

Alternative Report

Submitted to the UN Committee on the
Rights of Persons with Disabilities
by the
Civil Society Forum for the Promotion and
Implementation of the CRPD in Israel



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August, 2020

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The Civil Society Forum for the Promotion of the Convention on the Rights of Persons with Disabilities in Israel

The Civil Society Forum for the Promotion and Implementation of the Convention on the Rights of Persons with Disabilities in Israel was founded and is led by Bizchut - The Israel Human Rights Center for People with Disabilities, and Beit Issie Shapiro, both organizations with special consultative status with the UN, following Israel's ratification of the CRPD. The Forum operates as an independent body and does not receive government funding. It comprises 30 leading disability organizations: - organizations of persons with disabilities and disability advocacy organizations that work to promote the rights of persons with disabilities, representing adults, older adults and children with disabilities from all parts of Israeli society and their families.

The Forum is working to achieve full realization of the CRPD and the assimilation of its values among persons with disabilities in Israel, professionals, decision makers and the wider public. In 2018, marking twenty years since the enactment of the Equal Rights for Persons with Disabilities in Israel, the Forum published a report about several CRPD articles, highlighting gaps between the Convention's requirements and the reality in Israel, listing clear recommendations to the Government of Israel on reducing these gaps. The Forum also advocates with policy and decision makers to make sure the principles enunciated in the CRPD and the rights, services and systems specified in it are established and realized as part of the country's duties towards its citizens. Ahead of the Israeli election, the Forum held discussions with different political groups in Israel and produced materials designed to increase awareness of the rights of persons with disabilities given the fact that Israel had ratified the Convention, what the country's obligations are and how they are being implemented in practice. The Forum also participated in a round table discussion prior to the submission of the State Party report to the UN Committee and submitted comments to the draft report.

We note that as stated in the state party report (paragraph 11), while the Forum was asked to address and comment on the State Party draft report, the draft was provided in English only, with no Hebrew or Arabic translation and no linguistic simplification, making it inaccessible to the wider public, certainly to many persons with disabilities.

The alternative report submitted herein was written collaboratively by the Forum's member organizations: The Forum decided which articles it would relate to in the alternative report in consideration of the issues that the member organizations deal with and the expertise they have in these specific areas. Accordingly working groups were established to deal with writing the comments for each of the articles, the drafts of which were sent to all members of the Forum for comments, amended, and sent again, until a version agreed to by everyone was reached. Bizchut, The Israel Human Rights Center for People with Disabilities and Beit Issie Shapiro, collated all the materials, managed the process and edited the report.

The report is submitted herein ahead of the UN Committee on the Rights of Persons with Disabilities session scheduled for September 2020. We are hopeful that this report will contribute to the much needed change and lead to the full implementation of the CRPD in Israel.

List of Member Organizations

- **Accessible Community Hadera (R.A.)**
- **ACI – Autistic Community of Israel**
- **Ahad Ha'am - Equal Rights for Persons with Disabilities**
- **AKIM Israel - The National Organization for People with Intellectual Disabilities and their Families (R.A.)**
- **AlManarah - The Association for the Advancement of Persons with Disabilities in Arab Society (R.A.)**
- **ALUT - The Israeli Society for Children and Adults with Autism**
- **ALYN Hospital (R.A.) Pediatric & Adolescent Rehabilitation Center**
- **Association of Law in the Service of the Elderly**
- **Avnei Derech ('Milestones for Life')**
- **Beit Issie Shapiro (co-director of the Forum)**
- **Bekol – Organization of Hard of Hearing People in Israel**
- **Beyachad - Empowering Inclusion in Israel**
- **Bizchut - The Israel Human Rights Center for People with Disabilities (co-director of the Forum)**
- **The Clinic for the rights of Holocaust survivors and the Elderly at Tel Aviv University**
- **Disability Rights Clinic in Honor of Prof. Yaakov Neeman, Bar Ilan University Faculty of Law**
- **Disabled, Not Half a Person (R.A)**
- **Enosh - The Israel Mental Health Association**
- **Health Forum - Leading towards Health of Persons with Disabilities at Beit Issie Shapiro**
- **The House of Wheels**
- **Israel Center for the Blind (R.A.)**
- **Israel Elwyn (R.A.); Israeli Deaf Studies Center**
- **Kesher - Connecting Special Families**
- **LINK20 - Young Person Network for the Rights of Persons with Disabilities**

- **Lishma - For Inclusion and Empowerment of People Coping with Mental Health Issues**
- **Micha - National Council for Children with Hearing Impairments and Deafness**
- **Ofek Liyladenu - Israel National Association of Parents of Children with Blindness and Visual Impairments**
- **Ometz ('Courage') - Art and Growth Discourse**
- **The Rights of People with Disabilities Clinic at the Hebrew University of Jerusalem**
- **Special Families Coalition**
- **Haya Gershoni (Consultant)**

Abbreviations used in this report:

PWD – Persons with Disabilities

SPR – State Party Report

Introduction

In the last three decades, some significant strides have been made with respect to the rights of PWD in Israel, including the enactment of the Equal Rights for Persons with Disabilities Law in 1998 and the ratification of the UN Convention on the Rights of Persons with Disabilities. Still, the situation regarding the rights of PWD in Israel remains far from satisfactory. Many barriers continue to impede full participation in society, on an equal basis with others. Persons with disabilities still do not have full and equal enjoyment of human rights and fundamental freedoms, as mandated by the Convention, and continue to be subjected to discrimination, exclusion and denial of rights.

Executive summary

The alternative report hereby submitted aims to point out gaps between the provisions of the Convention and the lived experience of PWD in Israel on the ground. The report refers to most CRPD articles, with a focus on areas where the gaps are particularly significant, and regarding which the authors have sufficient information. Each section concludes with proposed questions we believe the State Party should be asked to answer.

Several problems recur throughout the report with respect to various CRPD articles:

Gaps between the normative situation in Israel and CRPD provisions: There are gaps, some significant, between the normative situation in Israel and the provisions of the CRPD. The gaps occur as a result of the fact that some of the rights enumerated in the CRPD are not entrenched in legislation at all, some are entrenched only in primary legislation, but not in secondary legislation, which is required for implementation, while, on the other hand, a significant proportion of the rights and services are enshrined only in secondary legislation or non-statutory procedures. Moreover, some of the relevant laws are anachronistic and incompatible with the provisions of the CRPD. The SPR, which focuses on the normative situation, lists the main statutes relating to PWD in Israel, but devotes little attention to the gaps between the normative situation in Israel and the provisions of the Convention, some of which, as noted, are significant, nor does it address the legislative amendments still required to bring Israeli law in line with CRPD provisions.

Gaps between CRPD provisions and the situation on the ground: Even where existing legislation is generally in line with CRPD provisions, there are gaps, sometimes extremely significant, between the latter and the situation on the ground. These are largely the result of partial or complete lack of enforcement and implementation of existing legislation. The situation is worse where existing legislation is incompatible with the CRPD or where there is no relevant legislation. The SPR hardly addresses these gaps, and obviously lacks any reference as to how Israel plans to reduce them. Additionally, the SPR contains little if any reference to doubly marginalized communities such as PWD in Arab society or Jewish Ultra-

Orthodox society, older PWD, PWD living in poverty and more. The report also glosses over gaps within the disability community stemming from non-uniform government policy. The SPR makes only a brief mention of these issues in its final section, under the heading 'Current Challenges'.

Information and statistics gap: As indicated throughout the alternative report, there is a dearth of statistics on PWD that might have shed light on reality, and existing statistics are not always current. Moreover, there is insufficient data to indicate change over time, making it difficult to assess whether and to what extent the gaps between the provisions of the CRPD and the situation in Israel have been reduced since Israel signed the Convention. As detailed in the report, the lack of statistics stems partly from the fact that no significant data is being collected nor is systematic research being carried out and partly from the fact that the authorities do not release information they do have. The information gap is evident in the SPR, which is short on statistics.

Absence of national plan for CRPD implementation: Israel currently has no national plan for the implementation of the Convention or the advancement of human rights for PWD in keeping with its provisions, and there is no integration between government ministries with respect to all the rights enumerated in the CRPD for persons with all types of disabilities. The many significant gaps between the provisions of the CRPD, Israeli legislation and the real life situation of PWD in Israel - highlighted in the alternative report - are partly the result of the absence of such a plan. The SPR does not provide any details as to how the State of Israel plans to close existing gaps, nor does it address how government ministries are working to reduce them. The sole exception is reference to the work of the Commission for Equal Rights of Persons with Disabilities in this regard.

Articles 1-4

Purpose, Definitions, General principles, General obligations

Number of persons with disabilities in Israel (SPR, paragraphs 13-14): As stated in the SPR, statistics regarding the number of PWD in Israel are mainly based on the Central Bureau of Statistics' social survey data. The questions in this survey pertain to health problems and impaired functioning as a result. The questions are based on self-identification in a manner consistent with the Convention. However, the questions in the survey make it impossible to identify persons with certain disabilities, such as persons with intellectual disabilities, autism, learning disabilities and psychosocial disabilities who are generally in good health and may, therefore, state that they do not suffer from any medical problem. In addition, the questions make it impossible to distinguish between persons with different disabilities and obtain a complex picture of their condition.¹ With respect to children with disabilities – the statistics presented in the report are based on a 1995 survey (and assessments taking into account the population growth rates since then). A more current source enabling assessment of the rate of children with disabilities in Israel is not available.² For additional details regarding the shortage of data concerning PWD in Israel see our comments on Article 31.

Legislative measures (in reference to the SPR, paragraphs 15-21): The main law in Israel enshrining the rights of PWD is the Equal Rights for Persons with Disabilities Law, 1998. The Law consists of five main chapters: fundamental principles, prohibition against discrimination in relation to employment, accessibility of public transportation, establishment of an equal rights commission, and the accessibility chapter added in 2005.

1. The enactment of the regulations for the existing chapters of the law have not been completed – despite the fact that the accessibility chapter was enacted 15 years ago, to date the State Party has not yet completed promulgating the regulations under it (for details see our comments on Article 9). The regulations pertaining to the employment chapter in the Equal Rights Law have not yet been completed either (for details see our comments on Article 27). Consequently, the law is not fully implemented.
2. Additional major chapters of the law have not yet been enacted. The most significant – the chapter concerning living in the community and a personal support program,

¹ Daphna Haran Tom Einhorn Nurit Gedge and Lital Barlev, [International Review of Measures for Identifying Persons with Disabilities in the context of a Study regarding Social Participation of Persons with Disabilities, Brookdale 2019](#)

² Lital Barlev Dr. Gabi Admon-Rik Yosef Keren-Avraham Israel Haber, [Persons with Disabilities in Israel, 2017](#), edited by the Commission for Equal Rights of Persons with Disabilities and Myers-Jewish Joint Distribution Committee (JDC) – Brookdale Institute.

has not been enacted to this day due to objections and hindrances presented by successive governments (for details see our comments on Article 19).

3. The failure to complete the legislation of the Equal Rights for Persons with Disabilities Law and consolidate all rights of PWD under its auspices is particularly problematic in view of the fact that the State of Israel still has rather anachronistic statutes with provisions that are inconsistent with the provisions of the Convention and the principles underlying the Equal Rights for Persons with Disabilities Law. One example is the Welfare Law (Treatment for Persons with Intellectual-Developmental Disabilities), 1969. This law gives the state powers to obtain information about persons with intellectual disabilities and make decisions about their care in a manner inconsistent with the right of PWD to personal autonomy, and sometimes in violation of their liberty. Another example may be found in the Treatment for Persons with Mental Disabilities Law 1991, the main objective of which is to provide for the treatment and hospitalization of persons with psychosocial disabilities without their consent and against their will (for details see Article 14). In addition, as specified in greater detail below, there are several sectorial laws concerning persons with specific disabilities (for details see our comments on Article 19).

Definitions of disability in Israel (SPR, paragraphs 22-26): As indicated in the SPR, the definition of disability varies according to specific legislative and practical contexts. In some contexts, such as, for instance, in the Equal Rights for Persons with Disabilities Law, the definition of disability is consistent with the definition of this term in the Convention. However, in other contexts, for instance, for the purpose of determining eligibility for national insurance benefits, the definition is based on medical diagnoses and does not reflect the impairments arising from social and environmental barriers, which is inconsistent with the Convention. Consequently, as described in greater detail in our comments on specific articles below, persons are often deprived of the ability to exercise their rights.

Questions to the State of Israel

- How does the State Party plan to ensure a uniform definition of disability for all different authorities in a manner consistent with the provisions of the Convention?
- How and when does the State Party plan to complete the legislation of the Equal Rights for Persons with Disabilities Law, including the enactment of the necessary secondary legislation?
- How and when does the State Party plan to amend and adjust all existing laws to the provisions of the Convention and revoke existing legislation inconsistent with the provisions of the Covenant?

Article 5

Equality and non-discrimination

Discrimination in insurance (SPR, paragraphs 39-44): As specified in the SPR, the Equal Rights for Persons with Disabilities Law, 1998, sets out conditions under which different treatment by insurers would not be considered discrimination. The law also provides that where insurance is refused, the insurer must provide a reasoned written notice with a short abstract of the information on which the insurer relied, as well as information about the avenues available for challenging the decision.

Despite the aforesaid, insurance companies fail to fully implement the law, enforcement is poor, and, in addition to all this, the interpretation given to the law by insurance companies drains it of meaning and turns the exception into the rule.

In many cases, individuals requesting insurance receive laconic refusals, without any reason or reference to the information on which the refusal is based. In other cases, the applicant is referred to the reinsurer's guidelines as "other information", ostensibly enabling the insurance company to discriminate against a person with disabilities. Given the fact that it is unclear on what information the reinsurers relied – it is impossible to know whether these guidelines are sufficiently substantiated – they cannot be contested and studies to the contrary may not be presented.

The broad interpretation given by insurance companies to the provision allowing them to treat PWD differently, has, in fact, enabled many of them to disavow their obligations, rendered all other conditions moot and made discrimination a prevalent, common practice among many insurance companies. So, insurance companies deny many PWD a variety of insurance programs, including situations in which group insurance policies a-priori exclude persons with certain disabilities, policies with exclusions, namely, with limited coverage due to medical condition, and situations in which PWD are required to pay significantly higher premiums than those paid by persons without disabilities.

No effective complaint mechanism: PWD do not rush to take legal action, especially against insurance companies, which normally have a roster of expert lawyers. For this reason, the law provides that a person whose application was denied can file a complaint with the Commissioner of Capital Markets, Insurance and Savings or the Complaints Committee established for this purpose (which admits complaints only after a complaint filed with the Commissioner of Capital Markets, Insurance and Savings received no response). Despite this, as indicated by the SPR (paragraph 43), to date, the Complaints Committee has processed only two complaints, and in practice the committee plays no effective role in the implementation of the Law.

Questions to the State of Israel

- How does the State of Israel plan to ensure that PWD are not discriminated against in all matters relating to insurance?
- How does the State of Israel plan to ensure that the enforcement, monitoring and complaint review mechanisms established in the law are effective?

Article 6

Women with disabilities

Women and girls with disabilities in Israel are subjected to double discrimination and exclusion on the basis of their gender and disability. This discrimination is contrary to the state's obligation to ensure full and equal enjoyment of all human rights and fundamental freedoms.

Social security: Contrary to the SPR (paragraph 327-328) women suffer from statutory discrimination with regards to disability benefits.³ The National Insurance Law⁴ makes a distinction between women with disabilities who are married and not working outside the home, defining them as "disabled homemakers" and all other PWD (men and unmarried women). This distinction leads to discrimination against married women who do not work in terms of how their benefit amounts are determined, placing them at the bottom of the benefit scale.

Policy: Due to its alleged gender-neutral policy, the State Party does not keep statistics on matters relating to women with disabilities and does not take into account the unique barriers facing women with disabilities. This has a deleterious impact on advancing rights and services unique to women with disabilities, which comes as an addition to stigmatic treatment of women with disabilities in public services.⁵ Women with disabilities are under-represented in all matters relating to the advancement of women's rights and the elimination of existing discrimination against women in general. In addition, diversity and differences arising from both gender and disability are ignored, failing to take into consideration double, triple and

³ Prof. Eric Rimerman, Dr. Michal Sofer, Prof. Zili Dagan, Adv. Roni Rottler and Adv. Lior Mishali, "**Report on: Employment, Welfare and Taxation of Persons with Disabilities in Israel**", 2011, pg. 60.

⁴ Section 205 of the National Insurance Law (Consolidated Version), 1995; National Insurance (Disability Insurance) (Special Provisions regarding Homemakers) Regulations, 1984.

⁵ Adv. Roni Rotter, Social Workers Tami Gross and Odelia Fitoussi, "**Women with Disabilities, Multiple Discrimination – Glass Stairs – Creating an Equal Starting Point for Women with Disabilities**" Report, 2020.

even quadruple discrimination in all cases in which women with disabilities face additional modes of discrimination based on age, nationality, economic and geographic status or sexual orientation.⁶

Health (particularly in relation to gynecology): The physical and geographic accessibility of women's health services, is insufficient. Medical professionals lack knowledge about disability and there is under-testing among women with disabilities. Women's health services are largely devoid of cognitive accommodations and physicians talk down to women. Discussions are often conducted with the persons accompanying them rather than the women themselves because they are perceived as having impaired judgment or irrelevant opinions.

Awareness-raising and public education: Women with disabilities are seen as genderless and non-sexual from childhood to adulthood. This attitude affects their self-perception and development, including the ability to build relationships and establish a family. Their exclusion is intensified when they have additional cultural identities – for instance – belonging to the Arab community, or other identities relating to sex or gender.

