



לכבוד

מר יהודה ויינשטיין

היועץ המשפטי לממשלה

רחוב צלאח אלדין 29

ירושלים

ובפקס: 02-6467001

שלום רב

הנדון: פרסום הנחיות בנוגע ליישום ואכיפת המלצות וועדות האו"ם בנוגע למימוש זכויות

הנשים בכלל והנשים הערביות בישראל בפרט

הריני לפנות אליכם בעניין המלצות ומסקנות וועדות האו"ם הנוגעות למצב זכויות הנשים בישראל וזאת בדרישה לפעול לפרסום הנחיות מטעם משרדך שיורו למשרדים הממשלתיים הרלוונטיים על אכיפת ההמלצות, וזאת כמפורט להלן:

1. כידוע מדינת ישראל חתומה מזה זמן רב על מרבית האמנות הבינלאומיות המסדירות את זכויות האדם. כך למשל, בשנת 1991 חתמה מדינת ישראל ואישררה את האמנה הבינלאומית לזכויות אזרחיות ופוליטיות, האמנה הבינלאומית לזכויות חברתיות, כלכליות ותרבותיות וכן את האמנה הבינלאומית למיגור כל סוגי ההפליה נגד נשים. בכך, הביעה מדינת ישראל את נכונותה והצהרתה כי תפעל עפ"י הנורמות הקבועות באמנות עליהן התחייבה עם האשרור.

2. במסגרת התחייבותה של ישראל תחת האמנות הנ"ל, הוגשו דו"חות תקופתיים לוועדות האו"ם האחראיות על יישום האמנות הנ"ל אודות מצב זכויות האדם, לרבות מצב זכויות הנשים בישראל. וועדות אלו הוציאו את מסקנותיהם וקריאותיהם לישראל בנוגע למצב זכויות האדם השונות וביניהם מצב הנשים בישראל, הן היהודיות והן הערביות.

3. המלצות ומסקנות אלה הוצאו לאחר הגשת דו"חות המדינה, הגשת דו"חות מטעם ארגון זכויות אדם, כולל ארגון עדאלה, ושמיעת הצדדים בעל פה במהלך הדיונים הנערכים במיוחד למטרה זו במשרדי האו"ם. כידוע, חברי וועדות האו"ם שחיברו את המסקנות הנ"ל הינם מבכירי המשפטנים בעולם.

4. בשנים האחרונות אף אומצו חלק מהנורמות הנ"ל במסגרת סעיפי חוק שונים בחקיקה הישראלית, לרבות בחוק שיווי זכויות האשה, תשי"א – 1951, חוק זכויות התלמיד, התשס"א – 2000, חוק שוויון הזדמנויות בעבודה, התשמ"ח – 1988, חוק שוויון הזדמנויות לאנשים עם מוגבלות, התשנ"ח – 1998 ואחרים.

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5. להלן נפרט חלק מהמסקנות והקריאות של וועדות האו"ם אשר הופנו לישראל בנוגע למימוש זכויות הנשים הערביות:

וועדת האו"ם ליישום האמנה הבינלאומית למיגור כל סגי ההפליה נגד נשים ציינה במסקנותיה בשנת 2011 כדלקמן:

א. הוועדה הביעה דאגה בנוגע לתת הייצוג של נשים בחיים הציבוריים והפוליטיים והמליצה לישראל להגביר את ייצוגן של הנשים בעמדות קבלת החלטות לרבות נקיטת צעדים להגברת השתתפות הנשים בחיים הציבוריים. בהקשר זה המליצה הוועדה לישראל לקבוע מטרות ברורות ולוח זמנים להגברת ייצוגן ההולם של נשים בכל תחומי החיים הציבוריים.

ב. כמו כן, הוועדה קראה להגברת יישום סעיף 10 לאמנה בעניין הגברת המודעות לחינוך בדבר זכויות האדם כחלק וכבסיס להעצמת הנשים אודות זכויותיהן. בהקשר זה המליצה הוועדה לישראל לנקוט בצעדים להורדת אחוזי הנשירה מבתי הספר, במיוחד בקרב הבנות הערביות כולל הנשים הבדואיות במערכת החינוך הערבית וכן העלאת שיעורן של נשים ערביות ובדואיות במוסדות להשכלה גבוהה, בין היתר באמצעות הענקת מלגות ייחודיות. כמו כן המליצה הוועדה בעניין זה על נקיטת צעדים אפקטיביים לצורך הגברת אפשרויות התעסוקה של הנשים כדי לאפשר להם לחדור לתחומי תעסוקה "גבריים".

