

Social Rights in Israel

Inferior Legal Status and Insufficient Budgets

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Human and civil rights reflect a worldview in which the human being is at the center. These rights define the political, social, and economic conditions required to live a life of dignity and self-realization. Human and civil rights are **anchored in international covenants**. Every state ratifying these covenants undertakes to act according to their principles.

The human and civil rights elucidated in international covenants are usually divided into two groups:

1. Civil-political rights, 2. Economic-social rights.

Civil-political rights protect the individual from force wielded by the state or other individuals. Without these rights, a democratic system is not tenable. Implementation of these rights does not usually require the allocation of significant resources, and therefore they enjoy widespread support: All

states that define themselves as democracies have ratified the covenant for civil and political rights.

The political rights anchored in the international covenant from 1966 include the right to self-determination of all peoples; the inherent right to life; a prohibition on torture, cruel punishment, slavery and servitude of all kinds; the right to dignity, liberty, and personal security; freedom of movement, assembly, and association; equality before the law, and the right to a fair legal process; the right to privacy; freedom of thought, expression, religion, and conscience.

Economic, social, and cultural rights reflect a broader view of the state's responsibility for the living conditions of its citizens, and are based on the principles of equality and social solidarity. Their implementation generally requires the allocation of public resources.

The social rights anchored in the international covenant from 1966 are the rights to work, social security, health, education, and cultural life.

Protection of social rights requires a redistribution of public resources; therefore in Israel – as in many states that are signatories to the covenants – public acceptance and constitutional enshrinement of these rights are much more problematic, and these rights remain controversial.

The Status of International Human Rights in Israeli Law

Many states have a **constitution** that entrenches key principles and enjoys the status of supreme law of the land. Israel has no constitution. Instead, the Knesset is incrementally legislating a set of **Basic Laws** that will serve as chapters in a future constitution. A Basic Law has higher legal status than ordinary legislation.

So far, **the Basic Laws enacted by the Knesset are intended to delineate the activities of the main state authorities:** the

Government, the Knesset, the President, etc.

In 1992, about a year after Israel ratified the international human rights covenants, the Knesset enacted two Basic Laws concerning civil rights:

The Basic Law: Human Dignity and Liberty. This law affirms the freedom of the individual in Israel to leave and enter Israel; prohibits violation of freedom or the perpetration of bodily harm; protects privacy and personal integrity; and prohibits harm to the dignity, property or liberty of the individual. These rights are protected with several reservations: except as dictated by law and to an extent no greater than is required for a justified goal, or during a declared period of emergency.

The Basic Law: Freedom of Occupation. This law accords “the right of every citizen or resident to engage in any occupation, profession, or trade” unless “a law befitting the values of the State of Israel, enacted for a worthy purpose” is deemed to conflict with it.

Social Rights in Israel

Rights With Inferior Legal Status

The International Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted by the United Nations in 1966 and came into effect in 1976. In 1991, Israel ratified this covenant together with the International Covenant on Civil and Political Rights, but did not convert them into internal legislation. For the covenant to have legal validity inside Israel, the Knesset must enact its principles as law.

Without adoption into internal legislation, the Covenant on Economic, Social and Cultural Rights has a non-binding legal status and its norms lack all power of enforcement.

Since 1963, **over 20 basic law bills for economic, social, and cultural rights**, based on the principles of the international covenant, **were tabled in the Knesset, but all were rejected!**

Israel's **Supreme Court** recognizes some social rights on a declaratory basis as among the fundamental values of the State of Israel. However since these are not legislated as Basic Laws, the scope and content of these rights are subject to court interpretation. Absent such entrenchment, Israel's Supreme Court is reluctant to enforce social rights or intervene when policies violate them.

Social Rights in Israel

Rights With Insufficient Budgets



The right to fair working conditions without discrimination of any kind (wages, fringe benefits)...



The Right to Work (From Articles 6-8 of the International Covenant)

- 👤 The right to fair working conditions without discrimination of any kind (wages, fringe benefits);
- 👤 The right of workers to form trade unions, conduct negotiations and strike, to be restricted only by legislation necessary for the interests of national security or for protection of the rights and freedoms of others;
- 👤 The right of the state to ensure steady economic, social, and cultural development, and full employment.

Recent years have seen a decline in the value ascribed to work, deteriorating working conditions, and a regression in the status of workers.

