



**Human Rights Watch Submission to the CEDAW Committee of Israel's Periodic Report
68th Session**

October 2017

We write in advance of the 68th Session of the Committee on the Elimination of Discrimination against Women and its review of Israel's compliance with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This submission addresses articles 3, 9, 11, 12, 14, and 16 of the Convention.

This submission is based on information contained in a range of publications by Human Rights Watch, first-hand interviews with affected women, rights activists and other experts, media reports and information from partner organizations.

1. Pregnancy Termination Committees hinder women's access to healthcare (CEDAW articles 12 and 16)

Clauses 312-321 of Israel's 1977 Penal Code criminalizes abortion for women between the ages of 18-40 outside of cases of rape, incest or extramarital relations or where the fetus or women's health is endangered. Women who fall within these exceptions may legally get an abortion should they obtain approval for it from a "Termination of Pregnancy Committee." While the committee approves the majority of requests it receives, this administrative process hinders women from freely accessing health care services related to family planning and deciding on the number and spacing of their children.

The committee, consisting of two doctors and a social worker, may approve an abortion for a woman after she has been briefed on the risks if she meets one of the following criteria:

- she is under 18 or over 40 years old;
- the fetus has a serious mental or physical defect;
- the pregnancy resulted from "forbidden relations" such as rape, incest, or extra-marital relations; or
- the pregnancy threatens the woman's physical or mental health.

The approval process can take up to two weeks.¹ In practice, the committee, which by statute must include at least one woman, approves the majority of requests it processes—97.2% between 1990-2014, according to data from Israel's Central Bureau of Statistics.² Of the 20,846 applications filed for pregnancy terminations in 2014, committees approved 20,521 (98.4%) and 19,471 abortions were performed.³ While an appointment with a committee cost 434 NIS (US\$123), the Hadassah Mount Scopus Medical Center told Human Rights Watch, a 2014 amendment allows women ages 20-33 to obtain abortions free of charge.⁴ Furthermore, children do not require parental consent and a woman may undergo the procedure at up to 40 weeks' gestation.

Woman who do not fall within the list of exceptions generally either misrepresent their condition in order to secure approval or seek a provider willing to break the law by performing the procedure without the committee's approval, women's rights activists told Human Rights Watch. Such abortions can cost between 2,099 and 2,912 NIS (US\$600 and \$830),⁵ or even more,⁶ since the state insurance scheme will not cover it. The state rarely prosecutes doctors who perform abortions illegally.

Many women are uncomfortable, or ashamed to speak about such an intimate matter in front of a committee.⁷ The stress and discomfort, particularly where a woman is forced to misrepresent her situation, interferes with her decision to choose whether to carry a pregnancy to term. By approving abortions only when they meet narrow criteria, the committees further infringe upon the right of women to decide the number and spacing of their children.

The requirement to meet such criteria and to answer questions before an abortion committee constitute barriers that restrict women's access to health services and family planning, particularly for women from poor and marginalized communities. The World Health Organization has found that third party authorizations increase the cost of abortions and

¹ Elana Sztokman, *The War on Women in Israel: A Story of Religious Radicalism and the Women Fighting for Freedom* (Naperville: Sourcebooks, 2014).

² Central Bureau of Statistics, "Terminations of Pregnancy in Hospitals, By Article of the Law (1)(2)," 2017, http://www.cbs.gov.il/shnaton68/download/sto3_20.xls (accessed October 9, 2017).

³ Ibid.

⁴ Debra Kamin, "Israel's abortion law now among world's most liberal", *Times of Israel*, January 6, 2014 (accessed October 9, 2017), Rebecca Steinfeld, "Abortions in Israel: is the Law as Liberal as They Claim?" *Haaretz*, February 13, 2014, <https://www.haaretz.com/jewish/the-jewish-thinker/.premium-1.574039> (accessed October 9, 2017).

⁵ "Even in 2016, It's Forbidden to Tell the Truth to the Pregnancy Termination Committee," *Haaretz*, June 10, 2016, <http://www.haaretz.co.il/news/education/.premium-1.2972318> (accessed October 9, 2017).

⁶ Lazar Berman, "Free abortion for all women 20-30, panel recommends," *Times of Israel*, December 30, 2013, <http://www.timesofisrael.com/free-abortion-for-all-women-20-33-panel-recommends/> (accessed October 9, 2017).

