

SHADOW REPORT

United Nations Committee against All Forms of Racial Discrimination

Suggested Issues for Consideration Regarding Israel's 17-19th Periodic Report to the UN
Committee on the Elimination of All Forms of Racial Discrimination (CERD)

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Introduction

The Israel Religious Action Center of the Israel Movement for Progressive Judaism (hereinafter – “IRAC”) hereby submits a non-governmental (“shadow”) report in response to the State of Israel's 17th-19th periodic report concerning the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination.

Israel’s submission gives inaccurate and/or insufficient information regarding some of the issues raised in the report. This report is a short summary of issues that we feel are important for the Committee to consider, yet it does not represent the full range of discriminatory practices and policies in Israel. The lack of such information should not be construed as evidence for absence of such discrimination.

The following report focuses primarily on Articles 2-5 and 7 of the Convention by looking at several issues in depth, such as racial incitement, in particular by state funded Rabbis and the State's acquiescence to racism, but also addresses many other issues, on which we can provide unique insight and information derived from our work on those issues.

Following this introduction is a list of suggested questions that we respectfully request the Committee to consider. At the end of the report we bring IRAC's recommendations.

IRAC hopes that the Committee will find this report useful and thanks the committee for considering its report.

IRAC is the legal and public advocacy arm of the Israel Movement for Progressive Judaism. IRAC was founded in 1987 with the goals of advancing pluralism, tolerance and equality in Israeli society and of protecting and defending human rights, especially those rights having to do with freedoms of conscience, faith, and religion. In the last 15 years, IRAC is one of the leading NGOs fighting racism and racist incitement, based on a liberal Jewish perspective and democratic values. In this framework, IRAC has been actively involved in combating racism and racial incitement in Israeli society including by founding and operating a racism crisis center which offers legal assistance to victims of racist hate crimes.

List of Suggested Questions

1. Does the State of Israel hold a comprehensive plan to fight racism, specifically racist incitement and hate propaganda?
2. Which measures does the State undertake to fight racist incitement by religious and political leaders?
3. What is the total allocated State budget for education programs in the spirit of CERD that are designed to eradicate racism and promote equality and tolerance among the different ethnic and religious groups in Israel? Are such programs mandatory in state funded education institutions, in particular schools?
4. Why is the criminal offense prohibiting incitement to racism not prosecuted effectively against public figures in particular elected officials and Jewish religious leaders?
5. Why isn't the definition of "racism" in the Israeli penal code amended to include incitement on account of country of origin, religious affiliation or civil status (i.e., being a refugee, asylum seeker or migrant worker)?
6. Why isn't the offence of "incitement to racism" amended to modify the requirement relating to the proof of intent?
7. Why does the State refrain from legislating civil grounds for a claim on account of racial incitement?
8. Why does the State not formulate a coherent policy and an effective mechanism regarding disciplinary action against state employees, including religious figures, who incite to racism?
9. Which measures does the State undertake to stop racist organizations from operating? Does the State allocate funds to organizations involved in racist incitement? Does the State perform inspections as to whether organizations that receives public funding are involved in racist or hate incitement or activities?
10. Why doesn't the state amend the elections law to allow the removal of racist propaganda disseminated during an election period?
11. Is the hotline against discrimination and racism the State reported (section 17 of the State's Report) still active? How many complaints received through the hotline resulted in criminal charges or in any other measure taken against the discriminating factors?
12. In how many cases was section 9 of the Law prohibiting Discrimination in Public Places and Public Services, creating a penal offence, enforced?
13. Why doesn't the State secure the status of the "Government unit for the Coordination of the struggle against racism" in legislation and secure proper funding of this unit?

Violations of CERD: Article 2

1. As detailed herein below, not only has the State of Israel failed to undertake sufficient action in the struggle against racism, but it has also enacted laws which discriminate on the grounds of race, national or ethnic origin.

2. **Basic Law: Israel as the Nation-State of the Jewish People**

In July 2018 the Knesset enacted the Basic Law: Israel – The Nation State of the Jewish People (known as the “Nationality Law”). **This basic law** (which is superior to regular laws), **violates the balance between the Jewish and democratic aspects of the State, severely damaging Israel’s democratic nature and commitment to equality and human rights.** The Israeli legal system is built on a delicate balance between Israel’s identity as the state of the Jewish people and its democratic nature entitling equal rights to all its citizens. The Nationality Law violates this balance: While its provisions discuss only issues relating to the State’s Jewish nature, **the fact that all Israeli citizens enjoy equality before the law is blatantly absent.** The Nationality Law contains no commitment to democratic norms, a guarantee of the right to equality, or a prohibition of discrimination on the basis of race, nationality, ethnicity or any other category.

The law undermines the status of the Arabic language in Israel, as it downgrades the Arabic language’s status from a second official language to a language with a “special status”; Hebrew is now the only language defined as the “State language.” This act increases hostility and alienation towards members of the Arab population in Israel and fundamentally negates the claimed State’s efforts for advancing Arabic language in Israeli society articulated in Sections 306-309 Of the State’s Report.

The Nationality Law also states that Israel would encourage, promote and establish settlement - only in respect to the Jewish population, and that Israel acknowledges it as a national value. This clause perpetuates discriminatory practices regarding land allocation to the Arab population in Israel.

3. **Disciplinary Action against City Rabbis:** The current law regarding disciplinary action against city Rabbis includes a mechanism which suffers from various deficiencies making its enforcement ineffective. Such deficiencies include: The tribunal assembled following a complaint filed against a City Rabbi is composed of two City Rabbis and one Rabbinical Judge – fellow Rabbis of the Rabbi indicted; there are no clear definitions of the nature of the disciplinary proceeding or of the nature of the prosecution and interrogation conducted by the tribunal; and there is uncertainty regarding the

powers and investigation measures the law provides for inquiring the factual grounds required to submit a complaint against a City Rabbi. As detailed herein below, although many State-employed Rabbis incite to racism in a manner justifying disciplinary action taken against them, the state refrains from filing disciplinary complaints against such Rabbis claiming the existing law articulating disciplinary action against city Rabbis is ineffective, while at the same time – failing to amend the law. So far, several government and private bills were submitted in this regard, but none was promoted:

- **Government Bill - Jewish Religious Services (Amendment 22) (Disciplinary Action against City Rabbis) 5774-2014.**
- **Jewish Religious Services (Amendment - Disciplinary Action against City Rabbis) Bill 5776-2016** - 2 private bills that are similar to the above government bill.
- **Law Memo - Jewish Religious Services (Amendment 23) (Disciplinary Action against City Rabbis) 5777-2017.**

4. **Under-enforcement of the Criminal Provision included in the Prohibition on Discrimination**

Law – filing a criminal complaint in accordance with the provision 9 of the Prohibition of Discrimination in Products, Services, and Entry into Places of Entertainment and Public Place Law is another tool for victims of discrimination and racism to exercise their rights. The concluding report of the Team for Eradication of Racism against Ethiopian Jews published in September 2016, indicated that the criminal offense included in Provision 9 is not enforced at all by the authorities. The report recommended that the State will work towards changing this situation but this has not been done so far.

5. **The Ministry of Justice hotline against discrimination and racism, established in January 2014**

- (Section 16 of the State’s report) - in response to a request for information filed by IRAC in November 2014, the following data was provided from the Ministry of Justice Director General’s Office in November 2015 with respect to the hotline:

Number of phone calls and email hotline inquires:

Month	Phone calls	E-mails
Jan-14	1951	
Feb-14	2138	

Mar-14	1923	
Apr-14	1197	
May-14	1501	
Jun-14	1614	
Jul-14	2097	1000
Aug-14	1407	165
Sep-14	1539	80
Oct-14	1078	32
Nov-14	1740	100
Dec-14	2041	112
Jan-15	1733	29
Feb-15	1747	18
Mar-15	1835	17
Apr-15	1427	13
May-15	1772	18
Jun-15	1977	13
Jul-15	1864	25
Aug-15	942	13
Sep-15	199	20
Oct-15	369	37

The response to the information request indicated that over 95% of the phone calls received by the hotline were wrong numbers.

