosef Elitzur (one of the authors of the racist book "The King's Torah") on charges of incitement to violence. The charges relate to articles published by Rabbi Elitzur containing incitement to violence against Arabs. This is the first time for many years that the Attorney General has decided to prosecute a rabbi under criminal law for incitement.

In November, the Attorney General, after years of silence on the part of the law enforcement authorities, decided that Lahav organization head Ben Zion Gopstein would be charged for incitement to racism, incitement to violence, and incitement to terrorism and obstruction of justice. This is due to a series of inflammatory remarks against Arabs. The decision was made in a response to a petition filed by the Israel Movement for Reform Judaism, ACRI, Tag Meir,

and the Coalition Against Racism in Israel in July, which demanded that measures be taken against Gopstein and the Lahava organization. The petition is pending, as is a petition from 2016 demanding disciplinary action against Rabbi Shmuel Eliahu, the rabbi of Tzfat. In response to the petition, the State Attorney's Office announced that Rabbi Eliahu's racist and inciting statements do not warrant disciplinary action, but merely a "clarifying conversation" with Eliahu.

### **Anti-Democratic Initiatives Intended to Curtail the Rights of the Arab Minority**

The first section of this report reviewed in depth the phenomenon of legislative initiatives that threaten to reduce the scope of democracy in Israel. Many of these initiatives target the Arab minority, whether explicitly or implicitly, seeking to restrict the rights of Arab citizens to equality and freedom of expression – particularly freedom of political, linguistic, and cultural expression. One of the main initiatives of this type over the past year was the "Nation-State Bill," which seeks to subjugate the democratic characteristics of the State of Israel to its Jewish identity. The proposed law includes numerous discriminatory provisions targeting the Arab minority. Arabic, which has been defined as an official language since before the establishment of Israel, would be reduced to a "special status" only. The proposed law also grants sweeping and unrestricted legislative approval to racial segregation in housing on the grounds of religion or nationality. These proposed laws included provisions in many other areas of life facilitating racial discrimination against Arabs and other groups, and make no mention of the state's obligation to protect minority rights, the right to equality, or indeed human rights in general.

The "Muezzin Law," passed at its Preliminary Reading in 2017, seeks to restrict the use of PA systems by mosques. It thus targets one of the religious and national symbols of the Muslim population, exacerbating this community's experience of discrimination and inequality. In March, the Knesset passed an amendment to the Basic Law: The Knesset at its Second and Third Readings. The amendment states that it will be possible to disqualify candidates for Knesset elections not only on the basis of their actions, but also due to their statements. Since the case law on this matter already applies this interpretation, the amendment was clearly intended for the sole purpose of delegitimizing Arab Members of Knesset and portraying them as acting against the state.

Culture Minister Miri Regev raised various proposals over the year that seek to interfere in freedom of expression and to influence the content of artistic and cultural works. Some of these initiatives target Arab artists and institutions. For example, Minister Regev took action against Jaffa Theater after it held an event supporting the Palestinian poet Doreen Tatour. She also sought to prevent the reading of a poem by Mahmud Darwish at a cultural event and froze financial support for the Al-Midan Theater.

### **Planning, Building, and Intensified Demolition of Homes in Arab Society**

Toward the end of 2016, Prime Minister Benjamin Netanyahu announced that he would encourage the demolition of homes in Arab communities constructed without permits. This

step was presented as a way to ensure “egalitarian enforcement,” but egalitarian enforcement assumes egalitarian opening conditions – something that does not exist in Israel. In most cases, construction without permits in Arab communities is not a matter of choice but a last resort, due to the protracted planning discrimination against these communities, which has led to a situation in which it is virtually impossible to obtain a permit and build homes lawfully.

At the beginning of 2017, large-scale demolition campaigns were launched in Arab communities. Key examples include the eviction of the unrecognized village of Umm al-Hiran, which led to the grave events described above in this section, and the demolition of 11 homes built on private land without permits in Qalansuwa – an action that sparked a general strike in Arab society.

