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Submission to the United Nation Human Rights Committee

Israel - Fifth session (2018)

List of Issues Prior to Reporting - 123 Session (02 Jul 2018 - 27 Jul 2018)

Introduction

This report is submitted by Ben-Natan & Pomeranz Law Office, an Israeli law firm that specializes in human rights litigation, on behalf of the Eidah Haredith minority in Israel, an indigenous Ultra-Orthodox Jewish community, whom we represent. The report includes a suggested list of issues, and is submitted to the United Nation Human Rights Committee (HRCtte) in relation to its upcoming 123th session, in which the committee will adopt a list of issues regarding the State of Israel.

This report is focused on the Israeli government's treatment of conscientious objectors from within the community and the growing rates of their arrest and imprisonment, alongside police brutality against the community's protests. As will be outlined, in this context, Israel is grossly and severely violating the community members' right to freedom of religion and belief, right to freedom of peaceful assembly and of association and their protected rights as a minority.

As will be described below, for about 100,000 members of the Eidah Haredith minority in Israel, this is a state of emergency. After about 70 years of a status-quo which in effect exempted all Eidah Haredith youths from conscription to the Israeli Army (IDF), the new Military Service Law puts the Haredi youth in danger of forced conscription, leading to growing numbers of arrests of conscientious objectors and protestors - violating their right to freedom of peaceful assembly

and of association. The policy of forced conscription engenders hostility among police and other authorities toward any person of Ultra-Orthodox appearance, and has become an instrument of suppression toward the Haredi community in general, and the Eidah Haredith minority in particular.

Altogether, we are witnessing a gross violation of human rights, minority rights and freedom of religion rights – and specifically, the community members' rights to freedom of opinion and expression - on a scale never seen before, in the name of the new Military Service Law, and hence this submission.

The Eida Haredith - Short Background

The "Eida Haredith" is an indigenous Ultra-Orthodox Jewish community, with deep historical roots in Israel-Palestine, prior to the establishment of the State of Israel. With its own social institutions, distinct customs, culture and religious rules, it is functioning as separately as possible from the State. The community's literature perceives the community's moral role as immanently contradicting the use of force, violence and bloodshed. The history of the community in the Jewish diaspora shows refusal to enlist to any army.

As to Israel – the community religiously objects to any taking of power by Jewish hands as such, and therefore sees the Zionist project of establishing a Jewish State with coercive power, as blasphemy, and does not acknowledge the existence of the State of Israel. The community consists of about 100,000 people in Israel (the general population of Israel is estimated at 8.7 million), its' members speak Yiddish (and not Hebrew) and live in segregated neighborhoods (mainly in Jerusalem and Beit Shemesh). The community doesn't participate in the Israeli elections, has no representation in the Israeli parliament, and refuses to receive governmental subsidies, basic national insurance or financial support of any kind and from the State.

Hence, service in the Israeli Army, which is one of the central institutions of the Zionist project and a core symbol of Jewish Statehood, is a violation of the deepest principles of the community. The religious prohibition against service in the Israeli army is considered a prohibition that one must rather die but not violate.

Recent Developments in the Conscription of the Ultra-Orthodox Community

While military service in Israel is formally mandatory, since the establishment of the State it has been the general policy of the government not to enlist the members of

minority groups such as the Arab citizens of Israel and the Ultra-Orthodox Jews. In 1948, the first Prime Minister of Israel reached a status quo agreement with the heads of the Haredi community, that postponed their conscription as long as they were considered students of the religious institution, the “yeshiva”. In this manner, the whole Orthodox community continued living their separate life, uninvolved with the Jewish State or the Israeli military.

This status quo agreement has been broken recently by Israel, which reformed the Military Service Law in a way that turns the Eida Haredith youth into criminals, and sends dozens of them to prison each month solely for their refusal to serve in the military because of their beliefs. The Revised Military Service Law of 2015 include possibilities for exemption from military service, but these possibilities were narrowed, and conscription quotas of thousands per year were set and gradually increased.

These changes were a result of a public campaign and Supreme Court ruling (HCR 1877/16), that struck down the previous Military Service Law on the basis of "equality in the burden of military service" and integration of Ultra-Orthodox citizens into the labor market. However, the implications of the change were a direct violation of the basic religious beliefs and the right to self-definition of the members of the Anti-Zionist Jewish ultra-religious community.

The new draft regime is especially discriminatory against the Eida Haredith and small and poor communities from the periphery of Israel. The quotas of the exempts are distributed by an advisory committee of Rabbis from the different religious parties in the Israeli Parliament (the "Knesset"). Therefore, the less politically connected communities have been the first to be affected by the reform. The Eida Haredith, which rejects, as mentioned above, the idea of a Jewish state and any relations of their community to state power, is not represented in the Knesset and is not part of any of the parliamentary parties. And hence came about the present situation of the obvious absurdity: the institutions of the Eida Haredith were among the first whose youth were demanded to enlist to the army.

As the youth of the Eida Haredith were educated upon the community's beliefs, most of them have refused to betray these principles upon which they were raised. Therefore, the result of the new law and the growing rates of conscription during the past year has been that **thousands of Eida Haredith youth carry a criminal record for desertion**

right as they turn 18, and start their adult life in perpetual fear of the police. A whole generation of the Eida Haredith community lives in hiding.

Violation of Article 18: Right to Freedom of Thought, Conscience and Religion

Given the community's beliefs, which include a rejection of all Israeli establishments, a refusal to partake in violence or military force and a very strict religion lifestyle - the Israeli governments attempt and actions towards forced conscription of members of the community is a gross violation of their right to freedom of religion and belief. These are acts of coercion which impair the community members' right not to commit what is regarded in their religion and beliefs as a fundamental sin.