Sexuality and intimate relations: This issue is ignored by educational and care staff supporting women and their families throughout their growth and development. As a result, disability is perceived by society and the women themselves as having a negative effect on sexuality, to the point of erasing it. In addition, women with disabilities note that they are not considered "suitable wives" and that men with disabilities have much better marriage prospects than they do. In many cases, women with disabilities are guided towards a mindset that sexuality and intimate relations are inappropriate. In addition, we are aware of a policy implemented by institutional facilities for PWD whereby women, mostly with intellectual-developmental disabilities, are given contraceptives without being provided with accessible information.

Sexual assault and violence: Women with disabilities suffer from sexual violence, degradation and abuse at higher rates than women without disabilities, as a result of exploitation by the persons on whom they rely and depend. The findings of a study⁷ conducted in 2006 indicate that a much higher proportion⁸ of women with disabilities suffer from physical and sexual violence compared to women without disabilities. Another study⁹ indicates that women with disabilities specifically, suffer from a higher rate of assault, violence or degradation within the family.¹⁰ Another finding revealed the rate of sexual assault by known or unknown individuals and forced incest before age 16 is much higher among women with disabilities compared to women without disabilities. Little is done to address sexual and other forms of violence against women with disabilities.

⁶ [Women with Disabilities: Breaking Limits](#) (Hebrew), Woman to Woman Conference Transcripts, 2015.

⁷ Schtrusberg Nurit, Eitan-Rivlis Galit, "Women with Disabilities Aged 18-60", Myers-JDC-Brookdale Disabilities Research Center, 2006

⁸ 17% and 9% respectively.

⁹ Istoshina A. and Zamir I., "Safety of Women with Disabilities" (Women's Safety Coalition, 2013).

¹⁰ 7.35% compared to 8.10% respectively.

Questions to the State of Israel:

- What legislative, educational, administrative, cultural, political, linguistic and other measures does the State Party plan to use to enable girls and women with disabilities to participate in all activities aimed at implementing the Convention? What steps are taken by the State Party to prevent double and triple discrimination from a developmental perspective?
- What are the timetables for enhancing physical and service accessibility to women with all types of disabilities in medical centers throughout Israel, including through compliance with the accessibility requirement under the Equal Rights for Persons with Disabilities Law,¹¹ and the advancement of regulation enactment in health services?
- What measures will the State Party undertake to take to prevent harm to women with disabilities, including by educating women with disabilities about harm, ways of identifying potential danger, and ways of avoiding it, and what will it put in place for developing accessible services in this regard, including making shelters for victims of sexual assault accessible and training caregivers (including caregivers with disabilities) to provide accessible services?
- What measures does the State Party plan to take in order to change conceptions and positions held by teachers, professionals and family members of girls and adolescents with disabilities, produce a supportive environment, promote openness and provide information in matters relating to sexuality and healthy living?
- How does the State Party plan to systematically collect official data about women with disabilities and the barriers they face in different aspects of life, including a timeline?
- What work plan does the State Party have in place for developing specifically targeted sexual consultation and care services for women with disabilities as part of the services provided by state authorities in the community and for developing consultation on intimate relations and therapy services as part of the services provided in the community, recognizing the special barriers faced by women with disabilities in this area, including making living as a couple accessible to PWD living in out-of-home housing arrangements?

¹¹ Equal Rights for Persons with Disabilities Law, 1998 and the Equal Rights of Persons with Disabilities (Adjustments for Access to Services) Regulations, 2013.

Article 9

Accessibility

Incomplete legislation: The Equal Rights for Persons with Disabilities Law defines the right of PWD to participate equally and in a dignified manner in all aspects of life, and the accessibility obligations incumbent upon entities that provide services to the public to eliminate obstacles hindering PWD from realizing said participation.

As noted in the SPR itself (paragraph 62), several sets of regulations have yet to be promulgated despite the fact that according to Chapter E1 of the Equal Rights for Persons with Disabilities Law, the regulations defining accessibility obligations in each field should have been promulgated by 2006, and contrary to Government Resolution No. 2588, dated April 2, 2017,¹² wherein the government undertook to promulgate the regulations no later than December 2018 and according to a schedule.

Regulations which have not yet been promulgated

1. Health services accessibility regulations imposing an obligation to make health services accessible. The absence of these regulations constitutes a significant barrier for PWD with respect to accessing appropriate health services on an equal basis, which at times may be life threatening.
2. The absence of regulations governing roads and pavements means the obligation to ensure road accessibility in public spaces is limited. This greatly impedes mobility in public spaces for PWD, sometimes completely excluding them from any social participation.
3. Accessibility regulations for states of emergency, such as the current global coronavirus crisis, natural disasters and security situations. The absence of such regulations impedes clarity on how the rights and needs of PWD are protected and met in such situations and who is responsible for doing so.
4. Public transportation regulations. According to the law and the regulations enacted in 2003, intercity buses are exempt from accessibility requirements. This impedes intercity travel by PWD, creating difficulties in participating in the workforce, gaining higher education and enjoying recreational and cultural activities.
5. Arab communities in Israel do not have local buses and the public transportation running through them is part of the intercity bus system. Consequently, accessible public transportation is not available in the vast majority of Arab communities.

¹² Government Resolution – Reducing the number of mandatory regulations which have not yet been promulgated, 2588 dated April 2, 2017. Government website: http://www.gov.il/he/departments/policies/2017_dec2588 (Hebrew).

Old regulations which do not meet current needs and should be updated

1. Public transportation regulations. Public transportation is changing and becoming more cooperative. Applying the above regulations only to taxis and intercity buses no longer provides adequate solutions for the needs of PWD. Additionally, existing regulations only address the physical accessibility of taxis, buses and trains and do not provide adequate solutions for service accessibility.
2. Regulations for websites. Technological developments have transformed the internet from an arena of specific content into an infrastructure for the public consumption of different types of content such as TV broadcasts, movies, lectures, on-line classes, consumer services and more. A paradigm shift is required, and a determination must be made as to what type of content falls under the accessibility requirements, how it should be made accessible and which agency carries the responsibility for doing so.
3. TV broadcasting regulations. According to the Television Broadcast (Subtitles and Sign Language) Law, 2005, the accessibility requirement applies only to entities broadcasting under license from the state. As a result of changes in the communication market, many broadcasters that operate legally, but without a license, are excluded from list of bodies to which the requirement applies. In addition to this, in many situations the sign language is not sufficiently clear because its position on the screen is small and difficult to see. It is important to note that even the broadcaster to which the requirement applies are not obligated to provide full accessibility including simplified language and audio description.

Implementation and enforcement difficulties

1. For obvious reasons, the Accessibility Regulations make provisions for staggered compliance over several years. However, every year, local authorities that fail to meet their obligations receive compliance extensions which enable them to either avoid meeting their obligations or to meet them partially. After numerous extensions, at the time of writing, the requirements stipulated in the regulations must be met by December 2021.
2. Governmental housing, namely buildings and services under the purview of the state, are also given accessibility compliance extensions almost automatically. At the time of writing, the requirements stipulated in the regulations should have been met by December 2019, but according to the regulations, the Minister of Justice may extend said date without the Knesset's approval.
3. Higher education regulations impose on each academic institution the obligation to make the campus as well as student services accessible. In fact, most academic institutions have not yet implemented said obligations. The regulations which entered into force in 2018 have no clear completion target date.
4. Education services regulation – see Article 24.

5. Regulations – The Accessible Service Regulations that relate to services given in public locations, include an obligation to provide a range of accommodations. Some of these accommodations, such as sign language, Braille and use of simplified language are meant to be provided on request, with a reasonable amount of time. In practice, there are many difficulties with the implementation of these obligations.

Accessibility funding

1. Many local authorities in Israel are underserved and unable to carry the cost of accessibility compliance. This is particularly true for local authorities in Arab communities which lack proper infrastructure compared to the Jewish sector. The state does not provide financial assistance to help underserved local authorities, Arab or Jewish, comply with accessibility requirements, evading its responsibility to ensure the equal rights of its citizens, doubling and further entrenching the discrimination in the case of Arab citizens of Israel.
2. There is no budget allocated for making private locations that serve the public accessible, such as places of prayer, cinemas and restaurants, thus the cost of making locations accessibility falls to the owners and quite often does not occur,

Lack of monitoring

The monitoring system operating under the Equal Rights Commission for Persons with Disabilities is extremely limited. This impedes comprehensive and reliable monitoring and evinces the issue is low on the national priority scale.

No database

1. There is no database to facilitate monitoring of accessibility compliance on the national level, and the obligation to collect data has not been imposed on any government system.
2. As noted in the SPR (paragraph 65), the law provides for civil enforcement through both class action suits and personal civil claims that enable plaintiffs to receive monetary compensation for the absence of adequate accessibility without proof of damage. However, the absence of a formal database makes it difficult to monitor these actions and their results, and misses one of its objectives, - deterrence.

Deeper discrimination in the Arab sector

1. The Arab sector in Israel constitutes approximately 21% of the overall population. Nevertheless, much of the information include in rights leaflets and guides is not translated into clear, accessible Arabic. Realization of rights and service application forms are not accessible, and worse still, the websites of public and governmental services are not translated into Arabic. In addition to all of the above, there are not enough professional bodies providing guidance, consultation and information to the Arab citizens of Israel.

2. Existing building regulations, which are gradually implemented in the Jewish sector, are not implemented in the Arab sector in Israel as a result of funding shortfalls in budgets combined with significant topographical challenges. Accordingly, many public buildings are not accessible, including those providing specifically targeted services to PWD such as the National Insurance Institute and public medical centers, in addition to many other inaccessible public buildings, such as national and local government offices. Moreover, roads (and pavements) are extremely inaccessible and due to various implementation problems, public spaces have no dedicated parking spots for PWD.
3. Inaccessible residential buildings – 36% of PWD in the Arab sector have reported difficulties as a result of the large number of steps leading to their home, compared to only 22% of PWD in the Jewish sector, who mostly live on lower floors or in buildings with elevators. The problem is aggravated when a person becomes disabled somewhere along the line, for instance as a result of a car accident.¹³

Questions to the state of Israel

- Does the State Party plan to develop funding systems to ensure the implementation of the existing regulations and prevent further postponement of the deadline for completion stipulated in the regulations, and if so, how?
- Does the State Party plan to amend the regulations by legislation to meet current needs and remain relevant for future technological changes, and if so, how?
- How does the State Party plan to close the gap between the Jewish and Arab sectors?
- Does the State Party intend to establish a database and more advanced implementation and monitoring mechanisms and if so, when?

Article 10

Right to life

The right to life is the cornerstone for the presence of PWD in the world and the touchstone for understanding perceptions towards them. Basic Law: Human Dignity and Liberty entrenches the right of every human being to life (SPR paragraph 78), but, in practice, certain injustices directly violate the right to life of PWD in Israel. The following are two examples:

¹³ People with Disabilities in Israel – Facts and Figures, Brookdale Institute and JDC Israel, (2009). In the absence of more up-to-date statistics, the statistics presented are from a report published in 2009. As far as we know, there have been no significant changes in the situation since that time.

First, discriminatory criteria in prioritizing COVID-19 patient care is instructive of the perceived value of PWD in the world. The second example, the increase in pregnancy terminations over suspected fetal anomalies, reflects the social and moral position towards PWD.

Discrimination against persons with disabilities in the criteria for triaging care for serious cases during the coronavirus pandemic: Following the outbreak of the coronavirus pandemic, the Ministry of Health set up an inter-ministerial committee tasked with drafting practical and ethical guidelines for the medical community in the event of a shortage of life saving equipment and skilled personnel during the coronavirus crisis. The 26-member panel of the "Public Committee for Prioritizing Patients in Serious Condition during the Coronavirus Pandemic" included physicians, faith leaders and ethics experts, but had no representation from PWD, not even the Commissioner for Equal Rights of Persons with Disabilities. In April 2020, the committee released a position paper¹⁴ that received scathing criticism from civil society and medical officials. In May 2020, the committee submitted a revised document,¹⁵ with partial revisions, to Israel's Ministry of Health. According to the principles set out in these documents, the only permissible departure from the principle of equality would be predicated on medical indicators for treatment success and chances of survival (section 2A(19)). Nevertheless, according to an annex intended to serve as a practical tool for physicians, the first criterion for triaging patient care is the ECOG scale (developed for cancer patients), which rates mobility, employment and/or independence, regardless of other medical indicators and/or chances of survival.

As such, despite the position paper's stance that discrimination is prohibited, PWD are collectively discriminated against, relegated to third or fourth priority in the event of an emergency and with respect to artificial respiration or intensive care.

Termination of pregnancy due to suspected 'Congenital impairments': Despite the legislative annex to the SPR (paragraph 9-11), and recognizing women's right over their own bodies, it is important to note that Israeli society is more concerned about the birth of children with disabilities compared to other western societies, and is willing to take measures considered controversial elsewhere in order to avoid it. In most segments of the Israeli population, pregnant women undergo a battery of tests, unmatched anywhere in the world, to identify possible 'congenital impairments', in some cases very late in pregnancy.¹⁶ Israel is one of the few countries in the world where the law expressly permits pregnancy termination after week 24 due to 'congenital impairments',¹⁷ and the number of pregnancy terminations performed in Israel in the advanced stages of pregnancy on the grounds of 'risk of physical or

¹⁴ [Position paper](#) (Hebrew) issued by the Public Committee for Prioritizing Patients in Serious Condition during the Coronavirus Pandemic. Joint committee of the National Bioethics Council, Ethics Bureau of Israel Medical Association and the Ministry of Health., 2020.

¹⁵ [Position paper](#) (Hebrew) issued by the Public Committee for Prioritizing Patients in Serious Condition during the Coronavirus Pandemic. Joint committee of the National Bioethics Council, Ethics Bureau of Israel Medical Association and the Ministry of Health. Iyar, 2020.

¹⁶ Hashiloni-Dolev, Y. and Raz, A. **Between Social hypocrisy and social responsibility: Professional views of eugenics, disability and repro-genetics in Germany and Israel.** *New Genetics and Society* 29 (1): 87-102, 2020.

¹⁷ Equal Rights for Persons with Disabilities Law, 1998

intellectual defect in the fetus' is growing.¹⁸ In addition to this, a couple who may pass a genetic disorder onto a child, often receive strong recommendations from professionals who try to persuade them to avoid this in the name of eugenic principles.

As aforesaid, nothing in the above undermines women's full right over their bodies.

Questions to the state of Israel

- What steps does the State Party plan to take with respect to the inclusion of PWD in committees establishing criteria on matters relating to the right to life?
- How does the State Party plan to influence the positions of individuals/bodies involved in decisions on matters relating to the right to life affecting PWD?
- What measures are taken by the State Party to avoid a situation that requires prioritization, and what other criterion which does not discriminate against PWD does the state plan to use for prioritization purposes?
- What is the total number of pregnancy termination applications submitted on the grounds of fetal anomalies in the last decade?
- What are the criteria for approving a pregnancy termination application based on fetal anomaly?
- What are the stages and timelines contemplated by the State Party for establishing a consultation system for decisions involving pregnancy termination on the grounds of possible fetal anomalies (consultation with rehabilitation consultants, PWD and the like)?

Article 12

Equal Recognition before the Law

Legislative Changes: As noted in the SPR (paragraphs 90-97), in 2016 the Legal Capacity and Guardianship Law was substantially amended.¹⁹ The amendment enshrines the right to supported decision-making, recognizes the centrality of a person's will, limits guardians' powers, revokes the term 'ward', revokes the possibility to make a 'sweeping' appointment (appointment of a guardian over the entire affairs of a person) and includes additional important provisions. The amendment and the extensive effort invested by the State Party in its implementation, including the establishment of an inter-ministerial committee and efforts

¹⁸ Applications to the pregnancy termination committee in 2017-2018, Central Bureau of Statistics.

¹⁹ Amendment No. 18 to the Legal Capacity and Guardianship Law.

to promote a supported decision-making model, express a substantial change in the State Party's approach to legal capacity matters, adopting the values underlying Article 12. However, as specified below, substantial gaps remain in the implementation of the right to legal capacity, as enshrined in the provisions of the Convention, on both the legal and practical levels:

According to the Legal Capacity Law persons may be deprived of their legal capacity: despite the amendment to the law, a person can still be declared 'legally incompetent' (SPR, paragraph 89) thus depriving them of their legal capacity. As noted in the SPR, the provision is rarely used. However, the possibility remains.

Absence of data regarding the implementation of Article 12: The State Party does not have accurate data regarding the number of individuals for whom a guardian has been appointed in Israel, as there is no orderly reporting system between the appointing courts and the office of the Administrator General, which oversees this area. The Administrator General's system also lacks accurate breakdowns with respect to the persons for whom a guardian was appointed, such as breakdown by disability type and living accommodations (at home or in out-of-home arrangements). Certain information exists only in the specific files adjudicated in court, but there are no general statistics on such cases. Accordingly, for instance, there are no statistics on the percentage of cases which were heard, the percentage of cases in which the person appeared and was heard, the percentage of cases in which legal representation was provided, the number of appointed decision-making supporters in recent years and more. In addition, the SPR does not include the statistics the State Party does have in its possession, for example the number of new appointments every year, breakdown by age, and it includes only data regarding the total number of existing appointments and breakdown by area of responsibility.²⁰

'De facto' deprivation of legal capacity: By law, persons for whom a guardian has been appointed maintain their legal capacity. However, this fact is not reflected de facto, in everyday life: many PWD in Israel, particularly with intellectual and psychosocial disabilities, autism and persons with dementia are not given the opportunity to make decisions regarding many aspects of life and their right to autonomy is substantially violated. Professionals, including government officials and service providers, often interact and communicate directly with the guardian, without giving the person an opportunity to participate, without hearing them or allowing them to express their wishes. In many cases the person has no real opportunity to make decisions or have influence over what their life looks like – both regarding small everyday decisions, and certainly regarding decisions such as where they want to live and what kind of work they want to do.