In April 2017, the Knesset passed the so-called “Kaminitz Law” at its Second and Third Readings. This amendment to the Planning and Building Law intensifies the enforcement and penalization of building offenses. The amendment limits the ability of the courts to intervene in enforcement; extends the enforcement powers of administrative bodies; raises the level of fines; and imposes longer prison sentences on those who build without permits. Although the law is phrased in neutral terms and applies to all areas and communities, it is obvious that its main impact will be in Arab communities.

Arab society in Israel faces a housing crisis that is due to many years of institutional neglect and discrimination against the Arab population in the fields of land, planning, and housing. Accordingly, the concern is that the intensification of enforcement will serve a solely punitive function. The way to solve the problem of construction without permits is to engage in dialogue with the representatives of the Arab public in order to draft and approve outline plans, regulate existing construction, and provide possibilities for legal construction in the Arab communities.

### **The Bedouin in the Negev**

Home demolitions continued throughout the year in the unrecognized villages in the Negev. At the same time, the authorities continued to promote plans for the establishment of new Jewish communities, roads, and phosphate mines – sometimes on areas currently occupied by Bedouin Arab villages, and while completely ignoring their existence.

In February 2017, the government approved a five-year plan for the economic and social development of the Negev. The plan focuses on four main channels of investment: education, economics, the development of infrastructure, and the empowerment of local authorities. The plan has a total scope of some three billion shekels, due to be invested over the period 2017-2021. While the natural instinct is to welcome generous government investment in the most neglected citizens of Israel, a more careful review of the plan shows that it does not offer a real message of change. Investment in the Bedouin-Arab population in the Negev is combined with the eviction of the unrecognized villages, in an attempt to force their residents to move to urban settlements that lack physical and employment infrastructures and have

become poverty traps. These communities are also inconsistent with the rural way of life preferred by the residents. Accordingly, the plan perpetuates the longstanding government policy of imposing planning solutions on the Arab population in general, and on the Bedouin-Arab population of the Negev in particular.

## Rights of Asylum Seekers and Refugees

Although a decade has passed since Sudanese and Eritrean asylum seekers began to arrive in Israel, the Israeli government has still not formulated policy for addressing this population and recognizing those among them who are refugees. Indeed, instead of adopting solutions that can ease the problems facing the asylum seekers themselves and the other residents of the areas where they have settled, the government continues to do what it can to create obstacles for the asylum seekers in an attempt to encourage them to leave the country.

### **Financial Sanctions**

At the beginning of May, the authorities began to enforce legislation adopted in 2014 requiring asylum seekers (“infiltrators”) to deposit 20 percent of their salaries in a fund that will be released only when they leave Israel. Employers must deposit an additional 16 percent in the fund. This measure sought to encourage asylum seekers to leave Israel by depriving them of part of their income and by creating a negative incentive to their employment. The demand to deposit these funds has worsened the already difficult financial condition of the asylum seekers, leaving many of them – including parents and children – without adequate means to provide for themselves. Human rights organizations petitioned the Supreme Court against this arrangement, and requested a temporary injunction prohibiting the transfer of funds for this purpose pending the Court’s ruling. The Court rejected this application without explaining its grounds, and the hearings in the petition are proceeding at a slow pace.

Additional impositions are liable to leave many asylum seekers unemployed. In September, the Supreme Court ruled that employers of asylum seekers must pay a levy at the rate of 20 percent of their salary, as is the case with other migrant workers – an additional negative incentive against their employment. In another ruling, the Supreme Court decided not to intervene in government policy prohibiting local authorities from signing contracts with contractors who employ asylum seekers.

