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Domestic Violence, Polygamy and Underage Marriage Complaints by Bedouin and Arab Women in the Israeli Legal System

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This report is submitted by Ma'an – a grassroots Bedouin-Arab NGO based and founded in Beer Sheva in 2001. Ma'an's members are women activists who work in the (Naqab) Negev towards shaping policies and implementing projects for the advancement of women's equality and rights. The organization founded a legal assistance center to Bedouin women, that is active since 2006 in Beer Sheva. In addition, the organization holds a course to raise awareness among youth in the junior high schools, as well as lectures for women in the Bedouin villages on the subject of women's rights and marital law.

Bedouin Society – An overview

The Bedouin community lives mainly in the Naqab (Negev) region in southern Israel. The Bedouin population of the Negev reached 262,453 persons by the end of 2016, comprising around one quarter of the region's general population. Approximately 66% of the Bedouin population live in areas that are recognized municipally by the State¹ while the remainder of the population, approximately 34%, live in 36 villages unrecognized by the State. The unrecognized villages have no basic infrastructure: they are not connected to water, electricity, a sewage system, roads or transportation. Educational and health services are provided in partial and inadequate manner.² The communities living in the unrecognized villages are under constant threat of their homes being demolished by the State, with many homes having been demolished numerous times.³

The Bedouin communities in the Negev, living in both recognized and unrecognized villages, are among the poorest and most neglected in Israel. Their residents have the lowest socio-economic status of any sector in Israel. They face poverty, unemployment, high levels of crime, low levels of education and a high proportion of health problems.

The Government of Israel Resolution No. 2397 of 2017 titled, ironically, "Government Plan for the Empowerment and Socio-Economic Strengthening of the Bedouin Localities in

¹ The State-recognized villages are comprised of (a) villages that preceded the establishment of the State and were recognized by the State at a later stage; and (b) villages that were established after the establishment of the State for the purpose of concentrating the Bedouin community within them in order to take over the lands that served their traditional rural way of life. For more information see: <https://www.adalah.org/en/content/view/9186>

² The Association for Civil Rights in Israel.

³ It should be noted that the number of house demolitions in the Arab Bedouin villages in the Negev has increased significantly in recent years.

the Negev for the years 2017-2021"⁴ conditions the state funding of NIS 3 billion (US 855\$ million) for the development of Bedouin towns and villages on the execution of forced displacements and home demolitions in the 35 unrecognized Bedouin villages which are excluded from the benefits of the plan. The Resolution thus conditions economic development on the implementation of policies of forced displacement and dispossession of the Bedouin men, women and children from their lands and homes, allocating significant part of its budget to this purpose.

Alongside the discriminatory policies exercised by the State on the Bedouin community as a whole, harming men, women and children, Bedouin women suffer an additional layer of discrimination exercised in the private sphere and legitimized by the Bedouin society that is based on a tribal, long-standing patriarchal system. This report focuses on four main issues that constitute basic human rights violations against Bedouin women: violence against women, polygamy, underage marriage and Bedouin women with disabilities and the shortcomings of the State in addressing those issues.

1. Gender-Based Violence Against Bedouin Women

Domestic violence is a widespread phenomenon in the Arab Bedouin community rooted in cultural perceptions of women as inferior and as the property of a man. Because violence is deeply related to cultural perceptions, Bedouin women learn to internalize such violence as a way of life.⁵ They are expected by Bedouin society to keep silent about violence, when violating the silence exposes the daring woman to being kept away from her children, exiled even by her own family and exposed to more violence. The domestic violence exercised against Bedouin women is of all kinds: physical, sexual, emotional and economic (as many Bedouin women are not allowed to take part in any decision concerning their lives and are completely dependent on the man as the breadwinner). Living with violence as an integral part of life however does not lessen the suffering of Bedouin women. These women are completely vulnerable, some segments of them lack self-worth and their health is compromised.⁶

⁴ Government resolution No. 2397 is available at: https://www.gov.il/he/Departments/policies/2017_dec2397 [Hebrew]

⁵ Itach Ma'aki, Report on violence against Bedouin women, 2013, written by Adv. Insaf Abu-Shareb.

⁶ Id.