Out of the ~3000 inquiries to the hotline, only ~ 250 were inquiries relating to racism and discrimination, distributed as follows:

31% - equal rights at work.

17% - discrimination or violence based on sectarian affiliation.

11% - discrimination or violence against the Arab sector.

9% - discrimination against the ultra-orthodox/religious sector.

All inquiries directed at the hotline were answered via phone or email. The response is preliminary, and mainly includes referral to the relevant bodies and/or different treatment options, including referral to the Equal Employment Opportunities Commission, the Commission for Equal Rights of Persons with Disabilities, the Legal Aid Department and the Israel Police. No complaints were transferred to the State Attorney's Office.

The Ministry of Justice reported that it does not possess further information in respect of the processing of such inquiries following the hotline's preliminary response.

Violations of CERD: Article 3

6. As discussed below, the recommendation set forth in Section 11 of the Concluding Observations regarding the 14th-16th reports of Israel dated April 2012, in which the Committee urged Israel to give full effect to article 3 of CERD and to make every effort to eradicate all forms of segregation between Jewish and non-Jewish communities, is poorly implemented. This statement is also applicable to the recommendation set forth in Section 15 of the Concluding Observations, in which the Committee strongly recommended that Israel ensure equal access to land and property.
7. **Basic Law: Israel - Nation-State of the Jewish People** articulates that **Israel would encourage promote and establish settlements - only in respect to the Jewish population, and that Israel acknowledges it as a national value.** The non-Jewish population in Israel - Arabic, Druze, and Circassian - is blatantly disregarded. Thereby, the Nationality Law institutes segregation and discrimination in land allocation on grounds of race, national or ethnic origin.
8. **Population Committees**
For a long time, "Population Committees" have been operating in different Ultra-Orthodox cities and neighborhoods across Israel. These committees deny many citizens from purchasing or selling apartments solely on grounds of sectarian or religious affiliation. Population Committees act illegally in a manner violating property rights and the right to equality. The Population Committees exist *inter alia*, in ultra-orthodox cities such as Modi'in-Ilit, Kiryat Sefer, Beit Shemesh, Beitar Ilit,

Telz Stone, Givat Ze'ev, and in different parts of Jerusalem. One can learn about the illegal activity of the Population Committees by various forms apartment purchasers are required to complete in different cities, indicating that the completion of the real-estate transaction is subject to the approval of the Population Committees granted or denied only on grounds of sectarian or religious affiliation (if the buyer is not religious enough, or of a Sepharadi origin – he may be refused permission to buy the apartment). IRAC's inquiry indicates that many bodies cooperate with the Population Committees, and act in a discriminatory manner against citizens who fail obtain the Population Committees' approval. For example, mortgage companies subject the sale of apartments to buyers to confirmation of the population committee, and realtor firms in ultra-orthodox cities also condition their services on confirmation from the population committee. Placement in kindergartens and schools in ultra-orthodox cities or neighborhoods is sometimes determined by instructions of the local population committee.

Although there is distinct evidence to the existence of population committees, the authorities do not enforce and eradicate them.

The Ministry of Justice's response dated May 2019 indicated that clarifications will be made to the relevant persons in the Ministry of Education and local authorities, that discrimination in education institutions enrollment based on decisions of the population committees is forbidden.

9. **Discrimination in marketing residential units built on State lands**

The Israel Land Authority (ILA) is responsible for the management of State lands and their allocation to construction, infrastructure, commerce, tourism and development, under the Israel Land Authority Law 5720-1960. The ILA is obligated to procure that entrepreneurs participating in its construction tenders act with equality and market the residential units built on the lands allotted to them without discrimination. For this reason, it was decided in 2010 to add to every land tender of the ILA a clause forbidding entrepreneurs who participate in the tender from using discriminatory marketing practices when selling the residential units built. This clause prescribes that if an entrepreneur discriminates in marketing of the residential units, it may be subject to sanctions of revocation of the contract, or pecuniary fine. In recent years, the State imposed low fines only in a few cases, usually only as a result of legal proceedings initiated against the State. There is no sufficient State action in this regard. IRAC handled several cases of wrongful discriminatory marketing by entrepreneurs. No measures were taken against them. Some examples:

- a. **Discriminatory marketing of apartments in “Pninat Hareches” project, Ramat Shlomo, Jerusalem** - in December 2016 the media published indications of discriminatory marketing of apartments in “Pninat Hareches” project, Ramat Shlomo quarter, Jerusalem. The project is located on lands won by Pninat Ha’uma Company in an ILA tender. According to these publications, purchasing an apartment in the project is subject to approval of a Population Committee, which filters out potential purchasers who are of Sephardi origin or not ultra-orthodox. IRAC submitted a complaint to the ILA and demanded to impose sanctions against Pninat Ha’uma for discriminatory marketing. A hearing procedure against the company started in February 2017. When 10 months have elapsed since the hearing and no decision was made, IRAC filed a petition to the Court in this matter (*Administrative Petition 27742-01-18*). In February 2018, the ILA decided not to impose sanctions on Pninat Ha’uma due to insufficient evidence linking between the advertising firm marketing the project and Pninat Ha’uma. Based on this argument the Court refused to intervene, and the petition was erased in March 2019. In its decision, the court emphasized that ILA should utilize its best efforts to prevent discrimination in selling apartments and block any path intended to bypass the prohibition on discrimination.
- b. **Discrimination in marketing apartments in “Electra Mul Hanof” project, Ramla** - in January 2019 IRAC filed a complaint to the ILA following publication of Electra Housing relating to a construction project called “Electra Mul Hanof” in Neve David Quarter, Ramla, built on public land. The publication indicated that purchasers who serve in the IDF reserve and in the Israeli security forces will receive an exclusive NIS 150,000 discount when purchasing an apartment in the Project. In our complaint letter we claimed that this type of benefit qualifies as a forbidden marketing method, since it discriminates between purchasers based on religion, ethnicity and nationality. It excludes those who do not serve in security forces - i.e., among others, the Arab population. We demanded that the ILA imposes sanctions on the entrepreneur. So far, no formal response was received from the ILA.

Violations of CERD: Article 4

10. As set forth herein below, the recommendation set forth in Section 14 of the Concluding Observations, in which the Committee recommends that Israel amend its current legislation in a manner that incitement offenses may be more broadly and efficiently enforced, has not been

implemented. The same should be said with respect to the recommendation in Section 23 of the Concluding Observations, in which the Committee recommended that Israel step up its efforts and use all possible means available to eradicate racist public discourse, specifically, by strongly condemning all racist and xenophobic statements made by public officials, and religious and political leaders, and employing equal enforcement against inciters, regardless of their status.

Incitement to Racism and Violence Offenses

11. Incitement to racism and incitement to violence are prescribed offenses in the Israeli Penal Code 5737-1977. There are two main problems regarding such offences: one relates to the manner in which such offences are defined; the second relates to the enforcement policy of these offences.

The definition of the incitement offenses

12. The term “Racism” has a very limited formulation in the Israel Penal Code: “persecution, humiliation, degradation, a display of enmity, hostility or violence, or causing altercations against public or parts of the population, all on grounds of **color, racial affiliation or national or ethnic origin.**”
13. **The elements of these offenses are hard to prove.** In order to establish the offense “incitement to racism”, the inciting publication should be published **with and intent to incite to racism.** This requires proof of an “intent” *mens rea*, which is naturally very hard to prove. To establish the offense of “incitement to violence”, the content of the inciting publication and the circumstances of publication should generate **real possibility of leading to the performance of an act of violence.** A proof that a certain expression would lead to an actual act of violence at the level of “real possibility”, is difficult to obtain.