### **Deportation to a “Third Country”**

In August 2017, the Supreme Court granted its ruling in an appeal by human rights organizations against the policy of expelling asylum seekers to third countries. The state sought to use this policy, which was adopted at the beginning of 2015, to imprison for indefinite periods citizens of Eritrea and Sudan unless and until they agreed to leave Israel for

a “third country” – Rwanda. The details of the arrangement are confidential. During the proceedings over a two-year period, the organizations presented testimonies and information showing that, contrary to Israel’s undertakings, those arriving in Rwanda were not permitted to remain in the country and work legally, but were required to leave the country. The petitioning organizations also emphasized that there is no parallel anywhere in the world for a secret agreement between countries in which it is unclear what protections are guaranteed, what status is granted, and what future awaits those who arrive in the target country. Neither is it clear if there is any mechanism for supervising this process.

In the ruling granted in August, the Supreme Court stated that there is no principled impediment to the expulsion of asylum seekers to Rwanda; that it has not been proved that this is unsafe; that all the procedural conditions required for expulsion are present; and that the mechanisms introduced by the state for reviewing and supervising the expulsion process and the treatment of the expelled individuals in Rwanda are adequate at the present time. However, the Court ruled that an asylum seeker may not be detained merely because they do not consent to their expulsion, since the state has declared that the agreement with Rwanda includes a provision that individuals will not be deported without their consent. Thus the ruling effectively prevents forced deportation of asylum seekers on the basis of the current agreement. However, in October it was reported that Prime Minister Benjamin Netanyahu and Rwandan President Paul Kagame agreed during a meeting to amend the secret agreement in order to permit the expulsion of asylum seekers from Israel to Rwanda by coercion and without their consent. The government decided to examine the continued operation of Holot, and announced that it would arrest asylum seekers who did not leave for Rwanda.

### **Conditions at Holot Detention Center**

As we have explained in previous reports, an additional way to apply pressure on asylum seekers to leave Israel is by sending them to Holot Detention Facility. In June 2017 rulings were granted in five petitions submitted by human rights organizations concerning the conditions at Holot.

The first petition related to the maximum number of detainees who may be held in a single room at the facility. The Court ruled that within nine months the state must reduce the number of persons in each room to six, as opposed to 10 at present, in order to reduce the violation of their rights. In the second petition, which concerned items the detainees are prohibited from bringing into the facility, the Court abolished the sweeping prohibition against bringing cleaning materials into Holot.

The remaining three petitions concerned sports and other activity groups at Holot. The petitions demanded the installation of computers and an internet network for free use by the detainees and attacked the conditions at the offices of the Population and Migration Authority at the facility. The Court decided to delete the petitions following improvements made subsequent to their submission, subject to the state’s declarations and undertakings to make further improvements.

### **Disconnection of Electricity and Water in Petach Tikva**

This year, Petach Tikva joined the list of local authorities that have declared war on asylum seekers. In January 2017, Mayor Itzik Braverman announced that he would take action to expel asylum seekers from the city, and in February the municipality ordered the disconnection of the electricity and water infrastructures in dozens of subdivided apartments occupied by asylum seekers. There is no precedent for the disconnection from vital infrastructures of hundreds of individuals, including children, who come from the most deprived sections of Israeli society. Petach Tikva Municipality is not the first local authority that has been required to cope with the subdivision of apartments and the arrival of asylum seekers, but it is the only authority that has taken such drastic action.

Human rights organizations submitted petitions against Petach Tikva Municipality to the Administrative Affairs Court in Lod. The organizations argued that if the disconnection of the water and electricity supply forms part of the municipality's campaign against building violations, as it claimed, and is not intended to force the asylum seekers to leave, then the municipality should take action against the landlords rather than the tenants. During the proceeding, the organizations presented affidavits from asylum seekers describing the hardship caused by the disconnection of utilities and the difficulty they encounter in finding alternative accommodation. The asylum seekers reported that they had received the clear message that the action was being taken against them because they are not wanted in the city.

In August, the court rejected the petition, stating that it was of a general character, and that the tenants should instead turn to the Appeals Committee in each individual instance. An appeal against this ruling has been submitted to the Supreme Court and is still pending.