⁷ Elana Maryles Sztokman, L. Ariella Zeller, "Abortion in Israel: When a Nation Enters the Womb," *Lilith*, Winter 2011-2012, <http://lilith.org/articles/abortion-in-israel> (accessed October 9, 2017).

disproportionately burden poor and adolescent women, as well as those with limited education.⁸

2. Discriminatory Citizenship and Entry into Israel Law interferes with family life, constrains professional development for women (CEDAW articles 3, 9, 11c, and 16)

Israel's Citizenship and Entry into Israel Law (Temporary Order)-2003 prohibits the granting of any residency or citizenship status to Palestinians from the Occupied Territories who are married to Israeli citizens or permanent residents. This discriminatory law restricts the freedom of this category of individuals to marry and tears apart families, increasing the barriers for Palestinian women to work and participate fully in public life.

The law, originally enacted in July 2003 but renewed every year subsequently—most recently in June 2017—targets a category of individuals exclusively on the basis of nationality rather than on an individualized assessment of security risk, and prevents them from living with their spouses and children in Israel or occupied East Jerusalem. It denies Israeli citizens who marry residents of the Occupied Territories a right enjoyed by other Israeli citizens, that is, the right to live with their loved ones in the place of their choosing and the right to be protected from arbitrary or unlawful interference in the family. The law disproportionately harms Palestinians citizens of Israel, as well as Palestinians from East Jerusalem, who maintain permanent residency in Israel.

By not allowing Palestinian residents of the Occupied Territories to join their citizen or resident spouses in Israel or East Jerusalem, the law forces them to make a costly choice. Either they must live separately, or the Israeli citizen or resident must move to the Occupied Territories. The consequences for Palestinians of moving to the Occupied Territories include the loss of their residency status in Israel or East Jerusalem or the loss of their ability to exercise rights related to residency or citizenship, such as eligibility for social security benefits.

The law, in basing family reunification policies solely around nationality, contravenes Israel's obligations under international human rights law with regard to nondiscrimination and, in preventing permanent residents and citizens from living with their spouse, effectively denies them the right to live in their country.⁹ In a cultural context in which women are expected to play a primary role in raising children, requiring them to live separately from their husband or to move away from extended family, a main source of child support, can force them to forego opportunities to work or participate in public life in order to focus on caring for children. In so doing, the law restricts the development and advancement of a segment of the Palestinian female population.

⁸ World Health Organization, "Safe Abortion: Technical and Policy Guidance for Health Systems, 2nd ed.," 2012, http://apps.who.int/iris/bitstream/10665/70914/1/9789241548434_eng.pdf (accessed October 9, 2017).

⁹ Letter from Human Rights Watch to Knesset Members on renewal of "Citizenship and Entry into Israel" Law, July 19, 2004, <https://www.hrw.org/news/2004/07/19/israel-revoke-discriminatory-law>.

In its last review of Israel, CEDAW expressed its “concern” that the law remains in force, noting that it “continues to adversely affect the marriages and right to family life of Israeli Arab women citizens and Palestinian women from the Occupied Territories.”

Both the United Nation's Human Rights Committee (HRC)¹⁰ and the Committee on Elimination of all Forms of Racial Discrimination (CERD) have expressed their concern regarding the law and have called for its repeal.¹¹

3. Building restrictions, forced evictions and home demolitions adversely impacting women’s human rights (CEDAW articles 3, and 14)

In its last review, CEDAW noted that it “is seriously concerned that the continued demolitions of property, homes and schools as well as forced evictions in the Occupied Palestinian Territories and in East Jerusalem have a serious impact on the development and advancement of Palestinian women, including refugee women, as well as Israeli Arab women, and on their enjoyment of human rights and fundamental freedoms.”

Israel’s continued restrictions on building, particularly in the 60 percent of the West Bank under exclusive Israeli control (Area C), East Jerusalem, and in unrecognized Bedouin villages inside Israel, together with the resulting forced evictions and home demolitions, hinders women’s human rights including their educational and professional advancement. These policies, of course, affect men as well.