Enforcement policy

14. Initiating an investigation on offenses of incitement to racism or incitement to violence is subject to the approval of the Deputy State Attorney (Special Matters). The decision to file an indictment for such offenses is subject to the approval of the Attorney General.
15. **The State Attorney and Attorney General’s policy on investigation initiation and indictment with respect to incitement offenses is extremely constricted,** specifically when the racist statements are made by Rabbis and/or are allegedly founded on Jewish Law (although the Israeli Penal Code articulates no exemptions in such cases). The State argues that this policy was adopted

in light of the importance of freedom of speech, but in fact, the State renders the aforementioned incitement offences void, specifically with respect to Jewish public leaders who despite expressing extremely racist statements are not prosecuted and are de facto immune from criminal proceedings.

De Facto Immunity to Jewish Religious Leaders

16. Specifically with respect to Jewish religious leaders, almost no indictments were filed against Rabbis for offences of incitement to racism or violence, including State-employed Rabbis, despite the tremendous influence such Rabbis have over their disciples. Below are examples for two distinct cases of incitement handled by IRAC, where it was decided not to file indictments. The Supreme Court refused to intervene with the decisions:

- a. **"Torat Hamelech"** - in 2009 two extreme Rabbis from "Od Yosef Hai" Yeshiva, Rabbi Yosef Elizur and Rabbi Yitzhak Shapira, published the book "Torat Hamelech" (which means: The King's Torah). The 200-page book details quotes from Jewish law supporting a racist superiority theory according to which lives of non-Jews are worth less than those of Jews, allowing killing of gentiles, including non-Jewish babies, in order to prevent them from growing up and acting against Jews. This book was the ideological foundation for terrorist acts aimed at Palestinians, known as "Price Tag." The Attorney General refused to file an indictment against the authors, claiming that the intent element required to establish the offence of incitement to racism, was not proved. The Supreme Court refused to intervene with the Attorney General's decision (*High Court of Justice 2684/12*).
- b. **The article "Arvut Hadadit"** - in 2009, Rabbi Yosef Elizur published an article explaining how to practically perform "Price Tag" operations and how to act against Arabs, the IDF and the Police. The Attorney General refused to file an indictment against the author due to evidentiary difficulties. The Supreme Court refused to intervene but ordered the article removed from the Internet (*High Court of Justice 6462/15*). As a result of the legal proceedings, in December 2016 the Attorney General decided to file an indictment against Rabbi Yosef Elizur with respect to two articles he published in 2013 on charges of incitement to violence (*Criminal Case 30993-06-17*). While the trial against Rabbi Elizur is pending, he continues to publish inciting articles.

17. **Rabbis enjoy de-facto immunity from indictment on charges of incitement** - data from the past twenty-two years indicate that during that period, indictments were filed against **four Rabbis only**

for incitement to racism, and against **one Rabbi** for incitement to violence. Of those, only one Rabbi was a civil servant - Safed City Rabbi and member of the Chief Rabbinate Council, Rabbi Shmuel Eliyahu. In two of these cases (Rabbi Shmuel Eliyahu and the president of “Od Yosef Hai” Yeshiva in settlement Yitzhar, Rabbi Yitzhak Ginsburg), the indictments were revoked or withdrawn in return to an “apology” and undertaking to refrain from racist discourse in the future - an undertaking that was soon violated. Only in one case the proceeding was conducted to its end and the Rabbis were convicted (Rabbis Yitzhak and David Batzri) for a speech they made against Arabs in a convention against the Bilingual School in Jerusalem, in 2006. As mentioned above, another case of Rabbi Yosef Elizur is still pending.

18. **Selective enforcement of Incitement offenses** - References in the State’s Report in Section 65 and Schedules 1-2 indicate that most indictments on charges of incitement were filed against Arabs. When indicting Jews, the perpetrators hold minor and not key positions of leaders which the State refrains from indicting.
19. Another example of such selective enforcement - following the conviction of the three murderers of the boy Muhammed Abu Hadir of murder (under Section 300(a)(2), Penal Law 5737-1977) and abduction for murder under Section 372 of the Penal Law, among other offenses, IRAC and Tag Meir Forum submitted a petition demanding the State to file a civil damages action against the three, to bear the damages they inflicted on the deceased and his family (*High Court of Justice 4932/19*). The petition indicated that in July 2017 the State Attorney’s Office filed a law suit in tort against the widow and four children of the man that executed a terrorist attack in Armon Hanatziv (*Civil Case 49456-06-17*), for damages the State bears (currently and in the future) due to the attack. The State Attorney’s Office stated that the lawsuit is intended for restitution to the State of expenses incurred by the State in such cases, and entail a clear message that terrorists will be held accountable for their actions also by using civil lawsuits filed against them and/or their families. Despite the above mentioned statement, the State Attorney did not file a civil law suit for damages against Muhammad Abu Hadir’s murderers, arguing no financial feasibility to collect the damages imposed on the murderers exists. In light of the fact that the family of the terrorist who acted in Armon Hanatziv is poor, the absurdity of such argument is clear. Due to the wrongful discrimination in the State Attorney’s Office conduct the petition was submitted and is currently pending.

Incitement to racism by State-employed Rabbis

20. Each locality, local authority, city (even neighborhood, in some cities) or regional council has a position of a State-employed Rabbi, responding to the religious needs of citizens. In addition to being subjected, as every other Israeli citizen, to the Penal Law, such Rabbis are subjected to disciplinary proceedings. Rabbis of cities and local councils are subject to disciplinary law under the provisions of Section 12A, Jewish Religious Services Law [Combined Form] 5731-1971. This law empowers the Minister of Justice to file to the Disciplinary Tribunal a complaint regarding a City Rabbi, if, among other things, that Rabbi performed his role in an inappropriate manner or acted in a manner that is unfit of a Rabbi's position in Israel. The Tribunal is composed of members appointed by the Chief Rabbinate Council. With respect to Rabbis of regional councils and neighborhood Rabbis - the Disciplinary Department of the Civil Service Commission is empowered to file a disciplinary complaint in accordance with disciplinary rules that apply to all civil servants (not including City Rabbis).
21. In recent years, IRAC has sent hundreds of complaint letters to the Minister of Justice, the Civil Service Commission, and the Attorney General demanding that disciplinary actions and/or criminal actions against State-employed Rabbis involved in acts manifestation or discourse inciting to racism, will be undertaken. Although the State's report mentions in Section 57 investigations of several expressions of Rabbis, the report includes no details regarding such investigations - the report does not indicate the names of the Rabbis, the content of the investigated expressions, and the outcomes of the investigations conducted. In contrary to the State's vague arguments, **it is rare and even impossible to find a criminal or disciplinary action against a Rabbi who incited to racism or violence.**

City Rabbis

Rabbi Shmuel Eliyahu, Safed City Rabbi

22. The case of Rabbi Shmuel Eliyahu is the clearest example of the Ministry of Justice's complete lack of action against racist discourse by city Rabbis. Rabbi Shmuel Eliyahu is the City Rabbi of Safed and a member of Israeli Chief Rabbinate Council. For 16 years, IRAC has been monitoring Rabbi Eliyahu's consistent and blatant incitement to racism and/or violence which clearly violates the criminal and disciplinary laws that apply to him.