### **The Affair of Missing Children from Yemen, the Middle East, and the Balkans**

"The affair surrounding the disappearance of immigrant children from Yemen, the Middle East, and the Balkans in the 1950s is a depressing story and an open wound in Israeli society that has not been properly addressed to date." This statement was made this year by MK Nurit Koren, Chairperson of the Knesset Special Committee for the Affair of the Disappearance of Children from Yemen, the Middle East, and the Balkans. The committee began its activities in March 2017, after many years when the state's response to the issue was non-existent or inadequate.

The affair involves the disappearance of at least one thousand, and possibly several thousand, immigrant babies and children during the first two decades following the establishment of the

State of Israel. The affair itself, and the negligent manner in which complaints were treated over the years, reveal a racist and discriminatory attitude toward the immigrants from these countries that manifested itself in the gross violation of their human rights. For many years, the claims by the families of the missing met with a disbelieving and patronizing response on the part of the establishment and the media. Three official committees were appointed to investigate the allocations, but their work has been sharply criticized. Observers suggest that the committees were engaged in whitewashing rather than investigation, and that they adopted a lenient attitude toward the failings of the authorities.

This subject has once again been raised on the public agenda over the past two years thanks to the activities of representatives of the families and of associations involved in this issue, including the Existing Brothers Organization, Amram, the Association for Nurturing Society and Culture – The Heritage of the Jews of Yemen, and the World Federation of Yemenite Jewry. Among other actions, the organizations staged demonstrations demanding official recognition of the kidnapping of children. For the first time, the authorities seem to be more willing to address the families' allegations and claims.

At the end of 2016, for example, the government approved the disclosure of the materials examined by the most recent official committee of inquiry (the Cohen-Kedmi Committee). As already noted, the Knesset established a special committee in February 2017 to examine the issue. The committee is continuing to hold discussions on various aspects relating to the affair, such as: Medical experiments and pathological examinations undertaken on the children; a proposed law permitting the opening of the graves of minors of Yemenite, Middle Eastern, or Balkan origin in order to conduct genetic tests to prove their family affiliation; the ramifications of the affair on the granting of inheritance orders; and so forth. As the committee continued its work, the media exposed numerous testimonies from relatives of the missing children, adopted children, and former employees in the institutions from which the children went missing.

ACRI wrote to Prime Minister Benjamin Netanyahu demanding that he acknowledge this historical crime, ensure that justice is done, and ease the families' suffering. The government should also take practical steps, including the release of materials that can help the investigation; the allocation of resources for DNA testing and the establishment of a database; and the extension of the mandate of the Knesset special committee so that it continue its efforts to uncover the truth.

## Freedom of Religion and Freedom from Religion

The trend toward the curtailment of freedom of expression and pluralism, as discussed in the first section of this report, was accompanied over the past year by the violation of freedom of religion, freedom from religion, and Jewish pluralism. An associated phenomenon is the growing tendency to gender segregation and exclusion, violating women's rights to equality and dignity. This section reviews some of the most significant manifestations of these trends over the past year.

**The Western Wall Plan:** In June 2017, the government decided to freeze – and effectively to abolish – the Western Wall Plan. The plan, which was adopted by the government at the beginning of 2016, provided for the establishment of an egalitarian prayer area alongside the main plaza at the Western Wall, which is divided into women's and men's sections. The alternative area was to adhere to the principles of gender equality and pluralism, and would be managed by a council including representatives of the Reform and Conservative movements and the Women of the Wall organization. However, under pressure from the ultra-Orthodox parties, the government procrastinated in implementing the plan and, as noted, it was eventually frozen. The government's conduct on this issue led to a grave crisis with Diaspora Jewry over the year. The subject is now pending before the Supreme Court and is due to be heard by an expanded panel of justices.