Though Israel does have a “conscience committee” in the military which allows exemption from service on the basis of conscience objection, albeit in a very limited and problematic way, Israel refuses to apply this mechanism on conscientious objectors from the community, thus refusing them exemption on the basis of their beliefs.

The legal hearing of conscientious objectors is in the monopoly of the military justice system, which prevents proper (and public) discussion and the possibility of compensation for unwarranted detention. The release and exemption of the conscientious objectors is ultimately done only following a lengthy prison time, accompanied by a criminal record that will mark them for many years.

In addition, conscientious objectors from the community suffer from violations of these rights while being held in military prison, where many times they are denied their right to observe the commandments of their religion – when they are denied food approved by their Rabbinical Court and refused access to the holy books and prayer articles they require; and are forced to wear uniform – an act which violates their lack of acknowledgment of Israeli establishments.

Violation of Article 27: The Minority Rights of the Eida Haredith

The goal of the concerted State campaign around conscription is not only to enforce the law on certain individuals who refuse to enlist. It is a politically motivated campaign aiming to assimilate the Ultra-Orthodox communities into the general society. The Eida Haredith, which is the most segregated, anti-militarist, pacifist and anti-Zionist ultra-religious community, is especially harmed by this.

The Eida Haredith community is under a grave threat to its ability to preserve its deeply rooted culture, heritage, and linguistic and religious traditions. In the struggle to maintain its unique identity, the community pays a heavy price with the violation of its members' basic dignity and human rights, fundamental freedoms, practices and beliefs. This intolerable situation harms not only the community itself but also contradicts the interests of a free, democratic society in which human rights, social stability and cultural diversity are valued.

In light of article 27 of the ICCPR, alongside other international treaties protecting minority rights, the Eida Haredith has the right to preserve its traditions, religious practices, community structure and language. The community deserves polyethnic rights, self-government rights and self-determination, which would allow it to keep existing as a minority within Israel, without assimilating in the civil society and without having direct relations with the Israeli government.

These rights, which are under serious threat by the new Military Service Law, should be especially protected since the Eida Haredith is an indigenous minority, with deep roots in the land of Israel-Palestine, centuries before the foundation of the state of Israel.

Violations of Articles 9 & 10: Arbitrary Detention and Unlawful Punitive Measures taken against Conscientious Objectors of the Eida Haredith and Police Brutality

The terms of the new Military Service Law have turned many of the Eida Haredith youth into criminals, solely for their conscientious objection to conscription. During 2017-2018, **dozens** of Haredi conscientious objectors were sent to military prison **each month**, some of whom have also been victims of brutal violence by the military and degrading punishments. The military has also infringed on basic rights of the community members' right to freedom of religion, and deprived them of praying articles, proper Kosher food, etc in the military prison. The military's treatment of complaints in these cases was profoundly insufficient, and effectively offered impunity to the perpetrators. Even though numerous complaints were submitted to the military authorities and introduced to the military courts, no change is being seen, and the discrimination and human rights violations against the Haredi prisoners continues.

In addition to the military's harsh treatment towards conscientious objectors, the Eida Haredith is witnessing unleashed police brutality and violence in its protests and

demonstrations against the new Military Service Law. Such brutality has never been seen before against Jewish protestors in Israel (unfortunately, such practices are not uncommon against Palestinian protestors). The Israeli police has been documented using disproportionate violence, tear-gas, "Skunk" (water cannon shooting extremely strong stream of stinking liquid) and even shock grenades to suppress the Haredi's peaceful protests against conscription.

In these acts, the Israeli government has violated the community members' rights against arbitrary arrest and detention, and their right to be treated with humanity and with respect for their inherent dignity.

Violations of Articles 19 & 21: Violations of the Right to Freedom of Expression and Peaceful Assembly

Alongside Israel's violations of the community's freedom of religion and belief, the government is also using a range of drastic means to impede the community's basic right to express their objection to these policies and their right to demonstrate peacefully.

The police brutality against the community's protests on this issue and the increasing arrests of protestors, as described above, is a severe violation of their right to freedom of expression and opinion as well as the freedom of peaceful assembly and of association.

Summary: The Main Failures in the Israeli government's Policy towards Conscientious Objectors from the Ultra-Orthodox Community

1. The new recruitment policy of Israel forces the Eida Haredith to act against their religious laws and traditions, and to defy fundamental principles of their belief;
2. The recruitment policy prevents the minority group from continuing its cultural and religious life contrary to the spirit of the covenant;
3. The IDF's internal conscience objectors' exemption system refuses to examine cases of Ultra-Orthodox conscientious objectors, thus denying them the option of exemption on the basis of their beliefs;
4. The repeated and lengthy imprisonment of conscientious objectors, the mass arrests, and the use of brutal means to disperse demonstrations all constitute a collective and disproportionate punishment.

Questions to be raised with the Israeli Government:

1. Why does Israel coerce military service on a religious and cultural minority that believes it to be a deadly sin? In this context, why does Israel not fulfill its obligations under Articles 18 and 27 of the ICCPR and why doesn't it exempt youths from the minority from military conscription?
2. What mechanism does the State of Israel offer to the Eida Haredith minority in order to escape the impossible situation of choosing between what is perceived by them as a deadly sin (i.e, military service in the IDF) and repeated imprisonments given as punishment if they don't enlist, on the other hand?
3. Why does the military justice system ignore the repeated requests of Ultra-Orthodox conscience objectors and prisoners for exemption on the basis of conscience, and why does Israel exclude them from applying the existing military conscience committee?
4. Why is the Eida Haredith not recognized as a cultural and religious minority and why are their minority rights not protected?
5. Why are Ultra-Orthodox conscience objectors facing such harsh and degrading treatment in military prisons?
6. Why does the Israeli law enforcement system act so brutally against a minority group that demonstrates in non-violent means?