23. In 2006, following an IRAC petition (*High Court of Justice 6702/05*), an indictment was filed against Rabbi Eliyahu for incitement to racism under Section 144B, Penal Law. The grounds were several severe racist expressions made by the Rabbi in the media, stating, among other things, that all Arabs are either terrorists or support terror and should be expelled from the City of Safed. However, on June 18, 2006, the State Attorney's Office decided under Section 94 of the Criminal Procedure Law [Combined Form] 5742-1982 to ask the court to revoke the indictment against Rabbi Eliyahu since he took back his words and apologized to those offended by them. In the motion to revoke the indictment, the State Attorney's Office undertook that "similar future expressions will be sufficient cause to renew the proceedings in the case." The court approved the motion to revoke the indictment, recording the undertaking.
24. Following the revocation of the indictment against Rabbi Eliyahu, the pending disciplinary complaint filed against him was revoked as well. However, as it turned out, the Rabbi's apology was no more than a lip service. Rabi Eliyahu did not honor the agreement made with him and continued to disseminate his racist agenda wherever possible, taking every opportunity to interview on his positions against the Arab population. Soon after the apology was published, Rabbi Eliyahu even explained to his disciples that this is rather a clarification with respect to his previously-misunderstood statements, but not an apology. Rabbi Eliyahu continued to publish very similar inciting statements against Arabs in Israel in many different occasions, including calling the public not to rent apartments to Arabs - the same statement for which it was decided to indict him in the first place. **Strangely enough, to this day the State Attorney's Office refuses to renew the criminal proceedings against Rabbi Eliyahu.** IRAC's demands to the Ministers of Justice to take disciplinary actions against Rabbi Eliyahu also remained unanswered.
- Under these circumstances, In 2010 IRAC filed a petition against the Minister of Justice and the Attorney General, demanding taking disciplinary action against Rabbi Eliyahu (*High Court of Justice 9290/10*). The petition was dismissed as an early petition.
25. Rabbi Eliyahu constantly continues to incite, *inter alia*, against the Arab population in Israel (and also against the LGBT community calling them "perverts"), in a manner unfitting of his position as a city Rabbi. So far there are over **100 inciting expressions IRAC has filed complaints about to the Justice Minister.** Rabbi Eliyahu refers to Arabs as exploiters, violent people who wish to kill Jews, "guests" that should be deported from Israel. Rabbi Eliyahu also called to kill terrorists who no longer pose danger, to violation of the law, and to harming holy sites of other religions.

26. In September 2016 IRAC filed another petition, demanding to take disciplinary action against Rabbi Eliyahu (*High Court of Justice 7150/16*). In response to the petition, the Minister of Justice stated that most of the expressions detailed in the petition are included under the Rabbi's freedom of speech. As for racist expressions against the Arab population, Justice Minister noted these are inappropriate and in poor taste, and that the matter will be clarified by a talk the Minister will hold with the Rabbi, making it clear to him that as a civil servant he is subject to certain restrictions and must refrain from expressions that may offend the public. **Such clarification talk was made over the phone in December 2017 but it was of no use, since Rabbi Eliyahu continued inciting to racism against Arabs and the LGBT community.** In October 2018 the court decided to issue an *order nisi*, ordering the State to clarify why no disciplinary action is taken against Rabbi Eliyahu "given the cumulative acts and expressions on his part", or alternatively, why other measures are not taken against him. In response to the *order nisi*, the State notified in January 2019 that the Minister of Justice decided to hold another clarification talk with Rabbi Eliyahu. This time too, the face-to-face talk that took place in March 2019 was of no use, since the Rabbi continues to incite to racism.
27. Note, that given the fact that Ministers of Justice strongly refuse to act in accordance with their power and submit a complaint to the Disciplinary Tribunal against city Rabbis, regardless of the severity of the incitement to racism, **deterrence from illegal incitement by city Rabbis is inexistent.**
28. For example, as of this report, IRAC submitted complaints to the Minister of Justice demanding the Minister exercise his power and take disciplinary action against the following city Rabbis that incite to racism, *inter alia*, against Arabs and members of the LGBT community: Safed City Rabbi - Rabbi Shmuel Eliyahu, Afula City Rabbi - Rabbi David Shmuel, Kiryat Shmona City Rabbi - Rabbi Zfanya Drori, Jerusalem Ashkenazi City Rabbi - Rabbi Arye Stern, Hod Hasharon City Rabbi - Rabbi Reuven Hiller, Kiryat Gat City Rabbi - Rabbi Moshe Hablin, Mazkeret Batya City Rabbi - Rabbi Efraim Zalmanovitch, Kiryat Ekron City Rabbi - Rabbi Yosef Ben David, Jerusalem Sephardi City Rabbi - Rabbi Shlomo Amar, Rishon LeZion City Rabbi - Rabbi Yehuda David Wolpe, Kiryat Motzkin City Rabbi - Rabbi Meir Drukman, Ra'anana City Rabbi - Rabbi Yitzhak Peretz. **All of the complaints sent to the Ministers of Justice with respect to the abovementioned Rabbis were ignored.**
29. Note that in July 2016 IRAC asked the Minister of Justice and the Attorney General to take disciplinary action also against Ramat Gan City Rabbi - Rabbi Yaakov Ariel – on grounds of

incitement against members of the LGBT community. Only in September 2018, over two years following the IRAC's letter, the Justice Minister's office responded that Rabbi Ariel has retired at the end of 2017 and therefore taking disciplinary action against him is irrelevant.

Regional councils and neighborhood Rabbis

30. Government Resolution 5128 dated September 23, 2012 applied the Civil Service (Discipline) Law 5723-1963 (herein after: the "CSDL") to Rabbis of regional councils and neighborhood Rabbis as employees of religious councils. Section 17 of the CSDL prescribes that disciplinary violations of civil servants will include, *inter alia*: "Behavior unfitting of his position as a civil servant" or "conduct that may harm the image or goodwill of the civil service."
31. In a letter dated January 24, 2018, the Attorney General addressed the Civil Service Commissioner and clarified that the term "unfitting behavior" in Section 17(3) of the CSDL includes physical or verbal conduct of an employee or civil servant that involves racism or discrimination. In the letter, the Attorney General suggested increasing disciplinary enforcement in respect of such racist conduct and simultaneously taking administrative measures, as the matter may be.
32. Up until recently the disciplinary system of the Civil Service Commission acted efficiently against State-employed inciting Rabbis. For example, in 2016 a disciplinary proceeding was initiated against **Rabbi Elyakim Levanon - Shomron Regional Council Rabbi and Alon Moreh Rabbi** for racist statements calling for separation between Jewish and Arab women in maternity wards, and calling to prohibit Arabs from fueling cars claiming any such car can be used for a terrorist attack. In a plea bargain the parties reached, disciplinary action of serious reproach was taken against Rabbi Levanon.
33. In 2017 the Civil Service Commission resolved that an intra-office proceeding shall be taken by the Jerusalem Religious Council against Rabbi **David Yosef- Har Nof Rabbi, Jerusalem**, for severe degrading and inciting expressions he made in his classes, against "Women of the Wall" and the Reform Movement. It is uncertain whether such proceeding was undertaken and Rabbi Yosef continues to incite and violate the disciplinary law which he is subjected to.
34. **Recently, the Civil Service Commission changed its manner of action and ceased to take disciplinary action against regional council Rabbis and neighborhood Rabbis. Hence, many complaints filed by IRAC are blatantly disregarded.**