**Women in the public domain:** Gender segregation and the exclusion of women in the public domain continued to be an important issue on the public agenda over the year. The Knesset Committee on the Status of Women and Gender Equality discussed the issue, as did the United Nations' Human Rights Council.

Despite rulings granted by the magistrate's court and the administrative affairs court, the Municipality of Beit Shemesh refused to remove enormous signs in the city "instructing" women how to dress, or telling them not to dawdle on the sidewalk or walk past a synagogue or yeshiva. In July 2017, the court ordered the municipality to remove the signs, imposing a fine of NIS 10,000 for every day that they remained in place. The municipality appealed to the Supreme Court, and requested the suspension of the order pending the removal of the signs. Although the petition was rejected, the signs are still in place. It is important to note in this context a government decision from 2014 adopting the recommendations of the interministerial team established by the Attorney General to consider the exclusion of women from the public domain. Among other recommendations, the team called for local authorities to be required to take action against those who erect so-called "modesty signs." However, the Interior Ministry, under Minister Aryeh Deri, has to date refrained from issuing appropriate instructions to the local authorities. Indeed, it was recently reported that the minister is actively seeking to enable local authorities to hold gender-segregated public events.

The Council for Higher Education decided this year to extend by five years the special academic frameworks for ultra-Orthodox students. These frameworks impose both sectoral segregation (of ultra-Orthodox from other students) and gender segregation (separate studies for men

and women). While male lecturers give classes to both sexes, women only give lectures to female students. Before taking the decision, the Council for Higher Education held a hearing, but despite the objections raised regarding the special frameworks, it nevertheless decided to continue their operation. The Supreme Court is due to hold a hearing on a petition on this issue at the end of December.

Women soldiers continued to encounter the violation of their rights this year due to the demands raised by religious soldiers. The publication at the end of 2016 of the “Joint Service Order” provoked controversy due to the impairment of the rights of women soldiers. Moreover, the underlying spirit of the order led to further actions violating the rights of women soldiers to equality and dignity in the name of respecting the rights of religious and ultra-religious male soldiers. It should be noted that the Joint Service Order does not apply to the service of ultra-Orthodox men, who receive promises of draconian gender segregation and even of “women-free service.”

A source of hope was the adoption by agreement of a ruling in a claim for compensation submitted by the Reform movement’s Israel Religious Action Center. The claim involved a woman passenger on an El-Al flight who was moved from her place at the request of an ultra-Orthodox passenger who refused to sit next to her. The parties agreed that El-Al will clarify to its flight attendants that the moving of a passenger constitutes prohibited discrimination. El-Al also agreed to pay compensation to the plaintiff.

**Allegations of religious proselytizing in the education system:** Parents and organizations raised numerous complaints this year concerning the introduction of national-religious content into the state (non-religious) education system. A report by the Molad Institute and media reports exposed that due in part to the ongoing trend to privatization of value-based education and the actions of Education Minister Naftali Bennett, dozens of right-wing religious associations have become active in schools. More seriously still, reports suggest that Jewish education in the state system is being taught primarily by Orthodox bodies that employ religious women National Service volunteers to teach content in this spirit, which is contrary to the views of most of the students. There is also a vast imbalance between the budget allocated in recent years for Jewish education and funding for education to democracy and coexistence.

This year, the Supreme Court granted rulings on three central issues relating to freedom of religion and freedom from religion. The rulings will influence millions of Israeli citizens.

In September, the Supreme Court dismissed the petition submitted by the Israel Religious Action Center and other organizing demanding that the Minister of Transport map the transportation needs of Israeli residents and prepare a plan for the operation of public transportation on the Sabbath. The Supreme Court refused to intervene in the issue, arguing that it had not been presented with a request by a transportation operator to run a bus line on the Sabbath. Thus the Court effectively reaffirmed the status quo, whereby in many parts

of Israel residents who cannot afford a private vehicle have no means of mobility on the Sabbath.