Guardianship rate in Israel is high by international comparison: As mentioned above, the SPR does not include updated statistics regarding the rate of guardianship appointments in Israel, nor does it include any statistics on the number of new appointments added each year. Our statistics from previous years indicate that approximately 14,000 new appointments are added each year, and there are almost no guardianship revocations.

²⁰ Annex 1 to the SPR, paragraphs 7-8

Accordingly, over the last 15 years, the number of persons for whom a guardian has been appointed has doubled, reaching roughly 64,000 by the end of 2018.²¹ Numbers have continued to grow in recent years after the amendment of the law. Moreover, the vast majority of the existing appointments are sweeping and permanent,²² and there is no obligation to periodically review existing appointments. While the amendment to the law has introduced new principles – including appointment by necessity and where no less restrictive alternative is available, which should have reduced the number of appointments, their duration and what they cover, in practice, to this day, the State Party has not promoted a program to reduce the number of appointments and no effort has been made to monitor, analyze and reduce the number of guardianship appointments.

Guardianship is still the prevalent alternative: Following the amendment to the Legal Capacity Law, supported decision-making is recognized as a preferred alternative to guardianship under the terms set out in the law. Since the law was amended, the State Party has made efforts to implement this alternative through advocacy and a government funded pilot program. However, despite these efforts, there is still a chasm between the new law and its implementation on the ground, partly reflected in the fact that thousands of new guardianship appointments have been made since the amendment, compared to approximately 400 cases in which decision-making supporters were appointed. In other words, **substitute** decision-making is still a much more prevalent option than **supported** decision-making.

Third party demands for guardianship appointments and deprivation of proprietary rights from persons with disabilities: A considerable number of entities require guardianship appointment as a condition for service provision, based on the erroneous assumption that PWD are devoid of legal capacity and without any legal justification. Common examples: Banks freeze bank accounts until a guardian is appointed, physicians refuse to administer medical procedures without an appointment and the Administrator General stays probate proceedings when a PWD is an heir under the will. Moreover, there is a tendency to appoint a guardian when there is concern over possible economic abuse or 'wasteful' behavior, instead of applying sanctions against the abuser or obtaining assistance and support with financial management. Additionally, the National Insurance Institute relies on brief evaluations by a medical committee to restrict benefit recipients' right to manage their benefits by appointing an individual or an entity to receive the benefits on their behalf and manage their finances, without judicial oversight or any state monitoring. We note that discussions are currently underway to regulate the matter. In addition, guardianship appointment is frequently used as a threat against PWD and their family members in order to force them to comply to the demands of official bodies. At this stage, no government policy has been established to provide solutions to these barriers.

No supported decision-making services: The amendment to the law recognizes supported decision-making but has not provided a solution for the numerous persons seeking or requiring supported decision-making services by a supporter who is not a family member. The Administrator General is working on training courses for supporters, but at this stage, there are no plans for state funding for the service. In the absence of such a service with state

²¹ The Inter-Ministerial Team for Guardianship and Support and Protection Alternatives for Adults – Summary Report, 2019 (in Hebrew)

²² Appendix 1 to the State Party report, paragraphs 7-8.

funding, many who cannot afford the service will continue to find themselves under guardianship.

A person's best interest, rather than will, remains a paramount consideration in both the law and its implementation: Following the amendment to the Legal Capacity Law, a person's will is given greater weight than previously as compared to their 'best interest'. However, 'best interest' remains the guiding consideration both with respect to the decision to appoint a guardian itself and in cases where a person's will and preferences may cause a 'substantial harm', in which case, the guardian is obligated to act according to the person's 'best interest', namely, the person's rights, interests and needs taken together.

Guardianship appointment procedures do not satisfy fundamental due process requirements: Although the law requires a person be heard, in the vast majority of cases, courts appoint guardians without hearing the persons affected and without holding a hearing prior to making the decision to appoint a guardian. In most cases, the courts rely on a social worker's report, if submitted, or a medical evaluation stating that the person has no understanding of the matter and their will cannot be ascertained. In addition, in current conditions, in the vast majority of cases, the person is not treated as a party to the proceedings and is rarely provided with the documents submitted in their matter.²³ A proposed legislative amendment aimed at expanding the obligation to hear the person in the course of guardianship proceedings was rejected as the government opposed it for budgetary reasons. In addition, the position of the Ministry of Social Affairs is that there is no obligation to provide the report, which is prepared as part of the proceedings, to the person affected but only to the court, and the court does not provide the documents to the person.

No right for legal representation: There is no vested right for legal representation in guardianship proceedings. Hence, although the State Party is represented by legal counsel (counsel from the Attorney General's office) and despite the fact that deprivation of liberty is at stake, the affected person is not represented, excluding cases in which the person is aware of their right to representation and is able to afford legal representation or in the few cases in which Legal Aid provides representation.

Deficiencies in guardianship corporations: Thousands of people in Israel are under external guardianship, mostly by guardianship corporations. A study from 2017 found many deficiencies in the operation of external guardians and guardianship corporations²⁴. In addition to the findings of this study, irregularities, fraud and abuse have been reported over the last few years. Most guardianship corporations collect payment for their services from the person affected, barring cases in which the person has no means, despite the fact that the appointment is involuntary. External guardians' fee arrangements include incentives that produce conflicts of interest (entitlement to a cut in legal proceedings or the sale of an asset). There are also incentives to remove a person from their home into an out-of-home placement,

²³ The Inter-Ministerial Team for Guardianship and Support and Protection Alternatives for Adults – Summary Report, 2019; Israel Doron *'The Invisibles': Older Adults under Legal Guardianship, Social Exclusion and Human Rights in Israel*, 205, Yair Ronen, Israel Doron, Vered Slonim-Nevo, eds., 2008 (in Hebrew).

²⁴ Shirley Radzinski et al. [The Monitoring Personal Matters Guardians Pilot Summary Report, Myers-JDC-Brookdale Institute, 2019](#) (in Hebrew).

thus transferring the responsibility for the person from the guardian to a living arrangement that covers all aspects of life. This is evidenced in the fact that the relative number of persons with guardians living in institutions is higher than that of persons for whom a family member was appointed as guardian or have no guardianship at all.²⁵

Monitoring and supervision: In recent years, the Administrator General, the agency in charge of guardians, has been putting efforts into improving the monitoring and supervision system under its purview. However, said supervision focuses mainly on proprietary matters. A pilot program launched by the Administrator General and aimed at supervising guardians' activities with respect to personal matters (all non-proprietary aspects) should be favorably noted. However, this issue has not yet been properly regulated.

Older adults with disabilities: The approach advocating for autonomy and liberty to choose the way support is provided is flawed where services for older adults are concerned. Persons with dementia and Alzheimer's disease, are particularly blatantly regarded as individuals who do not have a right to make decisions regarding their lives. Often, guardianship appointment is deemed necessary in the very early stages of the disease (usually covering both person and property without exception and indefinitely), despite the complex and dynamic nature of the disease. Concomitantly, the placement of PWD in nursing care or facilities for individuals considered mentally frail is usually made without the person's consent, based on a decision made by family members and professionals.

Questions to the state of Israel

- We wish to know how the State Party intends to reduce existing and new guardianship appointments, including a detailed timeline and the resources that the State Party intends to allocate for this purpose.
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- We wish to know what action the State Party plans to take in order to make supported decision-making an alternative model for guardianship, including the provision of state funding supported decision making-services.
- We wish to know how the State Party intends to monitor the scope and circumstances of guardianship appointments in Israel, including through detailed, and systematic data collection.
- We wish to know how the State Party plans to avert situations in which third parties require limiting the legal capacity of PWD as a condition for service provision.
- We wish to know how the State Party plans to ensure due process in all proceedings relating to a person's legal capacity, including hearing the person, providing access to the documents relating to their matter and providing legal representation.
- We wish to know how the State Party plans to improve supervision of guardians to prevent impingements on the rights of PWD for whom a guardian has been appointed.

²⁵ *Ibid.*, page 23.

- We wish to know how the State Party plans to ensure that a person's will is heard and plays a central role in decision making in their affairs, including when said person require support in decision-making.

Article 13

Access to Justice

Israel has adopted innovative legislation enshrining the right of PWD to accessible legal proceedings. The Interrogation and Testimony Procedures (Accommodations for Persons with Intellectual and Mental Disabilities) 2005, codifies the right of persons with intellectual and psychosocial disabilities and autism to accessible court and police proceedings, and the Service Accessibility Regulations under the Equal Rights for Persons with Disabilities Law fill the gaps that remain for all PWD in all types of legal proceedings. However, the legislation is not comprehensive, and whatever legislation does exist is not fully implemented.²⁶ Legislative deficiencies and flawed implementation create a situation where, in practice, most legal proceedings in which PWD participate are inaccessible to them, to the extent that the question of possible miscarriage of justice arises. The physical accessibility of police stations and the courts has been greatly improved, as well as the use of sign language in police interrogations and court testimony. On the other hand, in the vast majority of cases, police interrogations and court hearings are not yet accessible to persons with intellectual and psychosocial disabilities as well as autism.

Legislation deficiencies in the area of access to justice: *The Investigation and Testimony Procedures (Adjustments for persons with Mental and Intellectual Disabilities) Law* requires that persons with intellectual disabilities be interrogated by a special interrogator (paragraph 108 of the SPR), who is a professional in the field (rather than by a police officer). A police interrogator has discretion to transfer the interrogation of persons with communication disabilities to a special interrogator – if the interrogator believes the person's ability to be interrogated and testify is impeded by their disability. The law does not recognize the right of persons with psychosocial disabilities to be interrogated by a special interrogator, which leaves some people who need to be interrogated by a special interrogator without access to this accommodation. Section 22(a)(9) of the law allows litigants to obtain assistance from a consultant who is in fact an access to justice intermediary but does not obligate the court to appoint access to justice intermediaries or finance the service. Consequently, many proceedings take place without accommodations.

Civil society, together with academia, initiated access to justice intermediary training courses, but the state does not formally recognize the profession or fund the service. The burden of making the accommodations is therefore borne by NGOs. It appears that access to justice intermediaries' assistance is not provided in the vast majority of cases.

²⁶ See State Comptroller Report 69B "Securing the Rights of Persons with Disabilities in Legal Proceedings".

Lack of data regarding accessibility of legal proceedings: Lack of tagging in the Israel Police computerized filing system precludes a breakdown by type of disability. Lack of documentation also prevents the collection of important data such as: the number of cases in which a person with disabilities has been a suspect and/or a victim, whether the process was made accessible, the effect of the accommodations on the outcome in the file, and more. Such data would have enabled study and assessment that could support future improvements to the system. Lack of documentation also results in a situation where even when a person with disabilities notifies of the disability in the beginning of the proceeding, the information is not necessarily passed on to the teams that provide services to that person later on, which infringes on the person's rights later in the proceeding.

Capacity to stand trial: When all proceedings are completely accessible to PWD, it will no longer be necessary to assess their capacity to stand trial. Until such time, there is a need for a special agency with the appropriate knowledge and tools to assess the capacity of PWD to stand trial. Such an agency does not currently exist in Israel and the assessment is made by different agencies, according to the disability. These agencies provide entirely different services and lack the knowledge and expertise to assess capacity to stand trial. Because the assessments relate to abilities that are irrelevant to participation in criminal proceedings, individuals who do not have the capacity to stand trial are deemed as having it. They are then tried and later convicted and sentenced, without understanding the proceedings and without being able to mount a proper defense.

Lack or insufficient training for police officers and police interrogators regarding access to justice: A. Patrol officers receive insufficient or no training on how to identify PWD, how to properly interpret behavior and how to communicate with persons with whom communication is different and challenging. Consequently, PWD are harmed, and in extreme cases killed, when their behavior is interpreted by patrol officers as suspicious or aggressive. The situation is aggravated when the PWD are members of a minority group such as Arabs or persons of Ethiopian descent. B. Police interrogators receive no training on interrogating PWD. Persons with psychosocial disabilities and individuals with high-functioning autism are interrogated by police officers who are usually unskilled in identifying PWD and communicating with them.

Use of alternative communication: Despite the report's declaration (paragraph 109) regarding the use of augmentative and alternative communication (AAC), only a handful of court testimonies in Israel have been given using AAC. Criminal cases involving persons who use AAC never reach trial and are usually closed at an earlier stage of processing by the police or the State Attorney's Office. In civil cases, for instance, guardianship appointment applications for persons who use AAC, the persons themselves are rarely heard, and decisions are made by judges based on the information provided to them by the professionals assisting the individuals. Judges should be familiar with AAC and know how to use it in court when one of the litigants in the case uses AAC.

Accessibility in detention facilities and prisons: Detention facilities and prisons in Israel (SPR paragraphs 133-138t are slowly being made accessible, mostly to persons with physical and sensory disabilities, according to the requirements of the Accessibility Regulations. Nevertheless, it is extremely difficult to make detention facilities and prisons accessible for persons with intellectual disabilities, psychosocial disabilities or autism.

Incarceration of PWD together with inmates who do not have disabilities often leads to situations of exploitation and even abuse. Prisons do not have the capacity to provide PWD with a single occupancy room for their protection, nor can they assign a staff member to accompany them. The solution provided by prisons is pairing a detainee (or prisoner) with disabilities with another inmate who does not have a disability. This method often results in severe exploitation of inmates with disabilities. Detention and incarceration alternatives should be developed for PWD.

Persons with intellectual disabilities who are convicted are transferred to an incarceration alternative in a specialized facility, where they serve their sentence in extremely difficult conditions. The facility is extremely small and crowded. It is not suited for individuals with severe behavioral disorders who need a larger personal space and greater privacy. Though the facility has been severely criticized in the past, no material changes have been made to it. Additionally, it is invariably at full capacity, and there is no other facility in Israel for persons with intellectual disabilities serving prison sentences. The State of Israel does not develop programs for the rehabilitation of prisoners with disabilities in general and with intellectual disabilities in particular, and makes no accommodations for them in incarceration facilities. In Israel, individuals who receive a prison sentence shorter than nine months may serve it as community service, namely, work performed outside prison for the benefit of the public in a state institution, non-for-profit organizations or other institutions determined by the Minister of Public Security. This option is not made accessible for PWD, meaning most cannot take advantage of it, and must serve their sentence under lock and key. Community service projects should be made accessible to PWD, so they may participate in a rehabilitation program of this kind.

Questions to the state of Israel

- How and when does the state of Israel plan to incorporate into legislation the **duty** of the police to make all interrogations of victims and suspects who are persons with psychosocial disabilities or communication disabilities, in all offences, accessible independently of the interrogator's discretion?
- How does the state of Israel plan to incorporate into legislation the **duty** of the courts to make legal proceedings accessible to persons with intellectual and psychosocial disabilities, as well as autism, by requiring the courts to assign and fund access to justice intermediaries?
- How does the state of Israel plan to collect data regarding the number of interrogees with disabilities (suspects and victims), the number of cases in which an indictment was filed involving a person with disabilities, and the number of judicial proceedings involving a person with disabilities which were made accessible according to the law?
- We wish to know what measures the State of Israel plans to take to prevent police officers from harming PWD, including with respect to the following aspects: adapting protocols for encounters between patrol officers and PWD, training all patrol officers on handling incidents involving PWD, addressing incidents in which police officers

breach protocol. Please provide us with a timeline for the implementation of the plan and detail the resources allocated for it.

- How does the state of Israel plan to make detention facilities and prisons accessible for persons with intellectual and psychosocial disabilities as well as autism and develop detention and incarceration alternatives for these persons?

Article 14

Liberty and security of the person

Involuntary hospitalization (SPR, paragraphs 139-140): Israel has specific and separate legislation allowing involuntary treatment and hospitalization of persons with psychosocial disabilities. While it is nearly impossible to force involuntary treatment on the general patient population, other than in exceptional circumstances and subject to receiving appropriate approvals as specified in the Patient Rights Law, the Treatment for Persons with Mental Disabilities Law allows involuntary hospitalization and treatment in a wider range of circumstances and under a less restrictive procedure, thus allowing violation of the autonomy and liberty of persons with psychosocial disabilities. According to Ministry of Health figures, approximately one third of psychiatric hospitalizations are involuntary.²⁷ Israel currently has no plan for reducing the prevalence of involuntary hospitalizations.

Discrimination on the basis of disability: Contrary to the provisions of the Convention and the comments of the UN Committee to States Parties, stating that persons should not be discriminated against on the basis of disability, the Treatment for Persons with Mental Disabilities Law enumerates cumulative causes for involuntary treatment or hospitalization, the first of which is that the person is 'mentally ill' as defined by the law. The additional cumulative hospitalization causes are also discriminatory compared to persons without psychosocial disabilities: They allow deprivation of liberty for actions not constituting an offence, such as suicidal ideation or concern over potential harm the person might cause themselves or others. They also allow hospitalization due to concern over self-neglect not amounting to an imminent threat, or over mental harm to family members. The above causes apply only to persons with psychosocial disabilities.