35. Below are the names of Rabbis we filed complaints about on grounds of degrading statements against the LGBT community and received no response: Rabbi Yosef David - Har Nof Rabbi, Jerusalem; Rabbi David Dodkevitch - Yitzhar Rabbi; Rabbi Shlomo Aviner - Acting Rabbi of Beit El Regional Council; Rabbi Asher Yaakov Avidan - Zerachya Rabbi; Rabbi Meir Ohana - Kfar Yuval and the area Rabbi; Rabbi Shlomo Azoleus - Emek Hama'ayanot Regional Rabbi; Rabbi Shimon Amitay - Zeitan Rabbi; Rabbi Reuven Ben Uliel - Karmeit Zur Rabbi; Rabbi Haim David Greenwalk - Nehalim and Hevel Modi'in Rabbi; Rabbi Reuven Der'i - Shokda Rabbi; Rabbi Yigal Hadaya - Yad Binyamin Rabbi; Rabbi Itay Halevi - Migron Rabbi; Rabbi Yehoshua van Dayek - Ramat Magshimim Rabbi; Rabbi Yosef Shlush - Southern Sharon Regional Rabbi; Rabbi Dvir Shachar - Gitit Rabbi; Rabbi Yair Shachor - Ma'ale Levona Rabbi; Rabbi Ohad Krakover - Kochav Hashachar Rabbi; Rabbi Yair Frank - Amona-Amihai Rabbi; Rabbi Mordechai Antabi - Beit Hakeren Rabbi, Jerusalem; Rabbi Meir Sagron - Bar Yochai Rabbi; Rabbi Eliyahu Na'aman - Kfar Varburg Rabbi; Rabbi Meir Mazuz - Avnei Eitan Rabbi; Rabbi Zvi Cohen - Kiryat Moshe and Sela Rabbi, Rehovot; Rabbi Aharon Cohen - Yakir and Nofim Rabbi; Rabbi Moshe Cohen - Ma'on Rabbi; Rabbi Avraham Hazan - Neighborhood Rabbi in Lod; Rabbi Haim Smotrich - Beit Yatir Rabbi.
36. Additional complaints relate to **Rabbi David Dudkevitch - Yitzhar Rabbi in the Shomron Regional Council, and head of the Kosher division in the Shomron Regional Council** with respect to extremely severe inciting expressions he made against the Arab population (“**we should cut off this murdering nation**”) and to **Rabbi Shlomo Aviner – who served until April 2019 as the Acting Rabbi of Beit El Regional Council** for many inciting statements including a calling to have Arabs emigrate from Israel and referring to Arabs as killers who destroy the State of Israel, inciting against members of the LGBT community which he calls the “infamy community”, criminals, sinners and of corrupt minds that should be treated accordingly.

Inciting and violent Organizations

37. **The State takes no measures against organizations inciting to racism and violence, and not even against such bodies which apply actual violence**, such as "Lehava". "Lehava" is a radical organization, operating since 2009 by using violent and dangerous practices against the Arab population in Israel, using violence, terror and severe and harsh incitement to violence and racism. The organization's agenda is that all Arabs are the enemies of Israel and every contact with them leads to disaster. Lehava calls for segregation between Jews and Arabs by not employing Arabs,

removing Arabs from the common public sphere, and eventually, expelling them from Israel. Lehava acts against mixed Jewish-Arab couples and against Arabs in general. Its activists gather every Thursday evening in the center of Jerusalem, call out racist slogans and sometimes apply violence against Arabs that pass by. Despite many occasions of blunt incitement of Lehava's leader, Benzion Gopfstein, the Attorney General refrained from indicting him. IRAC filed a petition in 2014 but it was dismissed by the Supreme Court (*High Court of Justice 5977/14*). In response to another petition filed by IRAC in 2017 (*High Court of Justice 5430/17*), in November 2017 the State announced that the Attorney General resolved to indict Gopfstein for incitement to violence, incitement to racism and incitement to terror and disruption of trial proceedings, all subject to a hearing. Gopfstein's hearing took place in March 2018. Following the hearing the Attorney General decided to file an indictment but for unknown reasons the indictment was not filed to this day. IRAC filed another petition in this respect and it is pending (*High Court of Justice 4570/19*).

State's treatment of incitement complaints

38. The State's report indicates that designated officers were appointed on the State Attorney's behalf in every State Attorney District Office to handle incitement cases quickly, so as to ensure that incitement complaints would be decided within **one month**. However, in practice there is severe foot dragging in handling complaints regarding incitement.
39. In respect of the claimed one month treatment period - our experience indicates differently. For example, as of this report, there are about 32 pending complaints sent to the Attorney General and the Deputy State Attorney (Special Matters) by IRAC, requesting initiation of a criminal investigation for incitement to racism and/or incitement to violence. Some complaints were sent as early as 2017, but so far, to the best of our knowledge, **no decision was made in any of those complaints**. Such conduct deviates from a reasonable conduct fitting public authority. Regarding each complaint - many months pass before the State reaches a decision in respect of initiation of an investigation. Naturally, speedy response to incitement is crucial, in order to avoid the undesired impression that incitement is legitimate. In addition, slow or lack of response to incitement might lead to actual acts of violence.

Violations of CERD: Article 5

40. As detailed below, with respect to many rights indicated in this Article, CERD's provisions are clearly violated.

Limitation of political rights

41. **Suspension of Knesset Members Law - Basic Law: The Knesset (Amendment 44) and the Knesset Law (Amendment 43) 5776-2016** - According to the amendment to the Law, 70 presiding Knesset Members, 10 of whom are not members of the coalition, may commence a proceeding to dismiss another Knesset Member, in case her/his expressions or actions correspond to the disqualification causes listed in Section 7A, Basic Law: The Knesset (namely, denial of the State's Jewish and democratic nature, incitement to racism, supporting an armed struggle against Israel), as determined by the Knesset Committee. According to the Knesset Committee's determination, the Knesset may decide with a majority of 90 members to dismiss the Knesset Member. The Law will not apply in an elections period and the Knesset Member may appeal to the Supreme Court on the Knesset's decision.

Dismissal of Knesset Members by political rivals is a clear case of tyranny of the majority, with the political majority abusing its power against different political minorities. We should consider, in this regard, that in a state with a permanent Arab political minority and many political splits, these Amendments pose a risk that entire sectors might be excluded from the political system and left without representation in the Knesset.

Please note that the Law contradicts the recommendation in Section 16 of the Concluding Observations, calling the State of Israel to ensure participation of non-Jewish minorities in the Israeli political system.

Disqualification of racist candidates and parties from participation in the 21st and 22nd Knesset elections:

42. Section 7A of Basic Law: The Knesset, grants the power to disqualify a candidate or list seeking to participate in the Knesset elections, inter alia, on grounds of incitement to racism or denial of the State's existence as both Jewish and democratic.

43. In the 21st Knesset elections, Michael Ben Ari and Itamar Ben Gvir participated as candidates for the Knesset on behalf of the Right-Wing Parties Union. The two are leaders of the "Otzma Yehudit" party. This party's core values and aims are characterized by clear and blatant racism aimed against the Arab population and stand in contradiction with fundamental democratic norms, particularly, the right to equality and the right to dignity. Ben Ari and Ben Gvir have been inciting to racism for many years by consistently disseminating Rabbi Meir Cahana's racist agenda. They affirm, without concealing or apologizing, that they are Cahana's disciples. Time after time, they refer to the entire Arab population in Israel as enemies, unfaithful, who should be deported from Israel. For that reason, the Central Elections Committee received motions to disqualify Ben Ari and Ben Gvir as candidates in the Knesset elections. Despite the extensive evidence presented to the Central Elections Committee justifying disqualification of Ben Ari and Ben Gvir, the Committee denied the motions. As a result, an appeal was submitted to the Supreme Court (*Elections Appeal 1866/19 Isawi Farig v. Michael Ben Ari*). The Court granted the appeal with respect to Ben Ari in light of the extensive evidential grounds presented to the Court - the quantity, severity, reliability of the evidence and the long period to which it refers, specifically recent years. The court ruled that he is disqualified from participating in the Knesset elections for the cause of incitement to racism. The Court noted that the evidence with respect to Ben Ari reveal "a clear, unequivocal and convincing picture that Ben Ari constantly incites hatred against the Arab population in general and continuously degrades this population". With respect to Itamar Ben Gvir, it was ruled that his expressions "are dangerously close the forbidden line, which, when crossed, disqualifies the person from participating in the Knesset elections" but the evidence presented to the court does not suffice to disqualify him.
44. In the 22nd Knesset elections, "Otzma Yehudit" party ran independently. Four disqualification motions were filed against the participation in the Knesset election of "Otzma Yehudit" and its leading candidates: Itamar Ben Gvir, Michael Ben Ari, Baruch Marzel and Benzion Gopfstein, for incitement to racism. On August 14, 2019 the Central Elections Committee held a hearing of the disqualification motions, dismissing them all. As a result, an appeal was submitted to the Supreme Court (*Elections Appeal 5487/19 Gil Segal et al. v. Itamar Ben Gvir et al.*) which was granted with respect to Benzion Gopfstein and Baruch Marzel. The Supreme Court ruled that they are denied from participating in the elections due to their severe racist expressions. Ben Gvir was nor

disqualified. "Otzma Yehudit" itself was not disqualified, but did not pass the electoral threshold in the elections.