Human Rights Watch has extensively documented how Israel operates a two-tiered system in the occupied West Bank, including East Jerusalem, providing generous financial benefits and infrastructure support to promote life in Jewish settlements, while withholding basic services, punishing growth and imposing harsh conditions on Palestinian communities.¹² Discriminatory burdens, including making it nearly impossible for Palestinians to obtain building permits in

¹⁰ The HRC concluded in August 2003 that Israel “should revoke” the law “which raises serious issues under articles 17, 23 and 26” of the International Covenant on Civil and Political Rights (ICCPR) and “reconsider its policy with a view to facilitating family reunification of all citizens and permanent residents.” Human Rights Committee, “Consideration of Reports Submitted by States Parties Under Article 40 of the Covenant,” Seventy-eighth session, CCPR/CO/78/ISR, August 21, 2003, <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRiCAqhKb7yhsmq1D%2B4Wvg6LhA1iuk%2BH0%2BVIANpMV5V7oLmdLyXPHJcOpev%2FO7eC1AW4iqG56wgZQ%2FFUzZg8noKFqoURPIYZQvWdP2OQaUL1B6nVN4obgOhj> (accessed October 9, 2017).

¹¹ Committee on Elimination of all Forms of Racial Discrimination (CERD) stated in August 2003 that the law “has already adversely affected many families and marriages,” and “raises serious issues under the International Convention on the Elimination of all Forms of Racial Discrimination.” It called upon Israel to “revoke this law, and reconsider its policy with a view to facilitating family unification on a non-discriminatory basis.” General Assembly, Report of the Committee on the Elimination of Racial Discrimination, A/58/18, August 22, 2003, <https://unispal.un.org/DPA/DPR/unispal.nsf/o/CFoADD5629254EBo85256E1A005A49F8> (accessed October 9, 2017).

¹² “Israel/West Bank: Separate and Unequal,” Human Rights Watch news release, December 19, 2010, <https://www.hrw.org/news/2010/12/19/israel/west-bank-separate-and-unequal>.

East Jerusalem and Area C, have effectively forced Palestinians to leave their homes or to build at risk of having their “unauthorized” structures bulldozed. Between 2010 and 2014, the Israeli military administration rejected 98.5 percent of all building permit applications in Area C (33 of 2,220).¹³

For decades, Israeli authorities have demolished homes and other structures on the grounds that they lack permits, even though the law of occupation prohibits destruction of property except for military necessity. During 2016 alone, Israeli authorities demolished or confiscated 1,093 Palestinian-owned structures throughout the West Bank, including East Jerusalem, displacing over 1,600 Palestinians and affecting the livelihoods of 7,000 more.¹⁴ By the end of 2016, Israeli authorities had 12,500 outstanding final demolition orders against Palestinian structures in Area C.¹⁵

Israel has also made it virtually impossible for many Palestinian Bedouin citizens of Israel to build homes lawfully and refused to recognize their communities.¹⁶ Eighty thousand Bedouin live under constant threat of home demolitions in 35 villages that Israel does not recognize in the Negev. Israeli authorities consider their homes built illegally even though most of the villages existed before the state of Israel was established in 1948 or were created in the 1950s on land to which Israel transferred Bedouin citizens. The establishment of Jewish towns and cities uprooted many Bedouin communities. A succession of Israeli governments has subsequently moved them from place to place, often to ill-adapted settlement towns with poor physical and economic infrastructure. Israeli authorities refused to prepare plans for the communities or to approve construction permits, and rejected plans that the communities submitted that would allow them to build lawfully.

Evictions and demolitions upend family life. Given the centrality of home in the lives of Palestinian women (as well as men), demolitions acutely affect them. Human Rights Watch has interviewed dozens of women over the years, who have described the emotional impact of seeing their home demolished and the lasting practical consequences, including a struggle to feed their families, keep their meagre belongings clean, and take care of children.¹⁷

More generally, these policies undermine educational and economic opportunities within these communities. The World Bank estimated in 2013 that Israeli restrictions in Area C cost

¹³ United Nations Office for the Coordination of Humanitarian Affairs (OCHA), “Under Threat: demolition Orders in Area C of the West Bank,” September 2015, http://data.ochaopt.org/demolitionos/demolition_orders_in_area_c_of_the_west_bank_en.pdf (accessed October 9, 2017).