It is difficult to accurately assess the exact scope of the phenomenon due to the lack of information on domestic violence against Arab Bedouin women in the records of the State. Yet, the available information in reports and research conducted by organizations specialized in women's rights draw a severe situation. A research conducted by Itach-Ma'ki (2013)⁷ on Bedouin women indicated that 85% of those surveyed stated that they are victims of violence while only 35% of them filed a complaint against the attacker after many violent events; 24% of the surveyed women indicated that they are victims of sexual harassment but only one filed a complaint. Surprisingly, 95% of the victims of violence surveyed noted that they were not willing to move to safe shelters for battered women out of fear of their communities' reaction.⁸

Despite this gloomy situation Israel does not take adequate measures to provide solutions, assistance and protection for Bedouin women in the Negev, and the little it does, is not sufficient for the needs of the Bedouin community in the Negev and not suitable for its needs. It refrains from sufficiently budgeting and employing professional personnel and operating programs tailored to address the issue of domestic violence in the Bedouin society. In the unrecognized villages - in which approximately 34% of the Bedouin population of the Negev reside - Israel abstains from providing relevant basic services, not even police stations, welfare services, programs and shelters. In all of the Bedouin villages there are no special programs and no professional cadres specialized in the field of domestic violence. There is only one treatment center in Rahat, a Bedouin Township, that doesn't employ any professionals; and only one shelter in Beer Sheva.⁹

⁷ Id.

⁸ A research conducted by the **Research and Information Center of the Israeli Parliament** listed a number of obstacles that hinder Bedouin females from filing complaints. These include: non-existence of police stations in all Bedouin communities; lack of female interrogators at police stations, and in certain occasions police themselves encourage females not to file complaints in order to preserve peace in certain Bedouin communities.

⁹ As an organization that caters for Bedouin women's well-being, Ma'an organization has been working over the past years towards supporting women subject to violence along with encouraging them to report when facing any sort of violence. For this purpose, Ma'an has been operating the only crisis hotline "Aman" that provides emotional support to women subject to violence and provides legal support provision.

2. Polygamy

In 2000, the UN Human Rights Committee declared that polygamy violates the ICCPR,¹⁰ citing concerns that the lack of "equality of treatment with regard to the right to marry" meant that polygamy violates the dignity of women and should be outlawed.¹¹

The Israeli law prohibits polygamy and considers it to be unlawful. Article 176 of the Penal Code¹² states that polygamy is punishable by up to five years in jail. Polygamy is especially common in the Negev, where it appears in 20% -30% of the cases.¹³ The State and its authorities do not take serious action in order to put an end to this phenomenon or develop mechanisms to treat such cases.¹⁴ In 2000 alone, 593 polygamous marriages were registered in the Negev area alone. In 2012, that number rose to 651 and in 2013, it reached 719 cases, the highest figure in all the country.¹⁵

Polygamy is a strong institution associated with the social and patriarchal structure of the traditional Bedouin society. Carrying a number of women raises the status of the man and ostensibly increases the family's work force.¹⁶

3. Underage Marriage

In the state of Israel, the minimum age to be wed is 18 years old.¹⁷ The Marriage Age Act states that marrying a minor or performing a marriage that involves a minor is a criminal offense.¹⁸ Despite of it being outlawed, underage marriage exists in Israel. Although it is difficult to know the precise scope of it, it is particularly common in the Bedouin society.¹⁹

¹⁰ ICCPR article 23.

¹¹ Human Rights Committee, General Comment 28, Equality of rights between men and women (article 3), U.N. Doc. CCPR/C/21/Rev.1/Add.10 (2000).

¹² The penal code (1997).

¹³ Shiri Spector ben-ari "Polygamy among the Bedouin population in Israel" (2013). [Spector]

¹⁴ The Working Group on the Status of Palestinian Women Citizens of Israel, NGO Pre-Sessional Submission on Israel's Implementation of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (June 2016).

¹⁵ Ibid.

¹⁶ Ma'an organization "Women with disabilities and mothers of children with special needs in the Bedouin population of the Negev", p.34-35 (2016).

¹⁷ This has been determined in the marriage age act subject to the Legal Capacity and Guardianship act who states that an adult is one who has reached the age of 18 years.

¹⁸ The Marriage Age act (1950) article 2. In special circumstances the law allows for exceptions subject to the Family Court decision.

¹⁹ Naomi Mei-Ami, "Background Document on the subject of: Marriages of minors", Knesset Research and Information Center (June 2004). [MEI-AMI]

In Israel one of 4 Arab women are wed before the age of 18.²⁰ In 2016, 520 cases of underage marriage were reported, approximately 90% of them are of Muslim minors.²¹ During 2016, the Shari'a courts retroactively ratified 133 cases of underage marriage. In 95 of those cases, the minors were under the age of 16, in one case under 14 years of age.²²

Underage marriage violates human rights and deprives minors of the right of any person to enter a marriage with free and full consent, a right that was recognized in numerous international treaties and declarations.²³ This lack of consent is in fact the main issue in underage marriage. What is more, since minors are married at an age when they have not yet acquired an education or a profession, they are completely dependent on their husbands as providers and thus are being led to a situation of vulnerability to abuse and violence.