ג. הוועדה המליצה לישראל לנקוט בצעדים להנגשת שירותי הבריאות לנשים. בהקשר זה המליצה הוועדה לישראל לנקוט בצעדים אפקטיביים לסגירת פערים בתמותת תינוקות ואימהות בין יהודים וערבים ובמיוחד בקרב נשים ותינוקות בדואים.

ד. הוועדה הפצירה בישראל לנקוט בצעדים אפקטיביים למיגור ההפליה נגד נשים ערביות בדואיות והגברת כיבוד זכויותיהם באמצעות אימוץ אמצעים מעשיים בתחום החינוך, תעסוקה ובריאות. כמו כן, המליצה הוועדה לישראל.

ה. לאפשר לארגוני החברה האזרחית לרבות ארגוני זכויות נשים לפעול באופן עצמאי וללא מגבלות מבחינת הקמתן ופעילותן לצורך מימוש זכויות הנשים המנויות באמנה.

וועדת האו"ם האחראית על יישום האמנה לזכויות חברתיות, כלכליות ותרבותיות ציינה במסקנותיה בשנת 2011 כדלקמן:

ו. הוועדה הביעה דאגה אודות הפערים הגדולים בין נשים לבין גברים בתחומי שונים החוסים תחת האמנה. כך למשל, האמנה המליצה לישראל לנקוט בצעדים אפקטיביים להבטחת תשלום שכר שווה בין נשים לגברים הן בקרב האוכלוסייה הערבית והן בקרב האוכלוסייה היהודית.

ז. כמו כן המליצה הוועדה לישראל להגברת המאמצים לאספקת שירותים ויצירת תוכניות חינוכיות הנוגעות לתחום המיניות והרבייה לכלל האוכלוסייה, לרבות בקרב נשים ערביות.

ח. הוועדה המליצה לישראל לנקוט בצעדים אפקטיביים לשיפור הנגשת שירותי הבריאות, התעסוקה והחינוך עבור נשים בדואיות בנגב.

לנוחיותכם, רצ"ב נספח לנוסח ההמלצות כפי שפורסמו ע"י וועדות האו"ם באנגלית.

6. לאחר בחינה ובדיקה, מתברר כי אכיפת מסקנות אלו טרם קיבלה עיגון רציני בהנחיות ו/או הוראות פנימיות המחייבות את משרדי הממשלה השונים למגר את ההפליה נגד הנשים.

7. לאור האמור לעיל, נבקשכם לפעול ליישום ההמלצות הנ"ל באמצעות פרסום הנחיות מטעם היועץ המשפטי לממשלה אשר ינחו ויורו ליתר המשרדים הממשלתיים הרלוונטיים את המפורט להלן:

א. יידוע בדבר קיומן של המלצות ומסקנות וועדות האו"ם;

ב. פרסום מסקנות הוועדות בעברית ובערבית והעברתן לאחראים לאכיפה ויישום במשרדים הממשלתיים הרלוונטיים;

ג. הוצאת הנחיות ברורות וכתובות שיש בהן כדי להורות על יישום המסקנות הלכה למעשה בהתאם להמלצות הוועדות.

לטיפולכם, נודה.