45. **The political composition of the Central Elections Committee** - The committee is composed of representatives from each political party having Knesset Members serving on its behalf in the last Knesset. Each such party is entitled to a number of committee representatives according to the party's relative size. The result is that committee members votes are guided mainly by political considerations. The committee's chair is one of the Justices of the Supreme Court, but the chairperson refrains from voting in cases of disqualification of candidates or parties. Over the years, the Supreme Court Justices noted that although the Elections Committee is a quasi-judicial body by its nature, **it is a distinct political body which naturally acts by political considerations** (*Elections Approval 11280/02*) **and this, even potentially, affects the objectivity and thoroughness of its hearings** (*Elections Appeal 561/09 Balad - the Democratic National Party v. 18th Knesset Elections Committee*).

Regarding disqualification motions in respect of "Otzma Yehudit" and its candidates, it is quite evident that the Central Elections Committee's resolutions were founded solely on political considerations since the committee completely disregarded the quantity, severity and reliability of the evidence presented to the committee as well the opinion of the Attorney General who supported the disqualification of Ben Ari, Marzel and Gopfstein.

The fact that resolutions regarding disqualification of political candidates and lists are made by a political body is problematic and requires amending.

Racist propaganda during election periods for the Knesset or local authorities

46. As a rule, the elections propaganda law in Israel is archaic, unfit, and irrelevant to the current era. In practice, the law allows for elections propaganda that includes incitement to racism to continue undisturbed.
47. The Supreme Court discussed the power of the Central Elections Committee Chairperson under Section 17B(a) of the Means of Propaganda Law, to issue an order to remove and cease use of elections propaganda. In *High Court of Justice Further Hearing 1525/15 KM Dr. Akhmed Tibby v. Yisrael Beiteinu Party*, the Court ruled with a majority opinion that the power to issue injunctions under Section 17B(a) of the law is limited only to orders for prevention of violations of one of the

laws listed in that Section. These cases do not include propaganda inciting to racism. **Under these circumstances, parties or candidates in the elections can use inciting propaganda without it being possible under the current law to issue an injunction ordering to remove and stop using such propaganda.**

48. In 2017, a public committee for review of the Elections Law (Means of Propaganda) 5719-1959, headed by Former Supreme Court Chief Justice, Dorit Beinisch, published its recommendations in this regard, which include a recommendation to amend the law in a manner that enables the issuance of an order to remove racist propaganda. **However, so far, the report`s recommendations were not implemented.**

Inciting political expressions by Knesset Members

49. Racism and incitement to racism by public officials, including Knesset Members, Government Ministers and the Prime Minister himself is on the rise. Such racist discourse is directed at various minority and deprived groups in Israeli society, including Ethiopian Jews, Mizrachi Jews, former USSR Jews, migrant workers, refugees and asylum seekers, but most of all - Arabs. Examples are abundant - during the 20th Knesset elections numerous incitement to racism expressions were made of which the most infamous was by Prime Minister Benjamin Netanyahu: **“the right-wing regime is at risk, Arab voters are massively moving to the ballot boxes. The left-wing associations bring them by buses... Go out to the ballot boxes, bring your friends and family, vote MAHAL [Likud] to close the gap between us and the Labor Party. With your help, and with the help of God, we will establish a national government to protect the State of Israel.”**
50. Note that it is possible to act in the criminal level against Ministers and Knesset Members who incite to racism, since their immunity does not apply to non-random expressions of incitement to racism. Despite the above, criminal proceedings are not taken against public officials for inciting to racism. Below are central examples:
- Following the extensive fires that spread throughout Israel in November 2016, the Minister of Public Security, MK Gilad Erdan, was interviewed to the Friday evening TV show. **He was quick to point an accusing finger towards the Arab minority in Israel**, based on a preliminary inspection report stating that the fires resulted of arson. Minister Erdea not only accused the Arab public, but immediately defined the events as terrorism. Such statements proved to be groundless.

- On December 10, 2017 the Minister of Defense at the time, MK Avigdor Liberman, posted in his Facebook page the following inciting post: **“No loyalty, no citizenship!** Those who demonstrate in the State of Israel with Hezbollah, Hamas and PLO flags are not part of the State of Israel. They act to harm us and destroy us from within. **That is why I call the citizens of Israel to start an economic boycott on Wadi Ara - not to shop, not to eat in restaurants and no to accept service from them.**” Wadi Ara is an area populated mainly by Arab settlements.
- On February 5, 2018, MK Bezalel Smotrich tweeted: “I call the Minister of Defense @AvigdorLiberman to order IDF to completely forbid Arabs from driving in roads where Israelis drive. Every murdered Jew means the world, and to prevent even one murder it is just and moral to prevent the enemy’s access in the entire area. **No Arabs, no terror.** Period.”

The Attorney General decided not to intimate a criminal investigation with respect to this expression since it was not published “with an intent to incite to racism.”

- On July 17, 2017 MK Smotrich tweeted a photo of the protest prayers against placement of magnetometers in the Temple Mount entrance in Jerusalem. The photo shows Arab Muslim worshipers kneeling with prayer, faced by armed Israeli policemen. The photo includes a quote of Yitzhak’s blessing of Jaboc: “Let people serve thee, and nations bow down to thee” (Genesis 27:29). MK Smotrich also wrote next to the photo that it reminds him of Isaiah’s prophecy: “The sons of those who afflicted you shall come bending low to you, and all who despised you shall bow down at your feet; they shall call you the City of the LORD, the Zion of the Holy One of Israel.” (Isaiah 60:14). The Attorney General decided not to initiate an investigation as it was not proven that the publication was made with intent to incite to racism, and it is also a religious quote making it harder to determine that the publication amounts to incitement to racism.

Freedom of movement within the State

Prohibited racist profiling in public transportation

51. Prohibited racist profiling means attributing danger or delinquency to a person due to their racial, ethnic, national or religious group, and giving different (usually negative) treatment with the lack of specific information of such danger or delinquency of that person. In the Israeli public sphere,

specifically in public transport, such danger is attributed to Arabs as such, despite lack of specific indication of danger. As a result, Arabs, in particular those of them who are easily identified as Muslim due to their appearance (for example: women wearing Hijab), are perceived as immediate suspects of endangering public security, based on nothing but stereotypes related to their ethnic or national origin or their religion. Such racial profiling causes degradation and humiliation, and limits Arabs in their ability to equally enjoy the public sphere.