Involuntary hospitalization without due legal process: Involuntary examination and hospitalization orders are issued without due legal or quasi-legal process, in which the person is heard and evidence is presented to the District Psychiatrist. The District Psychiatrist issues orders based on reports from care professionals, without conducting an independent examination or reviewing the factual basis for the recommendations and the suitability of the

²⁷ [Mental Health, Statistical Abstract, 2018, Ministry of Health, Information Department and Mental Health Department \(in Hebrew\)](#)

recommended treatment. In the vast majority of cases, the involuntary hospitalization order is appealed after the person has already been taken to a psychiatric hospital. In addition, the psychiatric evaluation prior to the issuance of an involuntary hospitalization order is performed in a psychiatric hospital rather than in a facility that is less inherently intimidating and less prone to depriving a person's liberty.

Is voluntary hospitalization indeed voluntary? As stated in the SPR (paragraph 139), the most common situation is voluntary hospitalization and treatment. However, we are aware of situations in which persons are hospitalized, sometimes for years, without their full consent. This may occur because there are no alternatives in the community, because the guardian has so directed and the affected person fears defying them, or because the affected person is not aware of their right to object. In addition, in certain situations the person is led to believe that without consent, they may be involuntarily hospitalized, which prompts some patients to agree, under the circumstances, to the hospitalization.

Hospitalization with guardian's consent: A person who has been appointed a guardian may be hospitalized without giving explicit consent if the guardian has given consent and the person has not expressed an objection.

Lack of statistics: There are no public statistics on the number of appeals filed to psychiatric committees and their results.

Lack of solutions to crisis situations in the community: There are currently no solutions for persons experiencing acute mental crises in Israel, and the main, nearly sole, solution is the emergency room and psychiatric hospitalization. The situation persists despite the fact that according to the National Health Insurance Law, 1994, health care providers delivering Israel's universal health care program are required to offer various services, such as crisis intervention, home visits, and more. Obviously, without alternative solutions, the number of psychiatric hospitalizations, voluntary or otherwise, is high. Lack of services in the community also contributes to the number of involuntary hospitalizations - persons who might have agreed to receive other services, such as medical treatment at home, do not receive these services until their condition deteriorates to the point where it meets the criteria for involuntary hospitalization enumerated in the law.

Violation of rights while hospitalized

- a. ***Use of restraints (SPR, paragraphs 141-145):*** The Treatment for Persons with Mental Disabilities Law and the regulations enacted pursuant to it grant hospitals the power to issue orders for the restraint or isolation of patients. Following a public campaign led by human rights organizations, the Ministry of Health appointed a committee to look into reducing the use of restraints in psychiatric hospitals. Consequently, the procedures were changed, and the incidence of mechanical restraint (binding) use has been significantly reduced. Nevertheless, as aforesaid, restraints are still permitted under the law and are used in practice, including on adolescents over the age of 13.

With respect to patient isolation – The Ministry of Health did not start monitoring isolation figures until 2018. Therefore, and since 2019 figures have not been released yet,

it is impossible to ascertain whether the number of isolation orders and isolation durations have decreased in recent years. In addition, a number of persons are placed in special isolation rooms in psychiatric care facilities, where they, in fact, live for long periods of time, spanning months and even years. Notably, the Ministry of Health has so far refused to release figures on the number of isolation orders and durations specifically in connection to these cases.

b. Limitation on the use of telephones: In some psychiatric hospitals and departments, patients (whether hospitalized voluntarily or involuntarily) are denied the right to use cellular phones while hospitalized. The reason cited is concern over possible violation of other patients' right to privacy. There are no similar restrictions on cell phone use by patients in non-psychiatric hospital care.

c. Violation of patients' rights during the coronavirus crisis: During the coronavirus crisis, all visits were completely halted in most psychiatric hospitals in Israel, including in most children's and adolescent wards. In contrast, other hospitals allowed visits under certain restrictions. Consequently, certain patients, including children and adolescents, were unable to see their families for six weeks or more. Even when the State Party began lifting the lockdown and allowing visits in psychiatric facilities, visits resumed only in some hospitals under much more significant restrictions than those imposed in general hospitals and frequently in violation of patients' right to privacy. Many wards continued the ban or restrictions on cell phone use throughout this time as well, resulting in patients being completely cut off from family members and loved ones.

d. Absence of effective address for complaints: There is no effective mechanism with which complaints may be filed concerning violation of rights of persons in psychiatric hospitalization. The existing mechanism, the Commissioner of Public Complaints at the Ministry of Health is cumbersome, ineffective and inaccessible to persons in psychiatric hospitalization. (For details see our comments on Articles 16 and 33).

Deprivation of the liberty of persons with intellectual or psychosocial disabilities without proof of guilt: Persons with intellectual or psychosocial disabilities who are suspected of having committed an offense but found unfit to stand trial may be sent to compulsory hospitalization (persons with psychosocial disabilities) or a closed facility (persons with intellectual disabilities), without standing trial, without benefitting from the presumption of innocence and without the opportunity to claim their innocence.

The Treatment for Persons with Mental Disabilities Law provides that the court may order a person with psychosocial disabilities sent to compulsory hospitalization when there is "prima facie evidence" that they committed the offense. This is a much lower burden of proof than required to deprive a person of their liberty in a criminal procedure.

The Welfare (Treatment for Persons with Intellectual-Developmental Disabilities) Law, 1969, allows a diagnostic committee to send persons with intellectual disabilities suspected of having committed an offense to a closed facility. Welfare institutions treat such persons as

offenders even though they were never proven guilty. In addition, these persons are sent to a closed facility indefinitely, whereas, if they had been convicted, they would have received a finite sentence determined by the court.

Questions to the State of Israel

- How does the State of Israel plan to reduce involuntary hospitalizations in Israel to the point of elimination, by, inter alia, changing existing legislation and developing solutions in the community for persons in acute crisis situations, in keeping with the provisions of the Convention? We ask to be apprised of the timetable for said changes and the resources the State Party intends to allocate for this purpose.
- How does the State of Israel plan to end the violation of rights of persons in psychiatric hospitalization, including by ending the use of restraints? We would like to be apprised of the timetable for said changes and the resources the State Party intends to allocate for this purpose.
- How does the State of Israel plan to end the violation of liberty of persons with intellectual disabilities suspected of having committed offenses and found unfit to stand trial? We would like to be apprised of the timetable for said changes and the resources the State Party intends to allocate for this purpose.

Article 16

Freedom from Exploitation, Violence and Abuse

No database: The State Party has no documented information about the number of PWD who were harmed by exploitation, violence and abuse. In addition, there is no breakdown or analysis of such incidents that could support the development of adequate solutions. In this context, the list of interventions of all inspection bodies mentioned in the SPR (paragraphs 170-175) in connection with rights violations in institutions should have been described.

The protective measures in place are patronizing and deprive persons of their liberty: Intervention in most cases of suspected exploitation, violence and abuse of PWD living in the community is made 'over the head' of the victim, including the use of judicial powers such as removal from home and placement in an institution. The main laws governing this area are archaic (the Welfare Law, the Protection of Minors and Helpless Persons Law (an amendment to the Penal Law), the Safety of Protected Persons Law).

Current inspection mechanisms do not provide the required solutions (reference is made to Article 16.3 of the Convention and SPR, paragraphs 170-175)

- a. **Reality proves that the existing mechanisms are not sufficiently effective:** Every few months, cases of neglect or abuse in institutions emerge, including restraining in confinement chairs, confinement to human cages or barred courtyards, restraining to bed during the night, severe physical and mental neglect in institutions for persons with intellectual disabilities or cases of years of solitary confinement in some psychiatric wards, which could be easily discovered by any inspecting officer upon entering the institution. These cases show, more than anything else, that the existing inspection and supervision mechanisms are insufficient, and that is because they are not independent.
- b. **Existing supervision mechanisms are not independent as required by the Convention:** As noted in the SPR, the institutions providing services to PWD are mainly inspected and supervised by the Ministry of Social Affairs and the Ministry of Health. These ministries are also responsible for funding these institutions, establishing the standards for their operation, appointing the bodies providing the service and "placing" PWD in the various institutions and facilities. Some institutions for persons with intellectual disabilities and most psychiatric hospitals are directly owned and operated by the welfare and health ministries. As such, the ministries are not independent authorities as mandated by the Convention, and they often have to consider administrative and other factors, which precludes them from acting as effective supervisory bodies.
- c. **The vast majority of existing mechanisms focus on inspection and supervision and less on the investigation of complaints:** Inspection and supervision are mostly carried out by the ministries responsible for providing the services (the Ministry Social Affairs and the Ministry of Health), and focus mainly on compliance with the procedures and standards established for the operation of the inspected facilities, rather than on protecting human rights and human dignity in these facilities. In addition, the above are not designated to review complaints by persons living in these facilities.
- d. **Existing complaint mechanisms are not accessible or available to persons with disabilities:** The SPR mentions the Public Complaints Commissioner at the State Comptroller Office and the complaint mechanisms in the relevant ministries. These mechanisms are inaccessible to many PWD, particularly those living in closed facilities such as psychiatric hospitals and institutions, since representatives of the supervisory bodies do not visit the facilities or initiate meetings with persons living or hospitalized in them. In addition, these mechanisms lack knowledge and expertise in matters relating to the human rights of PWD, nor do they have the required capabilities to collect and investigate complaints by PWD. In fact, the 2018-2019 reports of the Public Complaints Commissioner do not mention processing a single complaint regarding inappropriate conduct in institutions for PWD (and may have

received none). The vast majority of the complaints handled by the Public Complaints Commissioner concerning PWD relate to accessibility and tax relief. In addition, the fact that the relevant ministries wear multiple hats deters PWD and their relatives from approaching supervisors in the relevant ministries since they are also responsible for the actual provision of the service to the persons in the different facilities.

- e. ***The Commission for Equal Rights of Persons with Disabilities has no enforcement or punitive powers:*** While the Commission for Equal Rights of Persons with Disabilities, mentioned in the SPR (paragraph 173) as one of the bodies that initiates inspections in facilities providing services to PWD, does have the required knowledge and expertise, it is not an independent body and has no powers to investigate complaints or enforce measures. In fact, the Commission has no statutory status empowering it to take action when it finds complaints are justified or uncovers deficiencies during its inspections. For further information, see our comments on Article 33.

Questions to the State of Israel

How does the State Party plan to ensure an **external and independent** complaint mechanism ('ombudsman') by granting the required powers to the Commission for Equal Rights of Persons with Disabilities – free of the inherent tension arising from the reciprocal relationship between the Ministry of Social Affairs and Ministry of Health and the bodies providing the services; possessing the expertise required for protecting the rights of PWD; taking proactive steps to enter residential facilities for PWD and psychiatric hospitals; acting as a resource to which residents of such facilities and their relatives may turn and possessing the required powers to investigate complaints and enforce measures when the complaints are found to have merit? Please provide the timetable for the establishment of such a mechanism and please describe the resources the State Party intends to invest for this purpose.

Article 19

Living independently and being included in the community

The right to live independently and be included in the community is not recognized and has not been fully incorporated into the law: The right to live independently in the community, including personal assistance and support is not entrenched in Israeli law. The purpose of the Equal Rights for Persons with Disabilities Law is to

entrench the right of PWD to participate equally and actively in all aspects of life, as stated in the SPR (paragraph 189). However, other than this general declaration, the **Living in the Community and Personal Assistance Services Chapter**, which is designed to codify these rights within the Equal Rights for Persons with Disabilities Law, **has not been enacted to this day** due to government objection. There is no other law in Israel expressly entrenching the right to live independently in the community and have access to services supporting independent living in the community.

Currently, services to PWD are regulated in a patchwork of laws, referring to each disability separately, and failing to fully comply with the provisions of the Convention as they relate to the right to live independently in the community: Persons with intellectual disabilities (paragraph 191 of the SPR) – the Welfare Law (Treatment for Persons with Intellectual-Developmental Disabilities) does prioritize 'living in the community', but residential services provided under this law are protected living arrangements, which as specified below, are not services that support full independent living and inclusion in the community as stated in the Convention (see details below). In addition to this, most persons with intellectual disabilities receiving residential services live in institutions or facilities with institutional characteristics, since the person is not at liberty to choose the type of living arrangement (institutional arrangement or a residential living arrangement in the community) and the decision is made by a committee. For instance, persons with intellectual disabilities who need nursing care are referred by the committee solely to institutions, since the state does not allocate sufficient resources enabling them to live in the community, contrary to the judgments of the High Court of Justice. Persons with psychosocial disabilities (paragraph 191 of the SPR) – the Rehabilitation of Persons with Mental Disabilities in the Community Law does not recognize the right of every person to live in the community, but rather emphasizes the right to rehabilitation. In addition, the basket of services provided by this law is limited, precluding persons with complex needs from living in the community and includes institutional living arrangements. With respect to other populations which, in fact, make up the majority of PWD: persons with physical or sensory disabilities, persons with communication disabilities and autism, and persons with cognitive impairments or learning disabilities – there is no codification of their right to receive personal assistance services to support living in the community.

Persons excluded from living in the community: Separate and unequal policies are applied based on type of disability and level of functioning. Certain persons are excluded (procedurally and de facto) a-priori and on a collective basis from living in the community: persons defined in the SPR as 'persons with dual and complex disabilities' (191) – who "are not able to live independently within the community since their medical situation requires full care"; persons with "dual disability" (for instance persons with both an intellectual and a psychosocial disability), who only have access to what the SPR refers to as the "rehabilitative-ecological model", which is, in fact, living in large institutional facilities with dozens of others; persons with intellectual disabilities with 'challenging behavior' or medical needs; persons with 'low functioning autism' and more. In fact, these persons have no opportunity to live in the community.

Living in the community is defined in a manner inconsistent with the Convention: In terms of services supporting independent living arrangements – the few

services which are provided to persons in their homes do not enable, in many cases, full personal autonomy. Moreover, access to these services requires 'designing and complying with a personal rehabilitation plan' and the like, meaning services do not, in fact, satisfy the provisions of the Convention.

In terms of protected living arrangements – the State of Israel defines as 'institutions' only arrangements with more than 24 residents. 'Hostels', communal homes and 'apartments in the community' accommodating, in most cases, 24, 12 or 6 individuals (in double occupancy rooms in most cases), which are defined by the state as 'community residential arrangements' are located in residential neighborhoods, but do not fully meet the definition of independent living in the community according to the Convention.

Therefore, the statistics enclosed with the SPR are misleading (paragraph 11, annex no. 1) as they make it impossible to distinguish between 'community living' as defined by the UN Committee and institutions.

Persons with disabilities are not given the opportunity to choose their living arrangements: In Israel, a person with disabilities has minimal influence over the decision where and with whom they reside. In addition, in the absence of a personal assistance program (for instance a personal budget), the services rendered are not person-oriented, and the person has almost no opportunity to choose an independent living arrangement in the community other than a community-based protected apartment. They must either fend for themselves, get assistance from family members or move to a living arrangement, if found eligible. Persons who are eligible and plan to move into living arrangements either willingly or for lack of choice as otherwise they would not receive the required assistance, are rarely able to choose the type of living arrangement or with whom they live. The state refers them to facilities, according to criteria it has put in place which take into account the type of disability, level of functioning and, in the vast majority of cases, available spots. For both PWD and senior citizens, institutional solutions and protected living arrangements in the community are fully funded by the state. On the other hand, independent living in the community is only partially funded by the state through insufficient benefits (see comments on Article 28). In practice, this means that certain people are forced to live in arrangements with institutional features in the community, or in large institutional, segregated arrangements, as no adequate services in the community have been developed for them. Moreover, while the State of Israel allocates particularly high amounts, up to \$6,300 per month, to fund living arrangements in institutions, it allocates much lower amounts to persons with similar needs who live independently and do not receive residential support services.

Limited autonomy in protected living arrangements: The vast majority of living arrangements, whether institutional or within the community do not give the person a real opportunity to make decisions, and dictate a very rigorous daily routine in the absence of a personal assistance program and budget. The support that is provided is not based on the person's wishes: services are group-based and are provided according to institutional needs. Most living arrangements do not enable residents to make real choices and residents' have little influence over their daily routine. So, for instance, persons residing in an out-of-home living arrangement are required to integrate into an employment framework in the vast majority of cases; they are required to adapt themselves to the arrangement's daily routine; or

they are required to prepare and maintain a 'rehabilitation plan'. In certain cases they are required to ask for permission to leave the facility or entertain friends within it. In many cases, persons cannot choose with whom they live and they often have to share a room with a person whom they did not choose as a companion for life. They are deprived of the right to be part of a couple like any other person, or to exercise the right to intimate relations.

Out-of-home living arrangements (SPR, paragraph 191) – most persons living in residential arrangements, live in institutions or in facilities with institutional features:

Tens of thousands of PWD live in residential arrangements under the responsibility of the Ministries of Health and Social Affairs, mostly in institutional arrangements (including as defined by the State Party). The vast majority of persons with intellectual disabilities receiving residential services (paragraph 191, SPR) live in large (65%) or small (23%) institutional facilities and only a small number live in apartments in the community (12%).²⁸ Persons with physical disabilities (paragraph 191, SPR): 30% live in large institutional facilities, 44% in small institutional facilities and only 26% in apartments in the community. Persons with a communication disability and autism (paragraph 191, SPR): 12% in large institutional facilities, 76% in small institutional facilities and only 12% in apartments in the community. Conversely, the vast majority of persons with psychosocial disabilities live in the community (75%), but it is difficult to distinguish between those receiving assistance supporting independent living and those living in placements physically located in the community but inconsistent with the provisions of the Convention. A small number of these persons live in small institutional facilities (18%) or in institutional facilities and psychiatric hospitals (7%), including 1,200 persons who have lived in psychiatric hospitals for years in the absence of adequate solutions in the community.²⁹

As mentioned above, in general, in the absence of a personal assistance program and a personal budget, residential services are not based on a person-oriented concept, whereby the support plan is built around the person's wishes. In the absence of a personal assistance program and a personal budget, the services are, in most cases, group-based and provided according to institutional needs.