בכבוד רב,

סאוסן זהר, עורכת - דין

העתקים:

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נספח למכתבינו בעניין פרסום הנחיות לאכיפת מסקנות וועדות האו"ם, מתאריך 7.3.12

הנוסח הרשמי להמלצות וועדות האו"ם כפי שפורסמו באנגלית:

1. המלצות וועדת האו"ם האחראית על יישום אמנת CEDAW משנת 2011:¹

24. The Committee notes with concern that the 2003 Citizenship and Entry into Israel Law (Temporary Order), as amended in 2005 and 2007, remains in force and has been declared constitutional by the Supreme Court. The Committee reiterates its concern that this Law, which suspends the possibility, subject to limited and subjective exceptions, of family reunification, especially in cases of marriages between an Israeli citizen and a person residing in the Occupied Palestinian Territories, has recently been extended for another six months and thus continues to adversely affect the marriages and right to family life of Israeli Arab women citizens and Palestinian women from the Occupied Territories.
25. **Recalling its previous recommendation (CEDAW/C/ISR/CO/3, para. 34), the Committee calls on the State party to balance its security interests with the human rights of persons affected by such policies, and to reconsider them with a view to facilitating family reunification of all citizens and permanent residents. To this end, it calls on the State party to bring the 2003 Citizenship and Entry into Israel Law (Temporary Order) of 31 July 2003 into line with articles 9 and 16 of the Convention.**
32. The Committee notes the measures taken by the State party to enhance women's participation in political and public life, including Government Resolution No. 1362 (2007) determining that equal gender representation shall be achieved in the boards of Government corporations, within two years of the Resolution, as well as the creation of a list of women qualified to serve as directors in Government corporations and other public bodies, including Israeli Arab women. While welcoming the increase in the number of women in the Knesset and the fact that women now constitute the majority of judges in the judiciary, the Committee is concerned that gaps remain between women's and men's representation in certain areas of political and public life, including in local councils/authorities, academia and the foreign service. Furthermore, the Committee is concerned at the continued low level of representation of Israeli Arab women in these areas. In this respect, the Committee notes with interest the two bills on the funding of political parties and on local authorities (elections).
33. **The Committee recommends that the State party pursue sustained policies aimed at the promotion of the full and equal participation of women in decisionmaking in all areas of public, political and professional life. It recommends that the State party fully utilize the Committee's general recommendation No. 23 and calls upon the State party to adopt temporary special measures, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25, in order to accelerate the full and equal participation of women in public and political life. To this end, the Committee recommends that the State party:**
(a) Establish concrete goals and timetables so as to accelerate the increase in

¹ UN Committee on Elimination of Discrimination against Women (CEDAW) – 2011
[CEDAW/C/ISR/CO/5](http://www.unhcr.org/refugees/pdf/CEDAW/C/ISR/CO/5) [5/4/2011](http://www.unhcr.org/refugees/pdf/5/4/2011)

the representation of women, including Israeli Arab women, in elected and appointed bodies in all areas of public life, where parity has not yet been reached...

34. The Committee acknowledges the progress made in the field of education for women and girls. However, the Committee is concerned that Israeli Arab and Bedouin women and girls remain in a disadvantaged and marginalized situation, including with regard to drop-out rates and access to institutions of higher education. It is also concerned about women's disproportionately low presence in engineering and technical fields in higher education. While noting some efforts made, the Committee is further concerned that elimination of gender stereotypes from textbooks has not been prioritized, including in the Arab education system.
35. **The Committee calls on the State party to enhance its compliance with article 10 of the Convention and to raise awareness of the importance of education as a human right and as the basis for the empowerment of women. The Committee recommends that the State party:**
- (a) Take the necessary measures, including the use of temporary special measures, in accordance with article 4 and the Committee's general recommendation No. 25, to reduce the drop-out rates of Israeli Arab and Bedouin girls and increase the number of Israeli Arab and Bedouin women at institutions of higher education, inter alia through the provision of scholarships;**
 - (b) Take effective measures to actively overcome the de facto segregation in the fields of education, to encourage the diversification of educational and professional choices for women and men and to offer incentives for women to enter traditionally male dominated fields of study; and**
 - (c) Review and revise textbooks, including in the Arab education system, through the special committee appointed for this purpose, in a speedy manner, in order to eradicate gender stereotypes.**
38. The Committee appreciates the efforts made by the State party in the area of health care as well as the continuing decline in the child mortality rate. However, it is concerned that discrepancies remain in the infant and maternal mortality rates of Jewish, Israeli Arab and Bedouin women and children. The Committee also notes with concern that the restrictions on movement in the Occupied Territories have had a negative impact on the health of women, including older women and disabled women, and in particular their access to adequate health services, such as hospitals, clinics, urgent care and specialized treatment not available in the Occupied Territories. In addition, the Committee remains concerned about the number of incidents at Israeli checkpoints which have a negative impact on the rights of Palestinian women, including the right of access to health-care services for all women, including pregnant women.
39. **The Committee calls upon the State party to take all necessary measures to ensure women's access to health care and health-related services, within the framework of the Committee's general recommendation No. 24. To this end, the Committee calls upon the State party to:**
- (a) Refrain from any action that would prevent Palestinian women from accessing adequate health services and treatment;**
 - (b) Strengthen its efforts to close the gaps in the infant and maternal mortality rates of Jewish, Israeli Arab, and Bedouin women and children; and**
 - (c) Ensure that the Israeli authorities at the checkpoints are instructed to ensure safe and unhindered access to health-care services for all women, including pregnant women.**