¹⁴ OCHA, “Record number of demolitions and displacements in the West Bank during 2016,” February 20, 2017. <https://www.ochaopt.org/content/record-number-demolitions-and-displacements-west-bank-during-2016> (accessed October 9, 2017).

¹⁵ Ibid.

¹⁶ Human Rights Watch, *Off the Map: Land and Housing Rights Violations in Israel's Unrecognized Bedouin Villages*, March 2008, <https://www.hrw.org/reports/2008/iopto308/>.

¹⁷ Ibid.

the Palestinian economy \$3.4 billion annually, approximately equal to 33 percent of Palestine's GDP. Over a third of the residential areas in Area C,¹⁸ and more than half of unrecognized Bedouin villages in Israel, lack a primary school.¹⁹ Children in these areas must traverse long distances, sometimes on foot, to reach the nearest school; in the West Bank, this sometimes results in children having to cross a military checkpoint or face harassment by Israeli settlers. Longer distances appear to disproportionately cause girls to drop out and abandon their studies,²⁰ which makes it more difficult for them to find meaningful employment. Among many other harmful effects, this structural barrier constrains efforts to achieve gender parity and inhibits the full development and advancement of women in these communities.

4. Israel's closure of Gaza block opportunities for female employment and empowerment (CEDAW articles 3, 12, and 14)

In its last review, CEDAW said it "is deeply concerned that the severe restrictions on the freedom of movement in the Occupied Palestinian Territories ... create hardship and have a detrimental impact on the enjoyment of human rights by Palestinian women."

Israel's decade-long effective closure of Gaza, exacerbated by Egypt sealing most of the time its own border with Gaza, continued to block Palestinian women (as well as men) from educational and economic opportunities.

For the last decade, Israel has limited travel through Erez Crossing, Gaza's passenger crossing to Israel, the West Bank and the outside world, to what the Israeli military calls prominent businesspersons and "exceptional humanitarian cases," meaning mostly medical patients and their companions. In the first eight months of 2017, an average of about 240 Palestinians exited Erez each day, compared to the average of more than 24,000 Palestinians who crossed each day in September 2000, just before the second "Intifada" or Palestinian uprising. The generalized travel ban has blocked students, both male and female, seeking university education abroad, as well as those seeking opportunities for employment, trade, or training.²¹

¹⁸ OCHA, "Access to education in area C of the West Bank," July 4, 2017, <https://www.ochaopt.org/content/access-education-area-c-west-bank> (accessed October 9, 2017).

¹⁹ "On the Map: the Arab Bedouin Villages in the Negev-Naqab," <http://www.dukium.org/unrecognized-villages/> (accessed October 9, 2017).

²⁰ Human Rights Watch, *Second Class: Discrimination Against Palestinian Arab Children in Israel's Schools*, September 2001, <https://www.hrw.org/report/2001/09/30/second-class/discrimination-against-palestinian-arab-children-israels-schools>; United Nations Children's Fund (UNICEF), "Children Affected by Armed Conflict Israel & the occupied Palestinian territory (oPt)," July 2011, https://www.unicef.org/oPt/UNICEF-CAAC_Bulletin-July_2011.pdf (accessed October 9, 2017).

²¹ "Israel/Palestine: Rights Workers Denied Gaza Access," Human Rights Watch news release, April 2, 2017, <https://www.hrw.org/news/2017/04/03/israel/palestine-rights-workers-denied-gaza-access>.

The Israeli human rights group Gisha reported that only 73 of 362 students who had applied for permits to study abroad in 2017 had received them as of September 28.²²

Since many women work in smaller businesses or in the public or non-profit sectors, fewer women than men are able to obtain permits that Israel reserves for people engaged in trade. Only 1.5 percent of these went to women (954 out of 63,974 permit holders) between January 2015 and September 2016, according to data provided by Israel's Coordination of Government Activities in the Territories (COGAT) in response to a Freedom of Information Application submitted by Gisha.²³