Unavailability and inaccessibility of services in the community: As indicated with respect to our comments on Article 9, the State of Israel has not completed the enactment of the accessibility regulations in a host of areas and has certainly failed to complete their implementation. Consequently, PWD who choose to live independently in the community have difficulty using services, since many are not accessible to persons with physical or sensory disabilities and the vast majority are entirely inaccessible to persons with autism, intellectual or psychosocial disabilities.

Insufficient rental subsidies and limited public housing: The eligibility criteria for public housing in Israel are very limited and provide housing assistance only to persons with

²⁸ In the absence of accurate data, the division in this report was made according to the following categories: apartments in the community – residential arrangements housing up to six residents; small institutions – residential arrangements housing 7-24 residents; and large institutions – residential arrangements housing more than 24 residents.

²⁹ Hospitalization arrangements in public psychiatric hospitals, the State Comptroller, Annual Report, 68G, 2018 (in Hebrew).

physical disabilities meeting specific criteria. All others are excluded from such assistance. While they are entitled to rent subsidies, the funds provided do not cover even the lowest rent. Consequently, most have to live in institutions or 'hostels', even if they wish to live independently in the community and do not need assistance from the state in other areas.

Severe and prolonged human rights violations in institutions: In addition to the restrictions enumerated above, human rights violations in many institutions include segregation and violation of the rights to privacy, autonomy, free choice, full inclusion in society, freedom of movement, intimate relations and more. In some cases, contact with the outside world is limited by confiscation of cellular phones and laptop computers, lack of transparency, prohibition on access to the facility by family so they may check on the living conditions of their loved ones, locked kitchens, broken and run down equipment, shortage of personal items and clothing and places to store them, shortage of recreational items and general neglect of PWD and senior citizens in institutions. In addition to these, in extreme cases, psychiatric drugs are often unnecessarily administered and freedom of movement is severely limited, including by restraining patients to a chair or bed or locking them up in a closed courtyard or a secluded room. In isolated cases, patients have been locked up for years without access to items necessary for maintaining basic hygiene (including managing bodily waste).³⁰

No plan to close institutions and move residents to the community: The State of Israel has no strategic plan to transfer persons from institutions to the community, to stop referrals to institutions and to drastically reduce and finally close institutions according to the state's undertaking pursuant to the Convention, while ensuring access to the right to live independently in the community with financial support. While the Ministry of Social Affairs has initiated a project which contains elements of de-institutionalization – "The 900 Project", mentioned in Annex no. 1 to the SPR (paragraph 11A), this is a limited scope project, designed only for persons with intellectual disabilities, which ultimately creates a 'revolving door' situation. Several hundred high functioning residents did move to apartments, but in the vast majority of cases the apartments are managed by the operator of the institution they left. The apartments are located near the institution and the residents continue to receive services (employment, recreation, meals) in the institution itself. The vacancies in the institutions are quickly filled by new residents. In this way, institution operators manage to increase the number of residents, and the institutions are not reduced. Without a "personal budget" and personal assistance in the community, residents are unable to exit institutions, move to independent living in the community and fully disengage from the institutions. The plan is well intentioned, but it should be significantly expanded and steps must be taken to ensure that persons who leave institutions live independently in the spirit of the Convention.

No national plan for independent living in the community: There is currently no national program aimed at promoting the right to independent living in the community for PWD and providing the required assistance and support. The "supported housing" project (paragraph 191 in the SPR), presented by the Ministry of Social Affairs as the main program aimed at providing solutions to PWD wishing to live independently in the community,³¹ was

³⁰ For instance: Transcripts of State Control Committee Session held Tuesday, December 25, 2018, following the State Comptroller Report No. 65C.

³¹ ['Independent Living for Persons with Disabilities'](#), Ministry of Social Services, website (Hebrew).

designed for persons who manage their own affairs and are capable of paying for their own accommodations and living expenses. The program mainly assists persons in their dealings with employment and recreational services and in realization of remedies, but does not provide daily accompaniment, assist in performing daily tasks at home, provide support in stressful situations (other than medical emergencies) or provide financial support for housing and living expenses. Welfare offices permit participation in the program only if participants are not in need of protection, are willing and able to cooperate in building and implementing a personal program, and are willing and able to work if no other resources are available to finance independent living (which most persons or their families do not have). At the same time, the state invests much greater resources in funding institutional living and working arrangements for PWD. Welfare offices are also authorized to terminate a person's participation in the program based on the above requirements. Practice indicates welfare offices tend to limit the number of participants in the program and give preference to institutional services. This is evidenced in the fact that although the program has been in a pilot phase for seven years (!), it currently provides services to only 300 persons.

The vast majority of persons do not receive residential support services: The vast majority of PWD³² live at home with family members or independently. Government support is provided mostly through national insurance benefits and other forms of financial assistance, which is insufficient for leading an independent life. In the absence of support services and personal assistance programs and budgets, a great many persons are virtually unable to use community resources. In a survey conducted in 2015, 98% of respondents reported spending most of their time at home with nothing meaningful to do, and 82% reported they had not left their home for any recreational activity in the month preceding the interview.³³ Persons with disabilities and their families must choose between living in institutions and independent living arrangements without sufficient support. Either way, in institutions as well as in the community, persons face loneliness. Loneliness in the community is also the result of discrimination and exclusion of PWD in public space. Persons with disabilities do not receive sufficient supports enabling them to connect with either the community or peer groups.

Older adults with disabilities: Like other PWD, public support provided to older adults who have disabilities and live at home is lacking. For this reason, older adults with disabilities who cannot afford the necessary additional support systems are forced to move to institutions against their will. In addition, older adults with psychosocial disabilities are placed in long term psychiatric facilities only because retirement homes refuse to admit them and no solutions are available for them in the community. The human rights of PWD in geriatric institutions are severely violated and state regulation does not promote human rights in said institutions. Cases of abuse in retirement homes have been discovered over the years, and not enough has been done to ensure proper training for personnel in these institutions, suitable standards or effective monitoring. Senior citizens with disabilities are referred to institutions, even if it is against their will and even if they had spent their entire life in the community, due

³² Only 16% of persons with disabilities registered with Welfare Offices receive housing services from the Ministry of Social Affairs and approximately 25% of persons with psychosocial disabilities entitled to community-based rehabilitation services from the Ministry of Health receive housing.

³³ Yoav Loeff and Dori Rivkin, [Persons with intellectual and developmental disabilities outside Ministry of Social Affairs facilities: Haifa and Northern District Survey](#) (Hebrew), 2015, Myers-JDC-Brookdale Disabilities Research Center.

to funding that only allows for institutional placement as opposed to personal services in the community according to the person's will.

Persons with disabilities in Arab society: The Arab population in Israel accounts for roughly 21% of the overall population. The percentage of PWD in Arab society, is high compared to Jewish society³⁴ The number of individuals receiving out-of-home residential services in Jewish society is five times that of similar individuals in Arab society. The gap is particularly large (x 27) in the case of out-of-home residential services in the community ('apartments in the community'). Accordingly, in Arab communities, the proportion of service recipients living in large or small institutional facilities is higher, compared to Jewish and mixed communities. In addition, 'apartments in the community' are in short supply in Arab communities, and completely unavailable with respect to certain disabilities. The reasons for these gaps stem partly from failure to culturally adapt existing services to Arab society and from the absence of personal assistance programs in the community. Consequently, many PWD are left without any solution.

Questions to the State of Israel

- Please clarify when and how the State of Israel plans to recognize the statutory right of every person with disabilities, regardless of the scope of their needs, level of functioning or type of disability, to live independently in the community, while receiving appropriate support services, including persons who need intensive support, as required under the Convention.
- Please clarify what services the State of Israel plans to develop in order to enable every person with disabilities, regardless of the scope of their needs, level of functioning or type of disability, to live independently in the community and fully participate in the community in a meaningful way, with support services, including personal assistance and a personal budget, adapted to the person's needs and wishes while maintaining their full autonomy. Please provide a timetable for the development and delivery of these services.
- Please state what national de-institutionalization plan Israel has in place, including drastically reducing the number of institutions in Israel until they are eliminated; refraining from opening new institutions and developing services to facilitate independent living in the community for persons currently living in institutions, including persons who require full care, while allocating the required resources as is mandated by the Convention. What is the timetable for the implementation of this plan and what resources are allocated for this purpose by the State Party, while ensuring the quality of life of persons living in institutions until they are closed? How does the State Party plan to ensure that institutions found to severely violate human rights are immediately closed and no further resources are made available to them for rehabilitation purposes, while providing appropriate arrangements in the community consistent with the needs of the persons residing in them? How does the State Party

³⁴ Figures this section refer to persons aged 20 to 64.

plan to provide proper physical, emotional, social and other supports to persons who resided in these institutions once they join the community?

- Please clarify how the State of Israel defines 'living in the community' compared to 'institutionalization'. In your opinion, do these definitions meet the requirements of the Convention, and if not, when and how do you plan to conform these definitions to the requirements of the Convention?
- How does the State of Israel plan to ensure that the resources made available to persons who need and wish to receive support enabling them to exercise the right to live independently in the community, receive not less than the funding that would have been allocated to them had they been 'placed' in an institution?
- Does the State of Israel plan to develop solutions for coping with the social isolation of PWD and their experience of loneliness, how and when?

Article 22

Respect for privacy

Violation of the right to privacy of medical information: As specified in the SPR (paragraphs 216-217), existing Israeli legislation recognizes the sensitivity of medical information and the importance of protecting its confidentiality, and it entrenches the right to privacy in connection with such information. Nevertheless, it does not expressly limit the ability of third parties to force people to waive medical confidentiality and ostensibly consent to disclose their medical information. Such disclosure is commonplace. Personal medical information is often requested during a hiring process or when a service is provided. In many cases, the service will not be rendered, or the job offer will not be extended without this disclosure, making it, in fact, a requirement. In other words, people do not provide medical information of their own free will, but are rather forced to do so. Where PWD are concerned, the medical information includes information about their disability. Sometimes, particularly when the disability is invisible, the disclosure exposes the fact that the person in question is a person with disabilities – as mentioned, against their will. Moreover, in many of these situations, there is a power gap between the party requiring the information and the party required to disclose it, which discourages people from insisting on their rights, including through legal action, even when these rights are entrenched in legislation. The disclosure of this personal information results in a severe violation of the right to privacy and exposes PWD, mainly persons with invisible ones, such as psychosocial or intellectual disabilities or autism, to situations of discrimination.

Questions to the State of Israel

- How does the State Party plan to guarantee, including through legislation, the privacy rights of persons with disabilities as it relates to their personal medical information?
- How does the State Party plan to clearly limit the ability to demand disclosure of personal medical information, including in hiring and academic admission processes and as a condition for service provisions, and allow it only in cases where such disclosure is necessary and to the minimum extent possible, and how does the State Party plan to prevent overt and covert discrimination as a result of the disclosure?

Article 23

Respect for Home and the Family

Lack of policy conforming to the spirit of the convention: Generally, at present, there is no regulated policy or explicit reference with relation to promoting the rights of PWD in matters relating to family and parenthood, on an equal basis with others, or the assistance they need. Lack of policy with respect to these matters is usually translated into discrimination against PWD (particularly intellectual and psychosocial disabilities) in matters relating to family and parenthood on various plains:

Legislative discrimination: According to the SPR, Israel has no legislation preventing PWD from getting married, establishing a family, becoming parents and forming relationships. In practice, however, laws and regulations governing matters relating to disability, and laws and regulations governing matters relating to parenthood are indicative of a restrictive, negative legislative approach manifested in three principal ways: (1) Negative view, explicit or implicit, of parents with disabilities that sees disability and parenthood as contradictory (particularly laws and regulations affecting reproductive rights or adoption); (2) Disregard for the principles of equal rights for PWD; (3) Lack of specific reference to the assistance that parents with disabilities need – an ostensibly "neutral" policy which, in fact, harms parents and potential parents with disabilities due to lack of accessibility and accommodations.³⁵

Data: Israel lacks data regarding the qualitative and quantitative aspects of family and parenthood of PWD, which would provide the basis for assistance and accommodations.

Marriage restrictions: The State of Israel entered a reservation to Article 23(1)(a), and marriage in Israel is theoretically possible under the religious personal status laws of the

³⁵ Roni Rothler, **Parenting Rights for Persons with Mental and Intellectual Disabilities: An Alternative Conception of 'Parenthood' as a Means to Promote Disability Rights** (Master's Thesis, Law Faculty, Bar-Ilan University), 2019, (Hebrew).

persons entering the marriage. However, in practice, based on cases brought to our attention, guardians and guardianship corporations occasionally oppose marriages by PWD (particularly intellectual disabilities).

Intimate relationships and parenthood of persons living in out-of-home living arrangements: Some housing schemes are amenable to intimate relationships (to varying intimacy levels). Usually, however, due to guidelines issued by different government ministries, access to parenthood is limited, and the persons using these services are forced to choose between parenthood and continued use of the service. In addition, information from the field indicates that contraceptives are regularly administered in these housing schemes. Whether and to what extent there is informed consent to receive contraceptives is unknown.

Lack of assistance for parents living in the community: The SPR makes a general note of the availability of supportive programs in matters relating to marriage, relationships and parenthood, but fails to state how many parents have made use of them and how effective they are. The report also notes that "regular" parenthood programs are available to PWD. However, these programs' availability to PWD without accommodations for different disabilities does not equate to promoting equal rights for PWD. In general, the report makes no substantive reference to the State Party's duty to provide appropriate assistance to PWD in the performance of their child-rearing responsibilities. In fact, excluding regional pilots and NGOs projects providing solutions to a limited number of families, the state does not provide specific assistance to parents with disabilities and no accommodation and appropriate training is available. Universal programs aimed at assisting parents are not accommodated and made accessible to parents with disabilities, and care workers on behalf of the Ministry of Health and Ministry of Social Services who should assist parents with disabilities to care for their children are not properly trained in matters relating to disabilities. Parents with disabilities are reluctant to seek assistance from the authorities for fear their children would be removed from their home. Family courts have taken note of this flaw in the welfare system and called for separation between the agencies that assist parents and those that assist the family as a whole.³⁶ In addition to these, in the Ultra-Orthodox community there are also barriers that stem from the lack of accessibility of services touching commandments relating to family life, such as guidance on sexuality within Jewish law and ritual baths that prevent women from realizing family life.

Separating children from their parents: To a large extent, due to lack of assistance and accommodations, many parents with disabilities (particularly intellectual and psychosocial disabilities, as well as autism) find themselves involved in legal proceedings aimed at removing their children from the home.³⁷ Although in

³⁶ (Adoption (Family Tel Aviv) 42099-01-15 **Attorney General v. The Mother** (reported in Nevo, January 4, 2016).

³⁷ According to a study conducted in Israel, 83% of the children placed in foster care have at least one parent with disabilities: Rachel Szabo-Lael, Brachi Ben Simon, Viacheslav Konstantinov, **"Preschoolers in Foster Families: Characteristics and Processes of Intervention"**, Myers-JDC-Brookdale and Ministry of Social Affairs, 2014 (Hebrew). These are children whose parents (both or one) have a disability defined in the report as "chronic illness or diagnosed disability, diagnosed psychosocial illness or disorder, diagnosed intellectual disability, undiagnosed disorder" (page 7, 28). In this group of children, the reasons for removal from the home were as follows (separately or in the cumulative): 84% of the parents did not provide proper care to the children; 78% of the parents did not attend to the child's emotional needs and did not set boundaries for them; 71% of the parents did not

the vast majority of cases the parents are entitled to legal representation on behalf of the state in such proceedings, no accommodations are made to suit their needs, including lack of familiarity by the courts with Article 23 and the right of parents with disabilities to receive assistance pursuant to it and lack of awareness that parental capacity assessment tests are ill adapted for PWD. Contrary to the statements made in the SPR, and according to reports from Legal Aid lawyers who represent parents, many of the parents whose children are taken for adoption or foster care are considered persons with intellectual or psychosocial disabilities. The welfare authorities, which should provide parents with the required assistance to enable them to raise their children, fail to do so in a manner specifically accommodated to the needs of PWD, as a result of which a relatively high percentage of children are removed from their homes.

Childbirth and access to reproductive technologies: The SPR does not refer to the rights of PWD to access information about fertility and family planning, or the necessary means provided to enable them to exercise this right. Women with disabilities report physical inaccessibility of women's health clinics as well as service inaccessibility. In addition, persons with physical disabilities are particularly in need of reproductive technologies, enabling pregnancy and parenthood. However, currently they are not provided with special accommodations.

Adoption and foster care: The report does not refer to the right of PWD to adopt or serve as a foster family. In practice, PWD encounter great difficulty adopting children since according to the procedures under the Child Adoption Law, 1981, parents are required to prove mental and physical health as a condition for adoption.³⁸ In addition, the provisions of the Foster Care Law, 2016, discriminate against persons with intellectual and psychosocial disabilities as foster parents.³⁹ Additionally, the Foster Care Law precludes parents with disabilities from living with their children in a foster family ("parent-child fostering") for an extended period of time, in a manner that infringes on rights of parents who need this accommodation.⁴⁰

attend to the child's medical needs; 65% of the parents did not provide for the child's physical needs; 39% of the parents did not cooperate with service providers. Eighty-nine percent of the parents had at least one of the issues listed above and 75% had at least three. No clear difference was found in the prevalence of these issues among parents with disabilities compared to other parents.