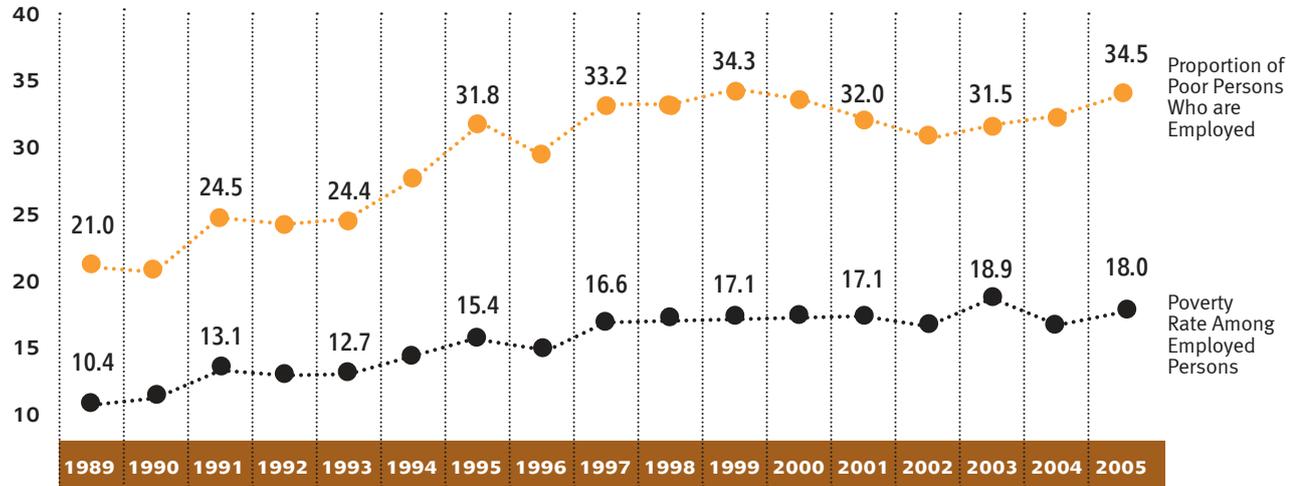
In Israel of 2006, employment is no guarantee against poverty. More and more workers earn low wages that do not allow them to live with dignity but shunt them into the ranks of the poor.

In 1989, 21% of the poor were wage earners; in 2005, this proportion had risen to 34.5%.

In 1989, 10% of wage earners were below the poverty line; in 2005, this proportion rose to 18%.

Increase in Poverty Among Employed Persons

1989-2005 • Before Taxes and Transfers • In Percentages



Note: The figures for 2000-2005 do not include the residents of East Jerusalem.

Sources: Shlomo Swirski and Ety Konor-Attias, *Israel: A Social Report – 2006*. December 2006, Adva Center.

According to 2006 estimates, a quarter of the wage earners in Israel are employed in ways that harm them (employed by temp agencies or service contractors, temporarily employed). This kind of employment is on the rise, and the government does not seek to redress this by funding or otherwise.



The right of everyone to form trade unions... and strike

The obligation of the state to ensure steady economic... development, and full employment



Over the past two decades, the proportion of workers who are members of a trade union in Israel has sharply declined:

- 👤 In 2000, only 42% of wage earners were members of a union, compared with 80-85% until the early 1980s.
- 👤 The proportion of workers whose working conditions are protected by collective agreements has also dropped. The transition to individual contracts and hirings through agencies has a negative effect on the ability of workers to organize and protect their rights.
- 👤 In defiance of the law, various methods are used by some employers to prevent their employees from forming unions; for some companies, it is official policy to oppose unionization.

The obligation of the state to ensure steady economic, social, and cultural development, and full employment.

Since the late 1990s, unemployment in Israel has risen significantly: In 1996, 6.7% of the labor force in Israel was unemployed; in 2003, unemployment peaked at 10.7%; in 2005, 9% were unemployed.

- 👤 Most of the new jobs added since 2000 have been part-time.
- 👤 The budget for job training, a tool that can serve to increase workforce participation, has been undergoing constant cuts: it decreased from NIS 233.4 million in 2000 to NIS 91.1 million in 2006 (in constant 2005 prices).

The Right to Social Security (From Articles 9-11 of the International Covenant)

- 👤 The right of everyone to social security;
- 👤 The right of everyone to an adequate standard of living, including adequate food, clothing and housing, and continuous improvement of living conditions.

The social safety net in Israel has been severely undermined in recent years, following economic measures taken by the government since late 2001, primarily budget cuts in the framework of the “Economic Defensive Shield Plan” of 2002 and the “Plan for the Recovery of the Israeli Economy” of 2003.

Social security allowances, for example, which are the main tool of the welfare state to ensure its citizens a minimal income, were slashed in recent years.