44. The Committee notes the establishment, in 2007, of the Advisory Committee on the Policy regarding Bedouin Towns as well as the detailed information provided in the State party's reports on the situation of Bedouin women and girls in the Negev desert, including the increase in school enrolment rates and decline in infant mortality. Nevertheless, the Committee reiterates its concern that Bedouin women remain in a disadvantaged and marginalized situation, especially with regard to education, employment and health, and their access to land. The Committee also reiterates its concern at the situation of Bedouin women who live in unrecognized villages with poor housing conditions and limited or no access to water, electricity and sanitation.
45. **The Committee urges the State party to:**
- (a) **Continue to take effective measures to eliminate discrimination against Bedouin women and to enhance respect for their human rights through effective and proactive measures, including in the fields of education, employment and health;**
 - (b) **In its planning efforts in the Negev area, respect the Bedouin population's right to their ancestral land and their traditional livelihood; and**
 - (c) **Include, in its next report, detailed information on any national policy, strategy or programme carried out by the State party to improve the situation of Bedouin women and girls, including their access to health care, education and employment, as well as the impact and achievements of such government initiatives.**
50. While acknowledging the State party's emphasis on working in cooperation with civil society organizations, including women's non-governmental organizations, and the fact that some of these organizations have participated in the preparation of the State party's reports, the Committee notes with concern the recent decision of the Knesset to form a parliamentary inquiry committee with respect to the work and funding of civil society organizations, some of which are providing essential services, and are working to promote equality, for women and girls.
51. **The Committee calls upon the State party to:**
- (a) **Ensure that civil society organizations and women's non-governmental organizations are not restricted with respect to their establishment and operations and that they are able to function independently of the Government; and**
 - (b) **Provide an enabling environment for the establishment and active functioning and involvement of women's and human rights organizations in promoting the implementation of the Convention.**

2. המלצות וועדות האו"ם האחראית על יישום אמנת CEDAW משנת 2005²

While noting the increase in the number of women in the Knesset, the Committee remains concerned about the low level of representation of women in decision-making positions in local authorities. It is also concerned that the number of women in high-level positions in the civil service and foreign service remains low. The Committee is further concerned about the low level of representation of Israeli Arab women in these areas. 31.

² UN Committee on Elimination of Discrimination against Women (CEDAW) – 2005
[CEDAW/C/ISR/CO/3/22/7/2005](http://www.cedaw.org/ISR/CO/3/22/7/2005)

The Committee encourages the State party to take sustained measures, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25, and to establish concrete goals and timetables so as to accelerate the increase in the representation of women, including Israeli Arab women, in elected and appointed bodies in all areas of public life. 32.

The Committee is concerned about the State party's temporary suspension order of May 2002, enacted into law as the Nationality and Entry into Israel Law (Temporary Order) of 31 July 2003, which suspends the possibility, subject to limited and subjective exceptions, of family reunification, especially in cases of marriages between an Israeli citizen and a person residing in the Occupied Territories. The Committee notes with concern that the suspension order, which has currently been extended through August 2005, has already adversely affected the marriages and family life of Israeli Arab women citizens and Palestinian women from the Occupied Territories. 33.

The Committee calls on the State party to balance its security interests with the human rights of persons affected by such policies, and to reconsider them with a view to facilitating family reunification of all citizens and permanent residents. It calls on the State party to bring the Nationality and Entry into Israel law (Temporary Order) of 31 July 2003 into line with articles 9 and 16 of the Convention. It requests the State party to provide, in its next periodic report, detailed statistical information and analysis of the short- and long-term impact of this Order on affected women. 34.