³⁸ According to "Application for Adoption Order" form, see [Ministry of Social Affairs website](#); see ["Questionnaire for Adoption Candidates"](#) (Hebrew) on the Ministry of Social Affairs website; Appeal No. 25/17 (before the appellate committee according to section 36A of the Child Adoption Law, 1981 and according to the Administrative Courts Law, 1992, Beersheba Family Court). **A. et al., v. Social Worker under the Adoption Law – Child Service** (reported in Nevo, July 11, 2018).

³⁹ Section 24(a) of the law refers explicitly to persons with mental and intellectual disabilities, establishing features relating to said disabilities: Section 24(a)(3) provides that the person "is able to read and write and has completed at least ten years of schooling" (although according to Section 25(a), in circumstances relating to the benefit of a specific child, such a person may receive a "special" foster license); Section 24(a)(4) provides that "the person in question, or any person residing with them, does not have a mental disability, or any limitation or illness which may impair his ability to act as a foster parent or harm the child in any way"; while according Section 24(a)(9) candidates will not qualify to become foster parents if they have a guardian.

⁴⁰ Section 2 of the law.

Children with disabilities and family support: No measures are taken to provide comprehensive information, in multiple languages, accessible to the families of PWD with respect to the rights and services they are entitled to receive. Family Rights Centers are sparse, with none in some parts of the country. Families that have children with disabilities have no formal status that recognizes the great deal of resources required to raise a child with disabilities, and the need to allow family members to participate in decisions on matters relating to them and their children.

Currently, government funding for a child living in an institutionalized care facility is higher than the amount made available to parents who choose to raise their child on their own (through national insurance benefits, special education or inclusion and medical and para-medical treatments).⁴¹

Measures taken to promote accommodations and assistance for parents with disabilities: All the above notwithstanding, credit should be given to the work done by the Commission for Equal Rights of Persons with Disabilities to bring together relevant ministries (mainly the Ministry of Social Services, Ministry of Health and Ministry of Justice) to practically advance this issue, in part by promoting the collaboration required for this purpose between the different ministries.

Questions to the State of Israel

- What is the scope of the governmental programs aimed at assisting and accommodating parenthood of persons with different disabilities?
- How does the State of Israel plan to secure the right of PWD to parenthood including the right to receive all necessary support and assistance in that regard, including timelines?
- What is the State Party doing to make judicial and pre-judicial proceedings (support planning committees within the welfare system, youth courts, family courts) accessible to parents with disabilities, both in terms of the legal issues and in terms of care and social supports?
- What is the State Party doing to make education, health and child development systems accessible to children whose parents are PWD?

⁴¹ Accordingly, for instance, funding for a child in a full time care facility averaged between 7,700 and 8,400 ILS per month in 2017 (depending on whether the facility was a public or private), while the maximum benefit a child who has disabilities amounts to approx. ILS 2,600 per month (Ilanit Bar "[Out-of-Home Welfare Facilities for Children and Youth - Budgeting and Pricing](#)" (Hebrew) (Research and Information Center, Israel Knesset, 2017) and National Insurance Institute website.

Article 24

Education

The education system is not inclusive (Article 24(1)):

The education system in Israel is not inclusive. At most, it is integrative, still leaving much to be desired.

- ***The system does not accommodate children with disabilities:*** The education system is not sufficiently accommodated to meet the needs of students with disabilities, and they are expected to adapt themselves to the system. If they are unsuccessful, they are referred to a separate system. To name but a few examples - the learning environment, course materials and teaching methods are not accommodated for the needs of many students with disabilities; the number of students in most classes in the general education system exceeds 35; classes are taught in a frontal format; course content is achievement oriented, mainly science.
- ***Separate legislation:*** Israel has a general law enshrining the state's duty to provide education services to all students (Compulsory Education Law, 1949), but the law makes no specific reference to the rights of students with disabilities. Specific provisions under the Special Education Law, address students with disabilities, referring to their "integration," both in the language it uses and in its provisions. Integration under this law is extremely limited.
- ***Labeling students with disabilities as different:*** Students with disabilities are labeled "special education students" – in the law and referred to as such by the entire education system. This creates a segregative approach that distinguishes between "normal" students and "special education" students.
- ***Separate teacher training tracks:*** There are separate teacher training tracks for "regular" students and for "special education students". This means teachers in "regular" schools lack knowledge about disabilities and certainly about the accommodations they require. Moreover, no reference is made in either track to universal education and the creation of an inclusive environment that enables students with disabilities to participate in all educational activities. In other words, teachers, in both tracks, have no structured knowledge on how to implement participation and inclusion.
- ***Insufficient accommodations for students with disabilities:*** In the absence of an accommodated, inclusive system, many students need supports meant to make educational services accessible to them. However, in most cases, the supports provided fail to facilitate the integration of students, let alone their inclusion.

So, for instance, learning, physical or social mediation support services are provided by individuals the sole requirement of whom is to have a high school education. They do not receive any training before or during the job, work for very few hours – due to the number of support hours approved for students – and receive minimum wage for their work. In these circumstances, most integration facilitators are not professionally trained individuals who can help integrated students requiring assistance achieve reasonable integration, let alone optimal inclusion. In addition, para-medical treatments are scarcely provided in the general education system to students with disabilities requiring them and similarly almost no pedagogical accommodations are provided.

Separate education system: Approximately 43% of all students with disabilities entitled to special education services in Israel receive them in a segregated system, which usually tracks them into segregated arrangements/systems later in life (tables 6, 9 and 10 of Annex no. 1 to the SPR). These are supra-regional systems (mostly categorized according to the type of disability) that remove the students attending them from their natural environment and the communities in which they live (Article 24(2)(b)). In addition, they do not provide age appropriate education and do not equip their graduates with knowledge and tools enabling them to enter the job market and academia, continuing their marginalization.

Segregated education system through tracking: Current figures in our possession are not materially different from the figures presented in the State Party's 2017 report, and indicate that a high percentage of students with disabilities, recognized as being entitled to supports, learn in separate systems – only about 58% of them are integrated into the general education system and all others are tracked to separate education facilities (19%) or separate classes within the general education system (23%). Approximately 20% of students with disabilities are defined as 'students with complex disabilities' (autism, cerebral palsy, intellectual developmental disability, sensory disabilities, etc.) entitling them to enhanced support. Only about one third of these students are integrated in the general education system, while the rest learn in separate education facilities because they are the only places offering solutions that allow them to stay in school. There is a substantial gap in the supports given to students with disabilities in the “regular” education system and those attending segregated educational facilities in Israel. While segregated education facilities provide a wide range of programs students with disabilities need, including an overall care and support system which includes, inter alia, a long school day, a long school year, reinforced teams with special education training, small classes and food programs, none of these are provided in the general education system. As a result, students are tracked into the segregated education system. As specified below, this gap has been aggravated recently following the amendment to the law. The gap between the services denies parents any real choice, especially parents who cannot afford to bridge the gap by paying out of pocket for additional care and support. This also creates inequality on the basis of financial ability between students from different socio-economic groups.

Violation of the right to education on an equal basis (Article 24(2)(b):

Recently, following the amendment to the Special Education Law, not only has integration failed to improve, but it has deteriorated.⁴² The amendment to the law completely transformed the format addressed in the SPR. The official objectives of the new law notwithstanding, it entrenches existing discrimination in services provided for integration compared to the segregated system, and even creates a new track disguised as "integration," in which no supports whatsoever, even the most basic, are provided to facilitate integration, let alone inclusion. According to the new law, the support package provided to the parents of a student attending an "regular class" is determined by generic profiles consisting of disability type and level of functioning.⁴³ In practice, the level of support indicated for many students fails to satisfy their needs and does not facilitate their integration in the 'regular' education system. In some cases, students are not found eligible for any sort of support, including students with 'borderline intelligence', psychosocial difficulties, emotional problems, etc. The amendment to the law makes no changes to segregated facilities, maintaining and legally validating the gaps between the services provided in each system.

Moreover, the committee that determines support eligibility also has the power to rule out the type of arrangement selected by the parent if the student may harm themselves or others.⁴⁴ Beyond the problems created by the law, its implementation on the ground has caused numerous issues that have essentially contributed to reducing the number of individuals eligible for support and the level of support for integration.

Reasonable accommodation of the individual's requirements – right to accessibility - is not provided (Article 24(2)(c) and (d)): According to the law, educational institutions are not required to provide full accessibility but minimal accessibility only – an elevator shaft and accessible washrooms. Full accessibility has to be provided only if a student with disabilities enrolls in the educational facility and even then, only for the specific needs of the particular student (paragraph 233, SPR). Under the regulations, individual accessibility arrangements do cover a variety of accommodations to suit the student's needs. However, in practice – due to the required procedure – the accommodations are not made/purchased in a timely manner. In many cases, months and even years pass before they are completed, and in the meantime, the student must pay the price – either by being excluded from classes that take place in inaccessible areas or school events or being excluded from learning in the absence of an acoustic classroom, communication board, tablet or laptop. Moreover, despite the provisions of the law, most schools have not met the minimum accessibility requirements (figures show that only one third of all schools meet basic accessibility requirements). There is no enforcement or sanctions to promote accessibility.

Education in the Ultra-Orthodox Community: The Ultra-Orthodox community constitute 14% of the citizens of Israel. The public education system funds accessibility

⁴² Taken from [Rashumot, Book of laws 2734, Special Education Law \(Amendment No. 11\), 2018](#) (Hebrew).

⁴³ First Addendum to the Special Education Law.

⁴⁴ Section 7(b)(4)(a) of the law.

and integration for children who are entitled to them as described in this report. The Ultra-Orthodox community prefers to run a private education system in institutions under private ownership and for this reason, legislation governing education and accessibility does not fully apply to these facilities.

Promoting alternative script, alternative communication and alternative language (Article 24(3)): Sign language and Braille are not recognized languages and students with sensory disabilities are encouraged to adapt themselves to the spoken or written language – respectively. In addition to this, the education system is not promoting, in any systematic way, recognition of Sign Language or linguistic identity of deaf people, and many ‘special education’ teachers do not learn Sign Language.

Questions to the State of Israel

- How does the State of Israel plan to make the education system inclusive, as mandated by the Convention, including providing training to all educational staff in Israel to equip them with the knowledge and tools to teach, educate and address the learning, social and emotional needs of a wide variety of students? The response should include a detailed description of the resources the State Party intends to allocate for this purpose and a timetable.
- How does the State of Israel plan to ensure each student receives the accommodations they need? The response should include a detailed description of the resources the State Party intends to allocate for this purpose. How does the State Party intend to amend the law such that student support eligibility is not categorized by disability and is not subject to rigid budgeting?
- What efforts does the State Party plan to make so that all schools are accessible to all students? The response should include a detailed description of the timetable and resources that the State Party intends to allocate for this purpose.

Article 25

Health

Gaps in consumption of medical services: Persons with disabilities in Israel are not as healthy as persons without disabilities.⁴⁵ They consume more health services, such as

⁴⁵ Babai, P., Gruber L., Nahari, S., and Klachenko, K. **Milestone Program – Accessible health Zone for the purpose of promoting health and safety among persons with disabilities: summary report, 2015.**

physician appointments, hospital care, surgery and medication. At the same time, they are more likely to forgo some health care services, such as dental care and medications, due to cost,⁴⁶ and many of them are unsure they would be able to pay for treatment if they developed a serious illness.⁴⁷ In addition, despite accelerated aging among PWD, the State Party offers no response or funding for age-related care.⁴⁸

Inaccessibility of healthcare services: The service accessibility regulations for medical facilities have not yet been enacted.⁴⁹ Consequently, certain health care services are not accessible to PWD, for instance, dental clinic equipment. There is also a shortage of accessible beds in emergency rooms and no space for an accompanying person next to hospital beds. Medication package inserts are inaccessible to persons with visual impairments and persons with intellectual disabilities. Persons who rely on wheelchairs for mobility cannot bring them when they are taken to hospital by ambulance. There is a shortage of electronic screens for persons waiting in line for treatment, a shortage of transcription services or translation into sign language, and failure by medical personnel to use transparent masks is a barrier to individuals who rely on lip reading, which was felt particularly acutely during COVID-19, and more. In addition, PWD face difficulties navigating the bureaucracy associated with accessing medical services, as well as finding out what their health-care related rights are and insisting they are upheld. This inaccessibility is harmful to the health of PWD,⁵⁰ particularly those with invisible disabilities.⁵¹

Shortage of para-medical treatments for persons with disabilities: Eligibility for treatments related to child development, as enshrined in Israeli law, is determined according to the type of disability rather than need. Children with certain disabilities are entitled to treatments until age 18, while others are entitled to treatments only until age 9.⁵² Moreover, PWD aged 18 and up are entitled to the same para-medical treatments (physiotherapy, occupational therapy) as persons without disabilities, although their need for treatment remains the same as they turn into adults and even increases as they age.

Rehabilitative medical equipment is not adapted to needs (SPR, paragraph 267): The Ministry of Health, which is responsible for funding rehabilitation devices, tends to fund devices at the lowest cost possible. Consequently, persons do not always receive the optimal devices for their needs, and in other cases they have to pay for essential devices out of pocket. It is important to note that in most cases payment for the device is collected in

⁴⁶ Admon-Rik, G. and Gordon, A., **Persons with Disabilities in Israel, 2019: Selected Statistical Data**, 2020.

⁴⁷ Barlev, L., Ya'ari I., and Barmeli-Grinberg, S., **Use of Health Care Services and Satisfaction among Persons with Disabilities** 2018.

⁴⁸ Yakovitz, A., **Aging with a Functional Disability**, 2016.

⁴⁹ Malin, A., **Follow-up Report - Implementation of Government Policy aimed at promoting accessibility for persons with disabilities, 2019**. (Hebrew).

⁵⁰ Shimla, A., Nissan Y., and Yehezkel-Lahat Osnat, **Survey of Health Care Consumers in Matters relating to Accessibility of Healthcare Services**, 2019.

⁵¹ See supra note 5.

⁵² Fogel, Y., **Activity and Participation of Young Adults with Neuro-developmental Impairments – development and implementation of model for an intervention plan and efficiency assessment** (M.A. Thesis, Haifa University), 2012

advance, which constitutes a major barrier for PWD who have financial difficulties.⁵³ In addition, assistance with devices, including rehabilitative devices, for persons who are blind or have visual impairments is not provided through the universal health care program, but through the Ministry of Social Affairs, according to the Social Work Regulations, which involves a multitude of bureaucratic hurdles.

Lack of awareness of the need to promote health and shortage of accommodated healthcare programs: The State of Israel has no national program for promoting the health of PWD. On the contrary, while paragraph 247 of the SPR mentions programs provided to the general public, it offers no statistics to establish performance–result indicators concerning healthy lifestyles suitable for PWD. There is not enough awareness of the need to promote the health of PWD. There are not enough screening tests for them, despite the importance of protecting their 'functional reserves' since they are at high risk of developing chronic conditions,⁵⁴ and physicians rarely refer PWD to screening tests in general and cancer tests in particular.⁵⁵ In addition, existing programs designed for the population at large, are frequently inaccessible to PWD, and there are no specifically targeted programs for PWD living in the community, nor are there programs for post hospitalization support, awareness raising regarding aids and assistive devices and their importance for rehabilitation and maintenance of existing conditions, preparation of PWD for independent adult living that offer tools for healthy living, and more.

In addition, PWD do not participate in the planning and implementation of general programs (national, municipal and organizational) aimed at promoting health, physical activity, nutrition and smoking prevention. Existing national studies and databases do not include health indicators for PWD and there are no specifically targeted plans aimed at promoting the health of PWD as part of the health and welfare service program.⁵⁶

Training of medical personnel: The SPR does not include information about the breadth of training provided to various medical personnel or about the development of peer support⁵⁷ services as part of these training programs and in medical care in general. PWD are not involved in determining the curricula for these training programs, which is reflected on the ground in professional decisions made by medical crews that are inconsistent with an approach that respects patients.⁵⁸ Some examples include requiring persons to use a diaper or urinary collection device instead of helping them use the toilet, failing to acknowledge that nursing staff sometimes have to work together with the patient's personal support person, and failing to develop awareness of how to deliver services to persons with different disabilities. In addition, not enough care professionals have the required training to treat persons with different disabilities, such as para-medical treatments for adults with developmental disabilities and more.

⁵³ Isha L'Isha – Haifa Feminist Center, Reuth-Open Door and Alumot , **Women with Disabilities and the Right to Health in the Context of the International Rights of Day:** position paper for discussion in the Knesset's Committee for the Advancement of Women, 2015.

⁵⁴ See supra note 1.

⁵⁵ Nissim, D. (2020). **Accessibility of Medical Services to Persons with Invisible Disabilities**

⁵⁶ See supra note 1, 2020.

⁵⁷ Similar to the "Amitim" program <http://www.amitim.org.il> (Hebrew).

⁵⁸ State Comptroller. **Annual Report 68C**, 2018.