Israel has also restricted the flow of electricity into and goods out of Gaza, affecting the right of women (as well as men) to enjoy adequate living conditions. Outgoing goods in the first eight months of 2017 averaged 223 truckloads per month, mostly produce to be sold in the West Bank and Israel, just 21 percent of the 1,064 truckloads per month prior to the June 2007 tightening of the closure. Meanwhile, Israeli restrictions, as well as its bombings of Gaza's only power plant, have limited the supply of electricity for well over a decade, resulting in chronic power outages. The situation further deteriorated in 2017, in part driven by Israel acceding to a Palestinian Authority request to cut the electricity it provides to Gaza, leaving households and businesses for stretches with four hours or less a day. Power outages jeopardize water supply, inhibit processing of sewage, and cripple operations of hospitals. They also wreak havoc on home life, making everyday tasks like keeping food fresh, doing laundry and cleaning a struggle, with particularly pronounced consequences for women on whom these tasks often fall.²⁴

These policies have dramatically worsened the economic and humanitarian situation in Gaza. As of 2016, Gaza's GDP was 23 percent lower than in 1994.²⁵ Unemployment during the second quarter of 2017 reached 44 percent, the highest rate since the 2014 war with Israel, with the rate for women reaching 71.4 percent.²⁶ Approximately 70 percent of Gaza's 1.9 million people rely on humanitarian assistance.

²² Bethan McKernan, "MPs urged to help Palestinian student denied exit visa from Gaza to take up place at Goldsmiths," *Independent*, September 27, 2017, <http://www.independent.co.uk/news/world/middle-east/palestinian-student-gaza-exit-visa-london-goldsmiths-mps-israel-university-mohammed-awad-a7968191.html> (accessed October 9, 2017).

²³ Gisha, "The Concrete Ceiling: Women in Gaza on the impact of the closure on women in the workforce," match 2017, http://www.gisha.org/UserFiles/File/publications/women_gaza_17/women_gaza_17_en.pdf (accessed October 9, 2017).

²⁴ Abier Almasri, "In Gaza, we get four hours of electricity a day — if we're lucky," *Los Angeles Times*, August 20, 2017, <http://www.latimes.com/opinion/op-ed/la-oe-almasri-no-electricity-in-gaza-20170820-story.html> (accessed October 9, 2017).

²⁵ Palestinian Central Bureau of Statistics (PCBS), "Quarterly national accounts variables in Palestine for the years 2016, 2017 at constant prices: 2004 is the base year," http://www.pcbs.gov.ps/Portals/_Rainbow/Documents/E.QNA_Constant.htm (accessed October 9, 2017).

²⁶ *Ibid.*, Gisha, "Unemployment in Gaza reached 44% in the second quarter of 2017, highest since the war," September 27, 2017, <http://gisha.org/updates/8261> (accessed October 9, 2017).

5. Recommendations

The CEDAW committee in its last concluding observations made a number of recommendations that have not been implemented, including the calls on Israel to “bring the 2003 Citizenship and Entry into Israel Law (Temporary Order) of 31 July 2003 into line with articles 9 and 16 of the Convention,” “refrain from the practice of forced eviction and home demolitions, which negatively impact on the physical and physiological well-being as well as the development and advancement of Palestinian and Israeli Arab women,” and “ensure that Palestinian women enjoy their human rights, in particular their rights to freedom of movement, family life, work, education and health.”

We encourage the Committee to make the following recommendations to the Israeli government:

- Pass legislation permitting all women in Israel to have an abortion of their own free will, without needing to meet stringent criteria or obtain approval from a pregnancy termination committee.
- Pass a citizenship law that facilitates family reunification of all citizens and permanent residents and conforms to international human rights standards.
- Accept the applicability of the Convention and international human rights law to the Occupied Palestinian Territory.
- Suspend policies that arbitrarily prevent Palestinians from obtaining construction permits.
- Ensure that demolition of Palestinian homes and other property are carried out only as a last resort, are strictly necessary as required by a legitimate state purpose in accordance with Israel’s human rights obligations and its obligations as an occupying power, and are fully compensated.
- Declare an immediate moratorium on demolitions of Bedouin homes and create an independent commission to investigate pervasive land and housing discrimination against Bedouin citizens in the Negev.
- End the generalized ban on travel to and from Gaza, and permit the free movement of people to and from Gaza, subject to individual security screenings and physical inspection.
- Until the travel ban is lifted, ensure that special allowances made to businesspersons from Gaza are in practice accessible to businesswomen on an equal basis.