52. **Powers for Protecting the Public Safety Law 5765-2005** grants a security man (policeman, competent soldier or security guard) **highly extensive powers** for protecting the public safety against hostile terrorist activity and violence. Exercising some of these powers is subject to the security person's sole discretion and not to any suspicion. In this regard, we should note Amendment 5 of the Law, published in the Official Gazette on February 7, 2016. The Amendment expands the power to frisk people in leisure locations and their vicinity, even without specific suspicion of the frisked people, exposing the public to the possibility of arbitrary, humiliating frisks and racial discrimination.
53. The Israeli legislator was well aware that the extensive powers granted by this Law may be abused, and therefore prescribed in Section 1 of the Law the basic principle for exercising such powers: "The powers under this law will be used to protect the public safety against hostile terrorist activity and violence, **in a manner and place ensuring maximal protection of human dignity, privacy and rights.**"
54. Below are just a few examples indicating that the basic principle articulated in the abovementioned Section 1 is violated:
 - a. In April 2018, Hiam, a 25-years-old Arab Muslim Israeli citizen wearing a Hijab, was asked by a train security guard to present her ID before entering a train station in Be'er Sheva. According to Hiam, she was the only person in her surroundings asked to identify. After clarifying to the security guard that she forgot her ID card at home she was required to pass a security inspection after which she was detained until police arrived to the station. Once the police arrived, she was identified with a passport Hiam found in her bag, and a security inspection conducted by the police concluded that Hiam poses no threat to the public safety. Nevertheless, the policemen told Hiam that her entrance to the train station is forbidden and that she should take the bus instead. And so she did. The law suit filed by Hiam through

IRAC against Israel Police and the Israel Rail, is currently pending (*Civil Claim 62833-07-18*).

- b. In July 2017, Karim, a 14-years-old Palestinian from Northern Israel who speaks Arabic but not Hebrew, was with his family in Jerusalem. He was attacked by a light rail security guard in the Jaffa Central light rail station. Karim claims that the security guard jumped at him without any warning and that he panicked and started running with the security guard chasing him. At this stage, passersby joined and started chasing Karim with the security guard, calling at him “terrorist.” When they caught him, the security guards and the passersby beat him up. The security guard pulled out his weapon and pointed it at Karim. Only later, the security guard frisked Karim and asked for his ID. Karim’s aunt filed a complaint to the Police against the security guard. The complaint did not lead to any proceedings initiated against the guard.
- c. In August 2017, Marwat, a Muslim Arab from Umm al-Fahm boarded the 870 Egged bus from Afula to Be’er Sheva. When the bus came near Kiryat Gat, Marwat noticed a passenger who approached the driver and complained that Marwat strikes her as suspicious - Marwat was wearing a Hijab and studying a text in Arabic. The passenger soon made a phone call, and the bus driver was soon ordered by the police to drive off the route to Kiryat Gat, where armored policemen waited. All the passengers were required to leave the bus except Marwat and the driver. The policemen shouted at Marwat not to move and to put her hands up, then came on the bus, ordered the driver to leave and started to question Marwat who afterwards was taken off the bus and asked to take her suitcase from the trunk. The suitcase was searched in public. After nothing suspicious was found there too, Marwat was released without an apology or explanation, and the bus continued to Be’er Sheva.
- d. Arab passengers using bus 18 in Ashkelon are subject to special degrading inspections when the bus enters the Barzilai hospital in Ashkelon. The hospital security guards board the bus and address only those who appear to them as Arabs asking them to present their ID. All Arab passengers who do not carry an Israeli ID are taken off the bus for further inspection. If they do not wish to enter the hospital they are requested to wait outside until the bus finishes the ride inside the hospital and exits and then they are authorized to board the bus again. This discriminating inspection procedure has no grounds of specific suspicious behavior of the passenger, but applies to everyone who has an "Arab appearance" according to the

security guard`s discretion. This conduct, reflecting in essence a regime of segregation and discrimination in public transport, severely degrades the human dignity of Arabs. Such discriminating security procedure legitimizes discriminatory conduct attributing danger to all Arabs based on their ethnicity or nationality only. For the outside viewer, the picture is crystal clear: when entering a “sensitive” location, like a hospital, the Jewish and Arab passengers on the bus are segregated. The Jewish passengers can travel conveniently to their destination, while the Arabs passengers receive special treatment - inspected and taken off the bus. After complaints by several civil society organizations, including IRAC, demanding to end the racist profiling in the hospital gates, proved unfruitful, the Association for Civil Rights in Israel, Adala and IRAC filed a petition to the High Court of Justice, which is currently pending (*High Court of Justice 6097/19*).

The freedom to marry by your choice

55. Israel is the only Western state in which the law does not allow civil marriage, but only religious marriage according to the religion of the couple. This makes marriage of people of different religions or of same sex couples impossible under the current law. Needless to say this prevents hundreds of thousands of Israeli citizens from exercising the right to marry.

The right of equal access to public facilities

56. Recently, discrimination in entry to public swimming pools in Israel became more prominent. Below are some examples of such discrimination cases handled by IRAC:
- a. **Public swimming pool in the community center of Talpiot East and Young Arnona, Jerusalem** - Entrance fee to the pool for those residing out of Talpiot East and Young Arnona was 50% higher in comparison to the entrance fee for residents of these neighborhoods. Given that these neighborhoods are surrounded by Palestinian neighborhoods with no swimming pools, it seemed that the main purpose of such dramatic price gap is to prevent the Palestinian residents from the surrounding neighborhoods from using the pool. In November 2017, IRAC addressed the community administration in this matter. Six months later it was decided to change the discriminatory pricing policy.
 - b. **Public swimming pool in Mabu'im, Merchavim Regional Council** – In this pool segregation was held by separate opening hours for Jews and for Bedouins. In addition,

events defined as designated for “members only” were held in the pool, to which Bedouin swimmers were not allowed to enter under the claim that they are not members, whereas Jewish swimmers were allowed a one-time entrance even if they were not members. In June 2018, IRAC complained to the Mabu'im local committee chair. The response from the Merchavim Regional Council noted that it objects to any discrimination and the pool operator will be called for a hearing.

- c. **Public swimming pool in the municipal country club, Kiryat Gat** - A class action was filed against the Community Center, Kiryat Gat - the municipal pool operator on behalf of Muhammad, a Bedouin resident of the nearby city of Rahat (*Class Action 11910-11-18*). When Muhammad attempted to use the community center's pool, he was stopped and told that the facilities were only for Kiryat Gat residents, in spite of the fact that Jewish non-residents were being permitted to enter without being questioned. IRAC filed a request to join as amicus for this case. An agreement was reached stating that the Kiryat Gat pool will provide compensation in the form of 1,500 free pool tickets for Arab students of Rahat as part of coexistence projects. The pool was also ordered to provide services and access to the pool without discriminating based on religion, residency, or nationality. The administration of the municipal pool expressed its regret for the damage it caused to the residents of Rahat who were barred from using the pool.

Freedom of occupation

57. The reality of the Israeli labor market shows that Arab work candidates are discriminated for their nationality. For example, according to a 2015 survey held by the Equal Employment Opportunities Commission (EEOC) among Arab employees, 39% indicated that the Arab identity diminished their chances of getting a job and 33% testified that their Arab identity reduced their promotion chances in the workplace. EEOC's data for 2016 indicate that since 2013 the rate and number of nation-based discrimination complaints are on a constant and sharp rise.

"Hebrew Work"

58. The website “Luach Avodah Ivrit” (“Hebrew Work Classifieds”) included a classifieds section where people could publish businesses, open positions and job applications. This service was designated for Jewish-owned businesses, Jewish employers and Jewish applicants only. In 2014, IRAC and Mossawa Center for Rights of Arab Citizens in Israel filed a lawsuit against the site

developer and domain owner (*Civil Case (Magistrates Jersuaalem) 9532-10-14*). The plaintiffs motioned the Court to determine that the site is discriminating on grounds of religion- and nationality (contrary to the provisions of Section 3(a) of the Prohibition of Discrimination in Products, Services and in Entrance to Entertainment Venues and Public Places Law), to rule monetary damages and issue an injunction obligating the defendant to completely delete the site from the Internet. The Court accepted the suit, ruling that the service provided on the site is discriminatory, and ordered the defendant to pay the plaintiffs monetary damages together with attorney's fee and trial expenses at a total sum of NIS 47.5K. An appeal filed to the District Court was dismissed (*Civil Appeal 38722-11-17*). The District Court ordered to delete the website from the Internet, and it was deleted.