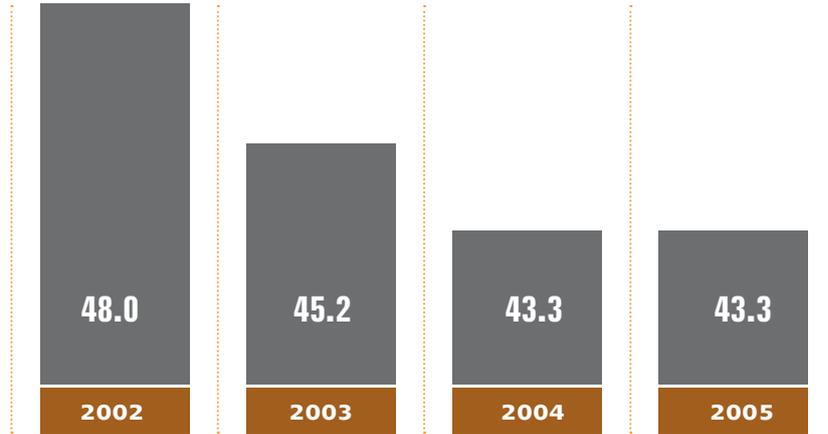


**The
right of
everyone
to social
security...**



National Insurance Payments

2002-2005 • In Billions of Shekels • In 2005 Prices

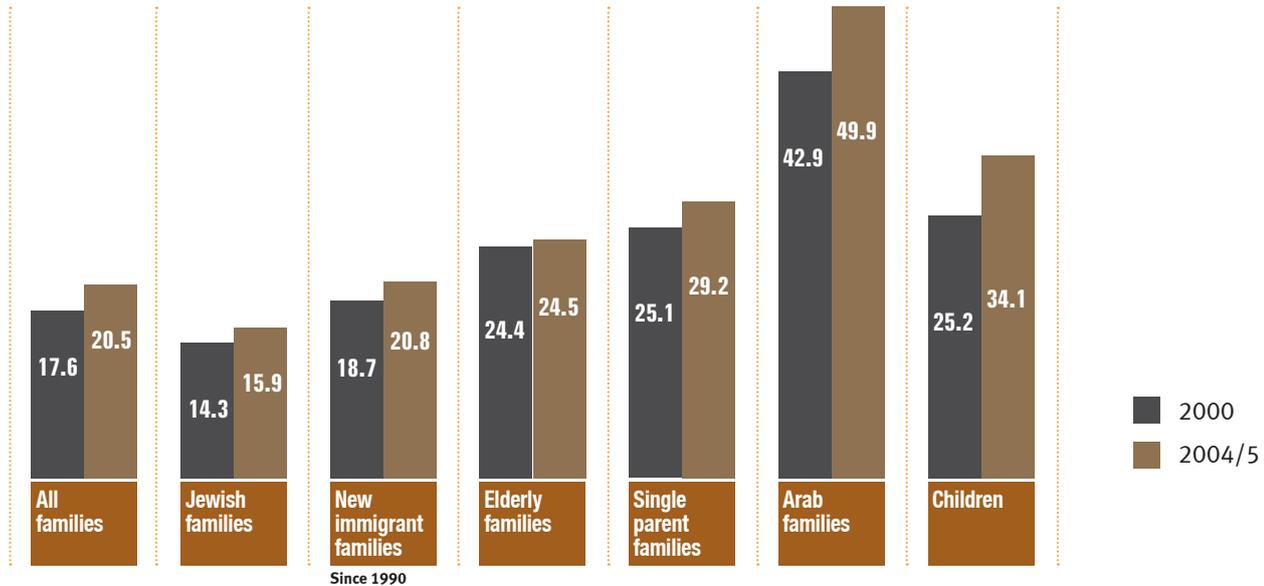


Source: Adva Center, *The Lost Decade: Social Implications of the 2007 Budget Proposal*, Power-point presentation in the Knesset, November 14, 2006.

One direct result of these cutbacks is that poverty now covers a much broader swathe of the population in Israel, especially among Arabs and children. In 2004-2005, over one fifth of the population of the country lived in poverty!

Poverty Rates in Israel

2000 Compared with 2004/2005 • After Taxes and Transfers • In Percentages



Note: Poverty rates for Jewish families and Arab families are for 2004.

Source: National Insurance Institute, *Annual Report 2005, 2006*.

- 👤 In Israel, the right to housing is not guaranteed, and it has been subject to continuous attrition. In recent years, Ministry of Housing loans and grants earmarked for housing aid have dwindled.