In April the Supreme Court accepted a petition by the Municipality of Tel Aviv against the Interior Minister, after the latter refused to approve municipal by-laws permitting the limited opening of businesses on the Sabbath. In October the Supreme Court rejected an application for a further hearing, thereby reaffirming the ruling allowing the limited opening of businesses in Tel Aviv as decided by the municipality. The decision enraged ultra-Orthodox Members of Knesset, who announced that they will promote legislation to bypass the Supreme Court and make it harder to open businesses on the Sabbath in other cities.

In September, the Supreme Court held a further hearing in a petition demanding that the authorities allow restaurants to display Kashrut certificates issued by bodies other than the Chief Rabbinate. The Court ruled that a place serving food may not use the word “Kosher” or any related word if it does not hold a Kashrut certificate from the Rabbinate. However, a business may display the rules it follows in preparing and serving food, and mention the name of the body that supervises these rules. The business must state explicitly that it does not hold a Kashrut certificate. The ruling permits businesses to display supervision certificates from bodies other than the Chief Rabbinate, thereby effectively breaking its monopoly over the field of Kashrut.

## The Right to Health

### **Nursing Care and Hospitalization**

This year Israelis were exposed more forcefully than ever to some of the serious failings in the country’s nursing care system. Several reports, including the State Comptroller’s Report and a report by the Taub Center, exposed the defects in the system for providing nursing care for senior citizens who choose to remain in their homes. The problems include a lack of hours for nursing care for the elderly; the use of untrained personnel for this purpose; bureaucratic obstacles; and low public investment by international standards. The poor coverage provided by the state for senior citizens requiring nursing care through the National Insurance system obliges these individuals and their families to cover the gap from their own pocket. Many find it difficult to meet the high costs this entails.

The situation of senior citizens in nursing care homes is not necessarily any better. Over the year, the media reported a series of shocking cases highlighting the vulnerability of senior citizens in these institutions to abuse and violence as well as the failure of the Ministry of Health to inspect these institutions properly and to defend the rights of senior citizens.

Since 2011, the Ministry of Health has been attempting to introduce a comprehensive reform in the nursing care system, with the support of experts from the field and social organization. This year, we were informed that a joint team had been formed by the Ministries of Finance and Health. The team was supposed to submit its recommendations by Passover, but to date no progress has been made. Members of Knesset continued to formulate and promote proposed laws and outline plans ensuring that the state will meet its obligation to enable senior citizens requiring nursing care to grow old with dignity. However, the much-needed reform in this field still appears to be a long way off.

In November 2017, the Finance Minister Moshe Kahlon and Health Minister Yaakov Litzman announced a national plan for nursing care. The highlight of this program is an increase in the number of hours of caregivers to be provided for the elderly - from 18 to 30 hours a week. In addition, it was promised that income tests for the children of elderly people in need of nursing care would be canceled, and that elderly over the age of 75 would receive free dental care. The plan marks an important improvement, but a more comprehensive plan is needed to ensure reasonable long-term care coverage for the entire population, regardless of the purchase of private commercial insurance, which is not accessible to a large part of the public.

### **Strengthening the Public Health System**

In recent years, the Ministry of Health has shown increasing awareness of the phenomenon of gaps and inequality in health services between different population groups. The Ministry recognized the need to strengthen the public health system and counter the trend toward privatization and toward the mixing of private and public services within the system. Thanks to this awareness, we have seen a change in the trend in recent years; although limited and hesitant, the change is extremely important.

Following the abolition of the private health services at the new hospital in Ashdod, and its reduction in Hadassah and Shaare Zedek Hospitals in 2016, for example, the private health service at Laniado Hospital was also abolished this year. In July, it was reported that the Ministry of Health has for the first time drafted guidelines regulating the presence of private health services in public hospitals and imposing restrictions on such services. Other important developments over the year include the imposition of restrictions on the ability of physicians in the public system to transfer patients to their own private clinics, and the addition of hundreds of millions of shekels to the budgets of the HMOs and the hospitals in order to cut waiting times.