59. In this context we should note that currently, Israeli law does not explicitly prohibit calls eliciting not to employ or provide service on grounds of race ethnic or national origin. Bills initiated by IRAC to determine these practices are prohibited were not approved by the Knesset.
60. We also note that many businesses indicate in their publications that **the business relies on "Hebrew work only"**, meaning, work performed only by Jews. The Equal Employment Opportunities Law prohibits such discrimination but does not apply to businesses with less than six employees.

Freedom of religion and conscience

61. With respect to Section 156 of the State's report - the vast majority of the State's budget for Jewish religious services is designated to the orthodox and ultra-orthodox populations. The denominations that support equality - the reform and conservative movements - are forced to resort to legal proceedings in order to receive equal treatment from the State. Only after prolonged legal proceedings the State started paying salaries of reform and conservative Rabbis and to allocate budgets to build reform and conservative synagogues.
62. The State invests small budgets in non-Jewish religious services and non-Jewish religious structures. In this regard we note that many "price tag" incidents against mosques and churches that took place in recent years were not solved by the Police at all.
63. With respect to alternative civil burial (section 157 of the State's report) - there are very few civil cemeteries, insufficiently dispersed across Israel, in contrary to the provisions of the Civil Burial Law 1996. The State does not allot sufficient budgets to promote them, and so in many places in Israel civil burial is not an option, or it is a very expensive one.

64. With respect to free access to holy sites - Section 162 of the State`s Report - the most important site to the Jewish people - the Western Wall in Jerusalem - is managed as an ultra-orthodox synagogue, infringing on the freedom of religion of every non-orthodox Jew. A 2016 resolution of the Israeli Government to create an egalitarian prayer area at the Western Wall - was frozen. A petition to the Supreme Court in this respect is pending (*High Court of Justice 145/13*). Monthly prayers of the Women of the Wall group at the wall are subject to constant violence and disturbances. A petition in this regard is pending (*High Court of Justice 2369/17*).

The right to health

65. Several hospitals in Israel illegally separate between Jewish and Arab women in maternity wards. To this extent, in May 2018 a class action was filed against the hospitals Hadassah Mount Scopus in Jerusalem, Soroka in Be'er Sheva, Hagalil in Nahariya and Ha'emek in Afula (*Class Action 37161-05-18*).

The right to education

66. In contrary to the State`s report the State severely discriminates Arab education. A report published by the Bank of Israel in March 2019 indicates that the budget per elementary school Jewish pupil is 18% higher than the budget per Arab pupil; in middle-high school, the budget per Jewish pupil is 36% higher than per Arab pupil; and in high-school, Jewish pupils benefit from 75% more budgets compared to Arabs.
67. As for classrooms - according to the State Comptroller`s report dated June 2019, Eastern Jerusalem suffers from shortage of approximately 2,000 classrooms in order to meet the education system requirements. This figure is even more disturbing, since according to the report, ten years ago the shortage was less severe - 1,000 classrooms. The classrooms shortage leads to 23,000 pupils ages 3-18 being denied to exercise their right to education.

The right for equal participation in culture

68. **Amendment 40, Budget Foundations Law 5771-2011** - the Law states that an organization receiving budgets from the State of Israel is subject to financial sanctions if financial expenses incurred by it amount to denial of the State of Israel`s Jewish or democratic nature; inciting to

racism, violence or terrorism, support of an armed struggle and terrorism against the State of Israel; indicating the Independence Day or the State's establishment day as a day for mourning; an act of vandalism or physical degradation against the dignity of the State flag or symbol. The purpose of the Law is to prevent financing for organizations which do not celebrate Independence day but rather hold ceremonies commemorating "the Nakba" – the defeat of the Palestinians in 1948, thereby curtailing freedom of speech to the Arab population.

69. **Culture and Art Bill 5779-2018** - the bill continues Amendment 40 of the Budget Foundations Law, 2011, stating that the Minister of Culture can exercise sanctions against a State-budgeted body upon one of the causes listed above for Amendment 40 of the Budget Foundations Law, in the Minister's discretion. The bill was not approved.
70. **Amendments to criteria in theater, dance groups and musical bodies, granting extra financial support for shows in settlements in the Palestinian Occupied Territories and reduced support for those that refrain from giving shows in those settlements** - the amendments infringe upon the freedom of expression and conscience of creators, artists and actors, discriminating some of them due to their political views. A petition against the amendments was filed to the court by the Civil Rights Association (*Hight Court of Justice 7647/16*), and is still pending.

Violations of CERD: Article 7

Education

71. Regarding the chapter in the State Report dealing with education to tolerance and understanding (Sections 318-327 of the State's Report) - in 2016, the State Comptroller published his report on education for coexistence and prevention of racism. The report indicated that between March and August 2015 the State Comptroller's office inspected the activities of the Ministry of Education to promote coexistence and prevent racism. The report findings indicate that **the Ministry of Education did not take the required measures to create sufficient pedagogic, organizational, financial and operative support for comprehensive, effective and long-term promotion and assimilation of education for coexistence among pupils throughout the system. The issue of racism is addressed by the Ministry of Education in a random, specific manner mainly following manifestations of racism.** In spite of the State Comptroller report, there is no material change in the Ministry of Education's conduct in respect of eradication of racism - no significant

activity exists, no long-term preparation and sufficient budget allocated, teachers are not trained to deal with the subject and the main activity take place by civil organizations. In addition, the report of the Public Committee on Education to Coexistence - the Solomon-Isawi Report (2009) – which included specific recommendations on the subject - are not implemented.

List of Recommendations

1. The State of Israel should adopt an equal and effective enforcement policy to deal with cases of criminal racial incitement. Such policy should enforce the criminal offence even-handedly on all factions of society and on all people regardless of their race, religion or standing, including religious leaders and public officials.
2. The State should formulate an equal policy and create an effective mechanism regarding disciplinary action in cases of racial incitement and racism in general practiced by public officials. The policy should specifically address disciplinary measures against religious leaders holding public offices. Criminal enforcement of incitement to racism should be intensified, including the definition of fixed and mandatory timeframes for processing cases of incitement.
3. Legislative amendment - the restricted definition of racism in article 144a of the Israeli Penal Code, should be expanded to include incitement on account of country of origin, religious affiliation or civil status (i.e., being a refugee, asylum seeker or migrant worker), .
4. Legislative amendment - the criminal offence of incitement to racism as set in the Israeli Penal Code should be amended to modify the need to prove intent to incite to racism by requirement for a regular element of awareness
5. Legislative amendment - civil grounds for claim on account of racial incitement should be established in order to permit civil enforcement following racial incitement, given the rareness of criminal proceedings.
6. The State should collect data systematically on the number of cases of attacks of individuals based on religion/national/ethnic origin and the number of cases of racial or religious-based incitement.
7. The state shall fight racial profiling practices by proper training of the security forces.
8. The State should initiate educational activities in the spirit of CERD obligations, among its law enforcement agencies, including religious entities.
9. The Basic Law: Israel – The Nation-State of the Jewish People should be amended in the following manner: (a) it will guarantee the right to equality all its citizens and prohibit discrimination on the basis of race, nationality, ethnicity or any other category; (b) Arabic, which as of the enactment of the Basic Law has become a language with an undefined “special status”, shall become again a second official language in Israel; (c) the State of Israel shall encourage and promote the parallel development of both Jewish and non - Jewish settlement, in the same manner.
10. The state should make every effort necessary in order to eradicate the illegal activity of population committees operating in cities and neighborhoods of Haredi Ultra - Orthodox cities and neighborhoods.

11. The state shall enforce the penal aspect of the law prohibiting discrimination in public places and services as set in section 9 of that law.
12. The State should work toward promoting coexistence programs in the education system and allocate funds in order to ensure the common activities of Jews and Arab children within the school system.
13. The State should secure the status of the "Government unit for the Coordination of the struggle against racism" in legislation and secure proper funding of this unit.