Severe shortage of psychosocial health services in the community: The SPR glosses over the severe shortage of psychosocial health services, as reflected in extremely long wait times for psychosocial health care, which may extend over months, a year and beyond, even when children and adolescents are concerned. In addition, there is a shortage of psychosocial health services in outlying areas and a particularly severe shortage of services for Arab society and for persons requiring specialized care, for instance, persons with multiple disabilities (such as a psychosocial disability coupled with an intellectual disability, addiction and others).⁵⁹

Questions to the State of Israel

- What measures is the State of Israel taking and what funding and positions does it plan to allocate to reducing gaps in health care availability and quality between the country's periphery and center, which will make services accessible for PWD who have mobility issues?
- What measures does the State of Israel plan to take to advance a national program for promoting the health of PWD with participation by PWD in designing a health promotion policy that is suitable to them? Such policy would include targeted, precise training for different teams on screening for the needs and difficulties of persons with regards to accessing health services, health indicator screening, promoting healthy living and delivering medical and care solutions for accelerated aging among PWD.
- What measures does the State Party plan to take to expand the health care service program currently provided under the National Health Insurance Law to respond to all the medical needs of PWD, as well as reduce the deductible for medication and assistive devices to prevent persons living in poverty from having to forego items they need due to their financial circumstances?
- What steps is the State of Israel taking towards enacting compulsory health services accessibility regulations and associated enforcement measures?
- What steps is the State of Israel taking to ensure that all PWD receive services currently offered under the universal health care plan according to need rather than according to a-priori limitations related to age or type of disability?
- What measures does the State of Israel plan to take to expand psychosocial health care services, guarantee their availability and correct deficiencies?

⁵⁹ State Comptroller. **Annual Report 70B**, 2020.

Article 27

Work and employment

Low employment rates of persons with disabilities in the open market:

Although matters have improved over the last decade, there is still a significant gap between the employment rate among PWD, which stands at 60%, with 47% among persons with severe disabilities,⁶⁰ and the rate of employment among persons without disabilities, which stands at 79% (statistics precede the coronavirus crisis). The rate of full-time employees among PWD is only 35% and the salary earned by 33% of all PWD actively participating in the labor market is less than \$1,400/month.

Insufficient regulation of accommodations in the open market:

Section 8 of the Equal Rights for Persons with Disabilities Law (hereinafter: the Law) prohibits discrimination in the workplace and states that failure to make accommodations constitutes discrimination. The Equal Rights for Persons with Disabilities (State Participation in Funding of Accommodations) Regulations enable private employers to apply for and receive state subsidies for accommodations for employees with disabilities. The SPR (paragraph 275) mentions several measures to implement accommodations, but does not provide details and current data. Many employers are not aware of their right to receive subsidies for accommodations, particularly employers in the Arab sector, whose share among approved subsidy applications is very small⁶¹. No regulations have been put in place with respect to accommodation procedures other than funding. Consequently, the right to accommodations has limited application. Finally, the entire accommodation procedure is discussed and implemented with the employer rather than with the employee, infringing on the right of the employee with disabilities to participate in the discussion in their matter, their right to privacy and their ability to transfer the accommodation from one work place to another. In addition, the regulations regarding state subsidies for accommodations do not apply to public institutions.

Insufficient enforcement in the private sector:

Section 9 of the Law sets forth a requirement to take action to promote appropriate representation. Section 14 provides that compensation may be awarded for breach of the provisions of the employment chapter without establishing ceiling amounts. Nevertheless, the amounts awarded for breach of this section are extremely low and with the exception of only one judgment,⁶² the Labor Courts have never awarded compensation for breach of the appropriate representation obligation. According to the collective agreement and the Expansion Order for the Encouragement and Expansion of Employment of Persons with Disabilities, the appropriate representation requirement applies to all employers with more than 100 employees, such that 3% of their staff must be PWD. As of 2016, **only 16% of private employers to whom the appropriate**

⁶⁰ Available at – [http://www.gov.il/he/departments/news/PWD_statistics_intl_day_2019_\(Hebrew\)](http://www.gov.il/he/departments/news/PWD_statistics_intl_day_2019_(Hebrew)).

⁶¹ Report of the Headquarters for Integration of Persons with Disabilities in the Labor Market 2013 Available at: [http://www.economy.gov.il/Research/Documents/X12218.pdf_\(Hebrew\)](http://www.economy.gov.il/Research/Documents/X12218.pdf_(Hebrew)).

⁶² Labor Dispute (Tel Aviv) 49588-11-11 **Dvora Afek v. Karnei Shomron Local Council** (judgment dated July 16, 2013, reported in Nevo).

representation requirement enumerated in the expansion order applies meet their obligation.⁶³ No data is available on enforcement efforts in the private sector and no updated information has been published. In addition, despite the statements made in paragraph 273 of the SPR, in 2019, the Commission for Equal Rights for Persons with Disabilities received 927 complaints concerning employment matters, out of which only four claims were filed.⁶⁴

Barriers to employment of persons with disabilities in the public sector: The Law and the Civil Service (Nominations) Law stipulate a 5% appropriate representation requirement with respect to persons with significant disabilities for large public employers (whose representation in Israeli society amounts to approximately 18%), but only 60% of the large public employers meet this target.⁶⁵ Between 2016 and 2018, representation of PWD in the civil service stood at 4.2%,⁶⁶ with only 31.6% of civil service units meeting the appropriate representation target. In 16.8%, there was no representation of PWD and **only three government ministries met the appropriate representation target.** The SPR (paragraphs 276-277) does not differentiate between representation rates in the private and public sectors. The SPR (paragraphs 278-279) specifies all job quotas for groups entitled to appropriate representation, without specifically referring to PWD. In practice, 1.6% of all civil service job postings in 2018 were designated for PWD. Of all postings not directed specifically at PWD, 2.5% of the candidates were PWD and 1.1% were hired.⁶⁷ A high percentage of job openings in the public sector are posted internally only, which undermines the ability to increase representation.

The provisions of the Civil Service Code do not conform to the Law, in part due to a demand to produce medical records to prove disability, which significantly reduces the number of people recognized as eligible according to the legislation. Screening processes for civil service positions, usually consisting of group dynamics, psychotechnical tests and the like, which are irrelevant to the material requirements of the positions, are barriers to persons with intellectual or psychosocial disabilities, as well as autism.

Entrenched distinction between employees based on disability: The Minimum Wage (Adjusted Wage for a Disabled Employee with a Diminished Working Capability) Regulations 2002 referred to in paragraphs 290-293 of the SPR produce a situation whereby only PWD may be subjected to performance capacity testing with the associated threat to their lawful right to minimum wage. There are no arrangements to incentivize employers to hire PWD, while protecting their rights to minimum wage, like all other employees, and no minimum wage supplements are provided by the State Party. In addition, no information is available concerning the effects of the current arrangement on employment rates and employers' positions.

⁶³ Michal Alfasi Henley, **Monitoring the Implementation of the Expansion Order for the Increase of Number of Employees with Disabilities in Businesses Employing 100 Employees and More** – Follow-up, Ministry of the Economy (Research and Economy), 2017.

⁵ Commission for Equality of Persons with Disabilities, Year End Review 2019, available at: https://www.gov.il/he/Departments/publications/reports/commission_activity_report_2019 (Hebrew).

⁶⁵ Available at: http://www.gov.il/he/departments/publications/reports/public_employers_quota_compliance_2018 (Hebrew).

⁶⁶ Civil Service Diversity and Representation Report 2018 (hereinafter: Diversity Report). Available at: http://www.gov.il/BlobFolder/reports/2018_occupational_diversity/he/2018_occupational_diversity.pdf (Hebrew).

⁶⁷ Diversity Report.

According to the Equal Rights of Persons with Disabilities Employed as Rehabilitated Persons (Temporary Provision) Law 5767-2007 referred to in the above paragraphs of the SPR, employer-employee relations do not apply to persons considered to be part of a rehabilitation program whose wages range between 9% to 19% of the minimum wage. The law was enacted as a temporary order and has been extended twice. It is not currently in force, but the legislator plans to renew it as a permanent order without publicizing the conclusions drawn after ten years of implementation, or meaningful discussions with civil society organizations and PWD.⁶⁸

While these two pieces of legislation are mentioned in the SPR as employer incentives, they can negatively affect the rights of PWD, and, in the absence of data, it is not clear whether they promote inclusion.

Human rights violations in sheltered employment workshops and no plan to reduce or close sheltered employment workshops in Israel: Between 15,000 and 20,000 PWD are employed in sheltered employment workshops.⁶⁹ These workshops are segregated, offer menial work and do not contribute to the personal development of their employees. Employer-employee relations do not apply to them, with the associated legal and socioeconomic implications, and many PWD are tracked into these facilities since more integrative options are not available. Remuneration in sheltered employment workshops is more than 60% lower than the minimum wages, paid without the rights and benefits ancillary to employment pursuant to the law and does not meet the standards of earning a dignified wage. Moreover, some PWD, including persons with intellectual disabilities – are required to pay a monthly deductible equal to 10% of their disability allowance as a condition for being engaged by a sheltered employment workshop. The support given by sheltered employment workshops for finding employment in the open market is limited. Matters relating to employment of PWD are not governed by primary legislation or regulations and do not conform to the basic laws of the State of Israel. The government passed a resolution stating that employment continuity should be maintained in the transition from sheltered employment to supported employment,⁷⁰ but has not established a plan to reduce sheltered employment and the SPR on this issue (paragraphs 282-284), does not provide any information about actions taken in this regard or the current situation. Despite the fact that even according to assessments by government ministries, between 30% to 40% of the persons employed in sheltered employment workshops are 'capable' of working in the open labor market in some form, only 3% to 5% make the transition into more inclusive settings.⁷¹

Supported employment is not properly regulated: Many supported employment projects provide PWD with accompaniment and support beginning at placement and continuing into the onboarding process and throughout their employment, as needed. Paragraphs 285-289 of the SPR report allege that transition from sheltered employment to supported employment is evident. However, no current data to support this statement are

⁶⁸ Memorandum of the Persons with Disabilities Employed as Rehabilitated Persons Law, 5778-2018.

⁶⁹ Paragraph 29 of Annex No. 1 to the State Party report includes data from 2014 whereby 9,650 persons are employed in sheltered factories run by the Ministry of Social Affairs and 5,000 persons are employed in the sheltered factories of the Ministry of Health. More current data are not presented.

⁷⁰ Government Resolution No. 4193.

⁷¹ State Comptroller's report 64C, Government Action toward Integrating Persons with Disabilities in the Labor Market (2014), page 159.

provided other than reference to specific projects which are not current⁷² and whose integration success is unknown.

Investments in segregated training programs instead of making general training programs accessible: Many resources have been invested in the development and implementation of special-purpose and segregated training and placement programs for PWD at the expense of investment in making existing training programs available to the general public, accessible. Segregated programs and services are not properly publicized or made accessible in the Arab and Ultra-Orthodox sectors and in the periphery. In addition, **the severe lack of data renders monitoring and supervision of the effectiveness of these programs impossible.**

Questions to the State of Israel

- What steps are taken to promote employment of PWD in the open market by different state authorities including the government and the Knesset, in terms of enforcing appropriate representation, prioritizing jobs, encouraging and accepting applications for accommodations and providing opportunities to gain experience in the workplace?
- What steps are taken to integrate new employees with disabilities in the public sector, including with respect to making screening and hiring procedures accessible?
- What steps are taken to enforce the requirement to make professional training programs offered to the general public accessible to PWD?
- What steps and programs have been implemented since the SPR to reduce sheltered employment and what are their results?
- What steps have been taken to assist PWD to finance and remove barriers to starting and running businesses?
- Wherever the description in the SPR is not substantiated by data, particularly the points addressed above, what are the updated data, with the relevant breakdown, including according to population sectors and geographic areas?

⁷² The separation between the data on persons working in supportive employment versus persons working in sheltered employment is unclear. The information regarding the integration of persons with high-functioning Autism, referred to in paragraph 287 of the State Party report, is from 2014.

Article 28

Adequate standard of living and social protection

The number of PWD of working age amounts to approximately 800,000, of which approximately 400,000 are entitled to general disability benefits. Over the years, PWD have been marginalized in Israel, including financially, and have had to stand up and fight for their rights in order to bring about changes that should have been initiated by the legislature. The State Party does provide many different supports to PWD, as detailed in the SPR, but a closer look at the specifics and at the figures provided in annex no. 1 attached to the report reveals several problems that should be pointed out:

The benefit system is non-uniform and complicated: Israel's benefit system is a complicated patchwork. It is built on outdated notions, uses medical criteria to assess disability in order to determine benefit eligibility and it is incompatible with the spirit of the Convention. There is a division into different groups according to what caused the disability – military veterans who suffered injuries during service, victims of work accidents and "general disability" benefit recipients. Each group has different criteria, eligibility standards and benefits.

In the general disability benefit system, which is the largest, and on which this document focuses, benefits are given for what is defined as "loss of work capacity". It offers various types of benefits which come with ancillary benefits of their own. The system does not consider individuals holistically and does not offer solutions adapted to individual needs and wants. Rather, it relies on vague, and sometimes contradictory, definitions of the different benefits offered and the goals they intend to serve.⁷³

The benefit system does not encourage participation in the workforce: General disability benefits are determined partly based on an assessment of the person's earning capacity. If the benefit recipient works, including part-time, the earnings are deducted from the basic benefit. In addition, past a certain pay threshold, benefits are withheld, along with a large proportion of their ancillary benefits. Moreover, where persons working subsequently stop working or begin earning less, they must repeat the entire benefit claim process. These provisions often deter PWD from taking higher-paying jobs.

Benefits do not enable an adequate standard of living or independent living in the community: Disability benefits currently given in Israel are much lower than the minimum wage and are also below the poverty line. For example general disability benefits for a single person assessed as having a 100% disability rate amounts to just \$950, whereas, in 2018, the poverty line for a single person was \$1,300 and minimum wage was \$1,500. A person assessed as

⁷³ Gal Zoahr and Nitzan Almog, **Benefit Systems for Persons with Disabilities in Israel and around the World: International Comparative Study**, 2019.

having a lower disability rate receives lower benefits accordingly. When determining benefit rates, the numerous additional expenses incurred by persons as a result of their disabilities are not taken into account. This means that current benefits do not enable persons to live in dignity, let alone independently, and sentence PWD to abject poverty.

Some PWD, who require considerable physical assistance in daily activities or constant supervision by another person, are entitled, in addition to disability benefits, to a Special Attendance Allowance (paragraph 294 of the SPR). However, this benefit does not cover the cost of the services for which it is given. Consequently, a person with disabilities who has no additional income or family assistance cannot pay for a caregiver, which often leaves families destitute or sees the person transferred to an institution. Additionally, the criteria for the special attendance benefit leaves out many who also need assistance with everyday activities.⁷⁴

Benefits given to a small group in a manner that discriminates against other groups: The mobility benefit, which is the only benefit designed to fund assistance outside the home, is provided according to outdated criteria referring only to the mobility needs of persons with physical disabilities affecting the lower limbs. Persons with visual impairments are also entitled to mobility benefits (paid by the Ministry of Social Affairs). Other PWD who require assistance outside the home and experience difficulties with mobility as a result of their disability, such as some persons with psychosocial or intellectual disabilities or autism, PWD affecting the upper limbs and others, are ineligible, under the current criteria, for the mobility benefit (see paragraphs 294(d), 296).

Insufficient benefits for older adults with disabilities: Older adults with disabilities are forced to choose between old-age benefits and disability benefits, despite the fact that given the higher costs of both old age living and living with a disability, it would make sense to increase financial support for persons experiencing both. Finally, there is an entire system of supports given to PWD (such as support and benefits associated with the right to mobility), which are not extended to people who develop such disabilities in their old age.

Insufficient support for families: Families who care for a member with disabilities do not receive sufficient socioeconomic support from the state. This is manifested in two key aspects: difficulty realizing rights and lack of support for living in socioeconomically dignified conditions. Many families are not aware of their rights and welfare authorities do not do enough to help them access these rights. Moreover, in families where a member with a disability lives at home, one member of the family (usually the woman), must give up their job in order to care for the family member with a disability, even when there is a paid caregiver. Giving up a workplace often impacts the family's financial resilience, putting it in danger of entering the cycle of poverty. Although the state is aware of this, not enough is

⁷⁴ Daniel Gotleib, **Social Security in Israel – Policy Proposal**, National Insurance Institute, Research Department, 2019 (in Hebrew).

being done to give families a substantial support network that can sustain a life of dignity and ensure the right of the family caring for a relative with a disability to socioeconomic security.

Red tape: Persons with disabilities come across long, cumbersome, complex and unclear bureaucratic procedures, which, in many cases, act as a barrier to exercising their rights, even when these rights are entrenched in legislation. Consequently, many persons refrain from exhausting their rights even when they need the assistance to which they are entitled.⁷⁵

Limited housing assistance (SPR, paragraph 302): The housing assistance offered by the State Party to PWD is limited and excludes multiple groups of PWD.

Rent assistance: Rent assistance is not adjusted to market prices and does not cover rent, not even for a small apartment in the periphery where prices are relatively low. So, for instance, the maximum rent assistance a person with disabilities (who is not eligible for public housing) is entitled to receive amounts to \$220 per month for a single person.⁷⁶ In 2019, a 1.5-2 bedroom apartment rented for nearly \$1,140 per month.⁷⁷ Consequently, PWD are forced to move into institutions as they cannot afford renting an apartment, let alone purchasing one.

Public housing: Many PWD who need housing do not meet the criteria for public housing and are therefore not eligible for it. Public housing is rarely given to PWD who are not legally married in Israel, with the exception of persons with a physical disability who use a wheelchair for mobility and also meet the rest of the criteria for public housing. In addition, there is a great shortage of public housing apartments. People who are eligible for public housing but do not receive an apartment due to the shortage usually receive more rent assistance than that given to persons who are not eligible for public housing, but the amount still falls far short of market rent.

Questions to the State of Israel

- How does the State of Israel plan to produce a disability assessment policy and set clear goals for the benefit system (loss of work capacity, special attendance benefits and mobility benefits) whereby each person receives according to their needs, based on a holistic perception of the person and in keeping with the spirit of the Convention and its provisions?
- How does the State Party plan to extricate PWD from the cycle of poverty and enable them to live independently with dignity? What are the timetables for the implementation of these plans and what resources does the State Party plan to allocate for this purpose?