However, there are still substantial gulfs in health indices and services between the center of Israel and peripheral areas, and between different population groups. Moreover, the Knesset Labor, Welfare, and Health Committee is currently discussing a proposed law regulating medical tourism in Israel. While this is a vital task, the current wording of the proposed law does not include any mechanism ensuring the ongoing accessibility, availability, and quality of medical services for Israeli patients. For example, the proposed law does not limit the scope of services that may be provided to tourists. Given the existing shortage of resources in the

public health system, it is very likely that despite the legislative restrictions, health tourism will create longer lines for Israeli patients and exacerbate the existing pressure on the health system.

## The Right to Housing

The government continued this year to focus its attention on the “Buyer’s Price” track, in an attempt to create opportunities for citizens who do not own a home to purchase their first apartment at a reduced price. However, it is important to recall that approximately one-fourth of Israeli households live in rented accommodation – a minority in public housing and the majority in apartments rented on the free market. The rental market is vital to ensuring the right to housing for families on low income who have no real chance of purchasing an apartment, even through the “Buyer’s Price” track.

There was some good news this year for tenants. In July 2017, after decades when the rental market in Israel was effectively unregulated, the Knesset passed the Fair Rental Law. The law actually constitutes a further chapter in the Rental and Lending Law, and seeks to regulate rental relationships and provide tenants with various protections. The law imposes restrictions on the guarantees that may be demanded from a tenant; defines the circumstances in which the guarantees can be actualized; imposes liability for repairs; prohibits the renting out of an apartment unfit for residence, and so forth. However, the law does not prevent landlords from imposing steep and frequent increases in rent. Accordingly, Israeli tenants will continue to face instability and uncertainty, and may be forced to move apartment frequently, with all the difficulties this entails.

Another important step that can help promote the right to housing for those on limited means is the decision taken by the Israel Lands Council in May to require that certain tenders issued by the Israel Lands Authority for construction in the “Buyer’s Price” track must include five percent of apartments for increasing the stock of public housing. This decision is particularly significant after many years when the number of public housing apartments has fallen dramatically. It also highlights the need to integrate public housing apartments within new residential neighborhoods and to avoid the creation of pockets of poverty. However, as of the time of publication of this report, the decision has not yet been implemented.

## Workers' Rights

### Hourly Employees

At least 24 percent of salaried workers in Israel – over 700,000 people – are paid on an hourly basis, rather than receiving a fixed monthly salary. Workers' rights organizations estimate that the actual figure may be as high as 45 percent – over one million workers. For employers, hourly employment offers an opportunity to cut personnel costs and provide employees with only the minimum threshold of social rights established in the protective legislation. For the workers, this format leads to the ongoing erosion of their rights over many years, and in some cases for their entire working lives. Hourly employment also creates constant uncertainty about the level of income.

In most cases, hourly employees earn less than their peers on monthly salaries. In many cases, they only discover on payday what salary they will receive for the month. They do not receive payment for festivals, and accordingly receive lower-than-usual salaries in the months with a large number of festival days – when family expenses are higher than usual. Their rights are also violated in the lawful use of vacation days, notification prior to dismissal, parental leave, and so forth.

Many of the problems are due to the fact that Israel's labor laws were enacted in a period when most employees received monthly salaries, and are not suitable for hourly employment. However, even when these laws are amended, hourly employees continue to be ignored. In March 2017, for example, the Knesset passed an amendment to the Women's Work Law defining the scope of a full-time position entitling women workers to "parenting hours" (absence of one hour a day for four months after birth in order to care for the child). The Knesset failed to respond to the appeal by the Forum for the Enforcement of Workers' Rights to amend the calculation so that it would also apply to hourly employees. At a meeting of the Knesset Labor and Welfare Committee in July 2017, the Members of Knesset agreed that it is important to regulate the rights of hourly employees in legislation and to reduce the use of this format. We hope that this will prove to be a first step in the right direction.