While appreciating the progress made in the fields of women's education and health, the Committee is concerned that Israeli Arab women remain in a vulnerable and marginalized situation, especially in regard to education and health. While efforts have been made to eliminate gender stereotypes from textbooks, the Committee is concerned that these persist in the Arab education system. 35.

The Committee recommends that the State party take urgent measures to reduce the drop-out rates of Israeli Arab girls and increase the number of Israeli Arab women at institutions of higher education, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25. The Committee also urges the State party to review and revise textbooks in the Arab education system in order to eradicate gender stereotypes. The Committee recommends that the State party allocate adequate resources to improve the status of Israeli Arab women's health, in particular with regard to infant mortality, and to provide in its next periodic report a comprehensive picture of the situation of Israeli Arab women. 36.

The Committee is concerned that Bedouin women living in the Negev desert remain in a vulnerable and marginalized situation, especially in regard to education, employment and health. The Committee is especially concerned with the situation of Bedouin women who live in unrecognized villages with poor housing conditions and limited or no access to water, electricity and sanitation. 39.

The Committee requests the State party to take effective measures to eliminate discrimination against Bedouin women and to enhance respect for their human rights through effective and proactive measures, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25 in the fields of education, employment and health. The Committee calls upon the State party to provide, in its next 40.

periodic report, a comprehensive picture of the situation of Bedouin women and girls in regard to their educational opportunities and achievements, and access to employment and health-care services, and to provide an assessment of the impact of policies in those areas that directly affect them.

The Committee is concerned by the State party's assertion that it is not in a position to implement the law prohibiting polygamy and enforce the minimum age of marriage due to respect for the privacy rights of persons engaging in such practices. The Committee is further concerned that petitions for under-age marriage of girls are regularly granted. **The Committee urges the State party to take active measures to enforce the prohibition of polygamy and adherence to the minimum age of marriage. The Committee recommends that the State party take comprehensive and effective measures, including public awareness-raising campaigns, aimed at eliminating the practices of polygamy and early-age marriage.**

3. המלצות וועדת האו"ם האחראית על יישום האמנה לזכויות חברתיות, כלכליות ותרבותיות משנת 2011³

13. The Committee is concerned about the continuing wage gap between men and women, in both the Jewish and the Arab Israeli population groups. (art.7)

The Committee recommends that the State party effectively implement measures to ensure equal pay for work of equal value, between men and women, in both the Jewish and the Arab Israeli population groups.

19. The Committee is concerned that the State Party has not provided sufficient information concerning education, services and programmes on sexual and reproductive health aimed at the most vulnerable segments, such as women and young people from the Arab Israeli population group and those living in the Occupied Palestinian Territory.

The Committee recommends that the State party increase its efforts in the creation of educational programmes and services on sexual and reproductive health for all the population, especially women and young people from the Occupied Palestinian Territory and the Arab Israeli population group.

30. The Committee is concerned about the unequal treatment of Bedouin women and girls with regard to education, employment, and health, especially those living in unrecognized villages. (arts. 3, 11, 12, 13 and 14).

The Committee recommends that the State party continue to take measures to improve the situation of Bedouin women and girls with regard to their access to health care, education and employment.

4. המלצות וועדות האו"ם האחראית על יישום האמנה לזכויות פוליטיות ואזרחיות משנת 2003⁴

³ UN Committee on the Economic, Social and Cultural Rights (CESCR) - 2011 [E/C.12/ISR/CO/3](#) [16/12/2011](#)

⁴ UN Human Rights Committee (HRC) - 2003 [CCPR/CO/78/ISR](#) [21/8/2003](#)

23. Notwithstanding the observations in paragraphs 4 and 7 above, the Committee notes with concern that the percentage of Arab Israelis in the civil service and public sector remains very low and that progress towards improving their participation, especially of Arab Israeli women, has been slow (arts. 3, 25 and 26).

The State party should adopt targeted measures with a view to improving the participation of Arab Israeli women in the public sector and accelerating progress towards equality.