⁷⁵ Prof. Johnny Gal, Prof. Mimi Ejzenstadt, Dr. Avishai Benish, Dr. Roni Holler (2019) [Active Exhaustion of Rights in Social Security](#) (Hebrew).

⁷⁶ https://www.gov.il/he/departments/guides/rental_assistance_amounts (Hebrew).

⁷⁷ <https://www.globes.co.il/news/article.aspx?did=1001318606> (Hebrew).

- What steps does the State Party plan to take to remove bureaucratic barriers that impede PWD from realizing their socioeconomic rights, including reducing the number of assessment committees they must go through to receive eligibility recognition and the establishment of a "one stop service" that looks at the person, their needs and their wishes holistically?

Article 31

Statistics and data collection

There is no central database: Persons with disabilities are entitled to services and assistance from various government ministries, local authorities and other institutions. Each one of these uses different terminology, defines PWD differently and collects data according to different categories and breakdowns, which precludes cross-referencing. Currently, there is no entity tasked with collecting and cross-referencing data from government ministries and various other authorities. As a result, Israel does not have a central database about PWD, the extent to which their rights are realized, their needs, the gaps between needs and responses provided and more. More worryingly, the absence of a central database precludes data-driven informed policy formulation and priority setting. State Party authorities rely on assessments and incomplete data.⁷⁸

The survey from which the State Party report draws statistics is flawed: As specified in this report with respect to Articles 1-4, the social survey from which the SPR draws its figures regarding the number of PWD in Israel provides an incomplete picture. In addition, as noted in the SPR (paragraph 337), the survey relies in part on Washington Group questions, which allow identifying certain disabilities (physical and sensory), but overlook other disabilities such as psychosocial and intellectual disabilities and autism.⁷⁹ Moreover, the Central Bureau of Statistics surveys mentioned in the SPR refer only to persons living in the community, meaning they exclude persons residing in institutions and persons who "are unable to respond due to their disability". Therefore, there are, in fact, no general statistics about PWD in Israel, let alone data enabling breakdowns by different categories such as type of disability, affiliation with minority groups, etc.

In 2002, following the State Comptroller's Report, the government passed a resolution whereby the Central Bureau of Statistics together with the relevant government ministries was

⁷⁸ [Central Bureau of Statistics, Actions for Planning, Budgeting and Implementation of Assignments and Projects, State Comptroller Report 69B, 2019](#) (Hebrew).

⁷⁹ [Daphna Haran, Tom Einhorn, Nurit Gedge and Lital Barlev, International Review of Measures for Identifying Persons with Disabilities in the context of a Study regarding Social Participation of Persons with Disabilities, Brookdale 2019](#) (Hebrew).

to have conducted a comprehensive survey about PWD in Israel by 2004. The survey has not been done to date.⁸⁰

Lack of statistical transparency: Many types of statistics are not officially released and those that are include only initial segmentation. Attempts to receive figures from government ministries and other authorities pursuant to the Freedom of Information Act often encounter difficulties, and in many cases legal action is needed to compel the authorities to disclose the information. The lack of transparency hinders the ability of civil society organizations and other entities to monitor the state of the rights of PWD in Israel and the actual implementation of the Convention.

Questions to the State of Israel

- How does the State Party plan to establish a central database containing data from all government ministries and relevant authorities about PWD, their needs, the solutions provided to them, the extent to which they exercise their rights and more in a manner that allows cross-referencing data from different sources? What is the timetable for the institution of such a database and what resources does the State Party plan to allocate for this purpose?
- What steps does the State Party plan to take towards collecting detailed data about PWD in Israel, including by performing a comprehensive survey that includes all groups of persons and their diverse disabilities living in the community and in institutions in Israel, and making such survey accessible to them, and what is the planned timetable?
- How does the State Party plan to ensure that the information it has about PWD is released and made transparent to the public, with full protection for the privacy of the persons?

Article 33 and Article 4(3)

National implementation and monitoring

(State Party report paragraphs: 27-34, 46, 339, 344-351)

Limited protection, monitoring and enforcement powers: The Commission for Equal Rights of Persons with Disabilities has monitoring and enforcement powers in the areas

⁸⁰ [Central Bureau of Statistics, Actions for Planning, Budgeting and Implementation of Assignments and Projects, State Comptroller Report 69B, 2019](#) (Hebrew).

of accessibility and discrimination, as well as proper representation and discrimination in matters of employment, including the ability to file claims against bodies and individuals. The Commission does not have monitoring and enforcement powers with respect to the other provisions of the Convention. In addition, as noted in the SPR (paragraph 346), the Commission is not authorized to act against the state, other than in proceedings involving discrimination in the field of employment on behalf of individuals (a power it rarely uses, as specified below). As specified in the SPR, the Commission receives complaints (SPR, paragraphs 30, 350). In this capacity, the Commission files reports and contacts the relevant bodies to resolve the complaints, but it does not have the legal authority to take action against public authorities and private bodies in matters relating to all provisions of the Convention, with the exception of the field of employment. The Commission does indeed initiate and carry out inspections in institutional facilities housing PWD, but it does not have the authority to act as an ombudsman for these persons (for details see our comments on Article 16). It should be noted that in the area of promoting the Convention, the Commission takes different types of action, including changing public views, running campaigns, developing knowledge, participating in legislative procedures, and more.

The Commission's independence is limited: The Commission does not have the authority to launch legal court proceedings in cases in which the rights of PWD are violated without the state's approval (given by the attorney general), other than in the field of employment on behalf of individuals. In addition, as aforesaid, generally, the Commission is not authorized to file petitions or claims against the State Party. With respect to its authority to file claims against the State Party on behalf of individuals in the field of employment discrimination, the Commission rarely uses this power, despite the fact that the State Party is the largest employer in the market. In addition, the Commission is not authorized to submit independent opinions when petitions are filed against the State Party. As noted in the SPR, the Commission for Equal Rights of Persons with Disabilities is an internal government mechanism and its employees are civil servants. Israel has no additional independent mechanism meeting the Paris Principles other than the Commission.

Limited coordination powers: Although the Commission for Equal Rights of Persons with Disabilities is authorized to act as a coordinating body within the government, in fact, each ministry operates within its own field and there is no regulated collaboration between the different ministries facilitated by the Commission. Israel has no national plan for the implementation of the Convention and no system that pools powers and resources, designs policy and sets priorities and clear goals for the implementation of the Convention.

Limited participation and involvement of civil society in the implementation of the Convention and in promoting protection and monitoring procedures: According to the Equal Rights for Persons with Disabilities Law and as stated in the SPR (paragraphs 33-34), the Commission has an advisory committee the majority of whose members are PWD. The advisory committee consults the Commission on matters relating to its functions. In addition, the Commission holds meetings and roundtables with organizations and PWD on different issues. However, since the powers of the Commission apply only to some of the issues covered in the Convention, as specified above, the involvement of the

advisory committee is confined to these powers.⁸¹ As for implementation of the Convention – government ministries rarely include PWD and civil society organizations in decision making processes that affect their lives and the implementation of the Convention, and many significant decisions are made without giving PWD the opportunity to voice their opinions. Moreover, as specified in our comments on Article 31, lack of data and non-transparent existing data impede the ability of PWD and civil society organizations to monitor the implementation of the Convention.

Questions to the State of Israel

- Does the State Party plan to expand the powers of the Commission for Equal Rights of Persons with Disabilities, and entrench said powers and authorities in legislation, **such that it is able to take action to protect the Convention, monitor and enforce the full implementation of the Convention, including by granting it the powers to act as ombudsman as specified in connection with Article 16, and if so how?**
- What measures does the State Party plan to take to **enhance the independence** of the Commission for Equal Rights of Persons with Disabilities such that it is able to discharge its duties as the monitoring and enforcement body over all the provisions of the Convention (including by granting it the authority to file claims against the state and against public and private bodies, and by entrenching the authority to submit independent opinions when petitions are filed against the State Party, similar to other bodies such as the Public Defense and Legal Aid)?
- What measures does the State Party plan to take to enhance the status of the Commission as a coordinating body, including by developing a national plan for policy design and prioritization?
- What measures does the State Party plan to take to enhance the involvement of **PWD, including children, and the organizations representing them** in decision making and policy design around the implementation of the Convention, and as active participants in monitoring its implementation, while receiving the financial support and accessibility required for this purpose, including the obligation to consult with the organizations in the implementation of the Convention?

⁸¹ On this issue, see General Comment No. 7.

Annex:

About Us – a few details about the member organizations of the Civil Society Forum for the Promotion and Implementation of the CRPD in Israel

Accessible Community Hadera (R.A.): A social community organization in Hadera that assists persons with disabilities access their rights and promotes inclusion in society.

ACI – Autistic Community of Israel: A self-run group of Israeli Autistics, advocating for inclusion and equal rights for autistics in all aspects of life in Israel.

Ahad Ha'am - Equal Rights for Persons with Disabilities: A grass roots organization that works to promote a law to ensure every person with disabilities can live a full life in the community, in the spirit of the International Convention on the Rights of Persons with Disabilities. The activists promote awareness and legislative action that would allow persons with disabilities (with no distinction among different disabilities) to exercise their right to independent, supported living in the community, on an equal basis, in dignity, in keeping with their needs and wishes, and with the required supports. The group has more than 2,000 young persons with disabilities, their family members, and anyone else who believes this value is crucial to an equal, moral society based on mutual responsibility.

AKIM Israel - The National Organization for People with Intellectual Disabilities and their Families (R.A.): AKIM Israel is the national organization for people with intellectual disabilities and their families, operating as a person oriented organization (PCO), meaning an organization that promotes the rights of persons with intellectual disabilities to represent themselves and make their voices heard, following on the principle of “nothing about us without us”, and their inclusion in the community while upholding human dignity and liberty. Since its founding in 1951, the association has acted to realize the rights, promote a better quality of living and improve the welfare of some 35,000 people who have intellectual disabilities and their relatives, using legal advocacy and advocacy within the community.

ALManarah - The Association for the Advancement of Persons with Disabilities in Arab Society (R.A.): The association was established in 2005 with the aim of empowering people with disabilities in Arab society, enabling them to exercise their natural, social and legal rights and helping them integrate into society on an equal basis and without exclusion, stigma, or prejudice.

ALUT - The Israeli Society for Children and Adults with Autism: A society of parents to children with autism, working to promote the rights of children and adults with autism and their families. The society develops models to promote knowledge about treating persons with autism and establishes and operates centers and services for persons with autism and their families.

ALYN Hospital (R.A.) Pediatric & Adolescent Rehabilitation Center: ALYN Hospital is the only rehabilitation center for children and adolescents in Israel and one of the leading facilities of its kind in the world. ALYN specializes in diagnosing and rehabilitating children with a wide variety of physical disabilities, both congenital and acquired, from Israel and abroad. The hospital is accessible to different religions, cultures and languages. ALYN believes every child has a right to achieve the best possible quality of life, despite any disability, and provides children and their families with the tools to handle complex and unique situations which pose great challenges for the children, their families and the care staff.

Association of Law in the Service of the Elderly: An NGO devoted to promoting the rights of the elderly using the law as a tool for social change.

Avnei Derech (Milestones for Life): A nonprofit organization that develops and delivers training, support and assistance programs for independent living in the community for people with disabilities. The organization specializes in working with teenagers and young adults with autism and invisible disabilities.

Beit Issie Shapiro (co-director of the Forum): Beit Issie Shapiro is a non-profit organization with a mission to build a more inclusive society across the globe by advancing the rights, equal opportunities and services for people with disabilities. Beit Issie Shapiro's expertise is in scaling up its impactful solutions thus promoting systemic change in the lives of people with disabilities in Israel and internationally.

Bekol – Organization of Hard of Hearing People in Israel: Bekol is a leader in hearing rehabilitation for adults aged 18 and up, providing a comprehensive professional service aimed at including persons with hearing loss in Israeli society in dignity, independence and equality, including in employment. Bekol is dedicated to support people with hearing loss become strong, productive citizens who contribute to society and the country.

Beyachad - Empowering Inclusion in Israel: An organization dedicated to promoting the inclusion of children and adults with all types of disabilities in every aspect of society and communal life. The organization works to raise awareness among Israeli adults and younger generations about the needs, abilities and rights of persons with disabilities, while encouraging and supporting their inclusion in Israeli society. Beyachad grants independence and quality of life to people with disabilities and advocates towards creating a more equal and tolerant society

Bizchut - The Israel Human Rights Center for People with Disabilities (co-director of the Forum): Since its founding in 1992, Bizchut has worked to promote the rights of persons with disabilities in all areas of life. Bizchut has initiated and promoted groundbreaking legislation, such as the Equal Rights for Persons with Disabilities Law, and uses legal, public and community tools to promote policy change and advance towards the full implementation of the CRPD. Bizchut was an active partner in the drafting of the CRPD and has held special consultative status with ECOSOC since 2019.

The Clinic for the rights of Holocaust survivors and the Elderly at Tel Aviv University: The clinic provides legal counseling and representation for holocaust survivors and other

elderly people throughout Israel. The clinic also promotes policy and community projects focused around the connection between law and old age.

Disability Rights Clinic in Honor of Prof. Yaakov Neeman, Bar Ilan University Faculty of Law: The Clinic provides legal aid and representation to persons with disabilities, educates law students and conducts research into the rights of persons with disabilities focusing on connecting theory and practice.

Disabled, Not Half a Person (R.A.): Established in 2016, the organization promotes human rights in general with a special focus on raising general disability benefits and other rights of persons with disabilities in Israel. The group works on issues such as accessibility, housing, caregivers, proper medical care and inclusion in society and employment.

Enosh - The Israel Mental Health Association: The association promotes the rights of persons with psychosocial disabilities, offering rehabilitation services in different areas of life, housing and hostels, employment, social skills and recreation and family counseling, all based on a personal approach and principles of the mental health Recovery Model, which enable people with mental illness to lead meaningful lives.

Health Forum - Leading towards Health of Persons with Disabilities at Beit Issie Shapiro: A multi-disability, multi-cultural national forum devoted to promoting health and healthy living among persons with disabilities. The forum works on formulating the health services accessibility regulations and collaborates with accessibility officers, equality officers, state officials, civil society organizations and the community of people with disabilities.

House of Wheels: The association runs programs for hundreds of children, adolescents and adults with physical disabilities with volunteer counsellors. The programs focus on developing the social skills required for integration in the community. The association offers recreational and weekend activities, classes, workshops, a leadership and life skills program, a rehabilitative day center and group and individual activities for adults. The association also runs a public advocacy campaign dedicated to raising awareness about persons with disabilities, employment and community integration initiatives.

Israel Center for the Blind (R.A.): An umbrella organization for non-profits active for those with vision impairment in Israel. There are about 24,500 people of all ages, sectors and genders, with blindness and vision impairments in Israel. The Israel Center for the Blind serves as their voice, representing in dealings with the authorities in a variety of areas. The center's vision is a world where people with blindness and visual impairments are able to live a full life in an open, accessible and respectful society, and it works towards creating such a society in Israel every day.

Israel Elwyn. (R.A.): An organization that provides support services to more than 5,200 toddlers, children, adolescents, adults and older adults with disabilities throughout Israel. Many of the people who use these services find jobs in the open market and live in independent living schemes in the community. Israel Elwyn helps thousands of children and adults lead dignified and productive lives, and make their own decisions on different issues.

Israeli Deaf Studies Center: A third sector organization specializing in legislation, research monitoring and public advocacy on deafness and sign language.

Kesher - Connecting Special Families: Kesher is a professional social change organization that works for and with families of children and adults with special needs. The organization provides a variety of programs including information and counseling services, representation in realizing rights, group and individual guidance and support, family enrichment and training and leadership development. The organization develops parent communities practicing mutual care, works with professionals to foster familiarity and collaboration with families, raise awareness, and change views.

LINK20 - Young Person Network for the Rights of Persons with Disabilities: LINK20 is a global social movement led by a network of young activists, with and without disabilities who are passionate about social justice and inclusion. Our goal is to raise awareness on the right of people with disabilities to be fully included in our society and strengthen young activist's leadership skills and influence in promoting inclusion and social justice. The movement is a Ruderman Family Foundation initiative.

Lishma - For Inclusion and Empowerment of People Coping with Mental Health Issues: An organization established and run by persons coping with mental health issues. A social startup for innovative programs, which also represents persons coping with mental health issues in different forums and makes their voices heard.

Micha - National Council for Children with Hearing Impairments and Deafness: An association that delivers rehabilitation and inclusion programs for children who are deaf or have hearing impairments from birth to age 3.

Ofek Liyladenu - Israel National Association of Parents of Children with Blindness and Visual Impairments: An organization that promotes and protects the rights of children and their families. The organization functions as a warm, supportive community for families and provides up-to-date, comprehensive information as well as counseling and guidance. The organization delivers special programs to support and nurture the children.

Ometz ('Courage') - Art and Growth Discourse: An organization that puts together interactive meetings for all members of society including persons with disabilities and their supporters devoted to promoting and advocating for the rights of persons with disabilities.

The Rights of People with Disabilities Clinic at the Hebrew University of Jerusalem: The Clinic works to promote the integration of people with disabilities in employment and higher education through legal representation in precedent-leading cases, individual advocacy, promotion of policy change and research, all conducted by students mentored by a lawyer.

Special Families Coalition: A voluntary society that brings together families of persons with diverse disabilities for joint advocacy. The coalition works to promote the rights of children and adults with disabilities and their families to inclusion in the community.

Adv. Haya Gershoni: Consultant on matters relating to the Ultra-Orthodox Community.