The issue of underage marriage is not being adequately treated currently. The Marriage Age Act is difficult to enforce, and even in cases that a complaint is filed – an indictment is submitted rarely.²⁴

4. Bedouin Women with Disabilities

Bedouin women with disability represent 22.4% of the Bedouin community. Only 39% of them enjoy disability allowance while the remainder do not 'qualify'. In addition, this group of women suffers from the remoteness of service centers, the lack of public transportation, the poor infrastructure, and the lack of accessibility of services and infrastructure for persons with disabilities. Bedouin women with disabilities are exposed to exclusion from the community and to different types of violence, even by their families.²⁵ They are discriminated in three overlapping circles: as Bedouin, as women and as persons with disabilities.

The problems of violence, polygamy, and underage marriages worsen in the case of Bedouin women with disabilities.²⁶

²⁰ The Working Group on the Status of Palestinian Women Citizens of Israel, *supra* article 12.

²¹ Tzach Ben – Yehuda, "Underage marriage: data and analysis", Knesset Research and Information Center (December 2016). [BEN-YEHUDA]

²² *ibid.*

²³ Including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Elimination of Discrimination against Women.

²⁴ Out of 50 complaints filed in the Negev in 2016 only one indictment was filed.

²⁵ CEDAW Q 10 2017 - Ma'an—The Forum of Arab Women's Organizations in the Negev

²⁶ *Ibid.*

The Legal Framework

The Universal Declaration of Human Rights 1948, Article 7 stipulates that "All are equal before the law and are entitled without any discrimination to equal protection of the law." This principle is further elaborated in the International Covenant for Civil and Political Rights Article 26 that states: "The law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground."

The principle of equality in Article 26 was further interpreted in the Human Rights Committee, General Comment 18 (10 November 1989) and General Comment 28 (29 March 2000) as one that prohibits any discrimination under the law and requires States to act against discrimination in all fields including the discrimination against women in areas such as social security rights.

Additionally, the ICCPR Article 9(1) states that "Everyone has the right to liberty and security of person", on which the Human Rights Committee commented in General Comment No. 35 Article 9 (Liberty and security of person) that: "The right to security of person protects individuals against intentional infliction of bodily or mental injury. The right to personal security also obliges States parties to take appropriate measures in response to death threats against persons in the public sphere, and *more generally to protect individuals from foreseeable threats to life or bodily integrity proceeding from any governmental or private actors*. States parties *must take both measures to prevent future injury and retrospective measures*, such as enforcement of criminal laws, *in response to past injury*. For example, States parties must respond appropriately to patterns of violence against categories of victims such as intimidation of human rights defenders and journalists, retaliation against witnesses, *violence against women, including domestic violence*."²⁷

In addition, Bedouin women's rights to dignity, security and non-discrimination are also protected under CEDAW²⁸ and CRPD.

In sum, the ICCPR, CEDAW and CRPD obligates States to act in due diligence to promote equality before the law and equal protection of the law, two principles breached by Israel with respect to providing protection to Bedouin women.

²⁷ ECtHR 1124/2002, *Obodzinsky v. Canada*, para. 8.5.

²⁸ See: CEDAW, General Recommendation 19 with respect to the State's obligation to act with due diligence to prevent violations of rights even if the acts were perpetrated by private persons.

Conclusion and Recommendations

In light of the above, we recommend that the Civil and Political Rights Human Rights Committee include in the List of Issues Prior to Reporting for Israel the Following issues:

- Measures taken to address the issue of **domestic violence against Bedouin women** in the Negev, including: (1) social programs, (2) raising awareness programs, (3) the building of shelters culturally tailored to the needs of Arab Bedouin women, (4) the number of professional personnel employed in the Negev (in total, per capita and per case) for providing social services to women victims of violence, and their knowledge of the Arabic language (5) Measures taken to create a database of information and data on violence against Arab Bedouin women, particularly on battered wives. (6) Measure taken to encourage battered women to file complaints and measures taken to promote the protection provided to complainants. (7) The budgets allocated for each of the above in comparison with the budgets allocated for the same purposes in other areas of the State. (8) Special training for Arabic speaking staff in the domestic violence unit of the police who are specifically trained to work with the Arab Bedouin women population.
- Measures taken to address the issue of **polygamy** in the Negev including educational programs, social programs and creation of a database of information and data on polygamy in the Arab Bedouin women.
- Measures taken to address the issue of **underage marriage** in the Bedouin community in the Negev, including educational programs, social services' programs, and gathering data on the extent of the phenomenonwomen.
- Measures taken to address the issue of discrimination against **Bedouin women with disabilities** with respect to (1) qualification to disability allowances (2) implementation and enforcement of the Law on Equal Rights for Persons with disabilities in the Bedouin villages (3) social, educational and raising awareness programs on the rights of women with disabilities.