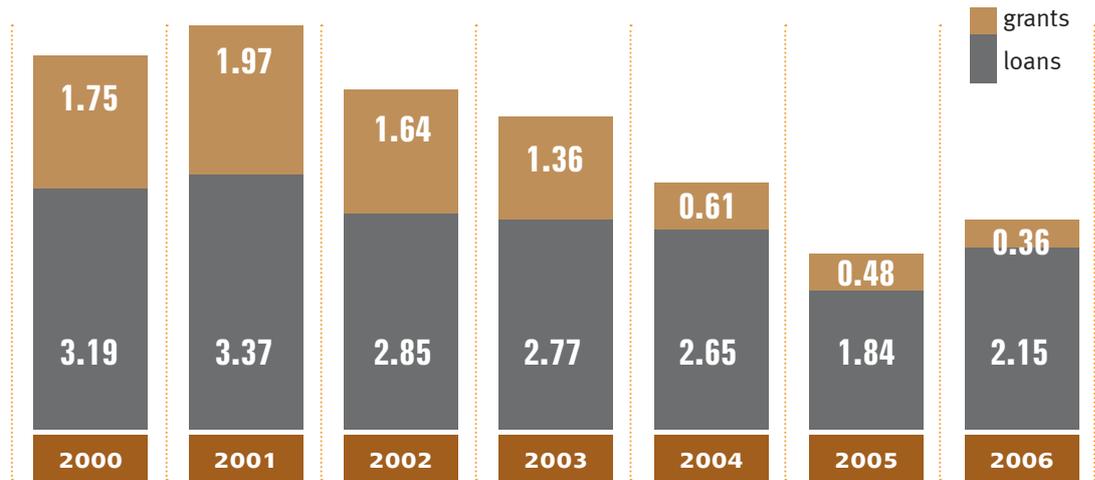


The right of everyone to an adequate standard of living ... including adequate food, clothing and housing, and to the continuous improvement of living conditions...



Grants and Loan Allocations from the Ministry of Housing

2000-2006 • In Shekels • In 2005 Prices



Note: The 2006 figures are from the budget proposal; the other figures represent actual spending.

Source: Adva Center analysis of Ministry of Finance, CFO, *Financial Report*, various years.

- 👤 The state does not provide an adequate response to the demand for public housing and rent subsidies, and accurate information is not available about the number of those who are in need of housing aid.

The Right to Health (From Article 12 of the International Covenant)

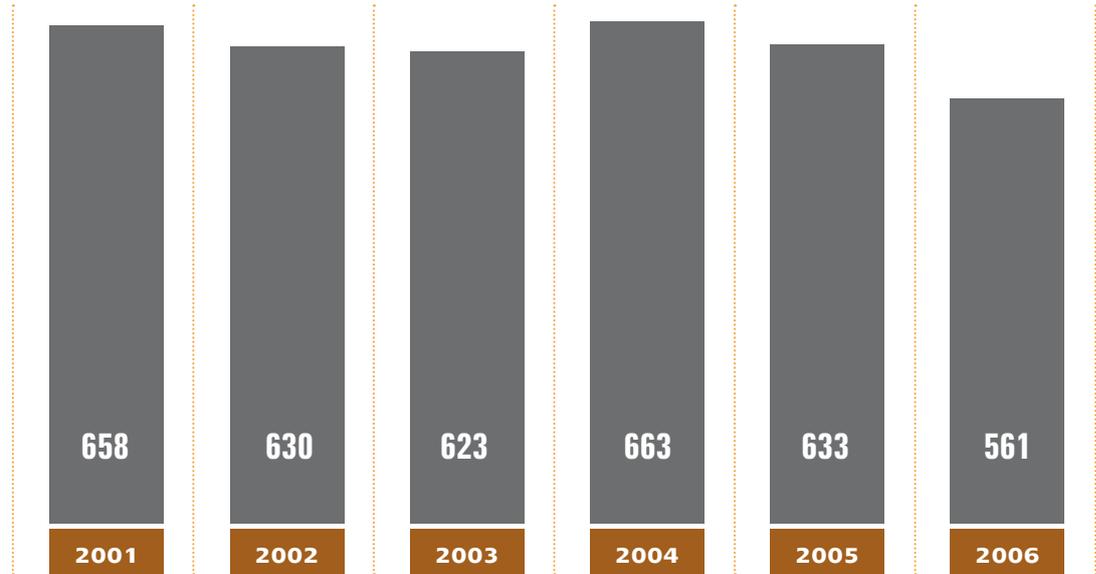
- 👤 The right of everyone to the enjoyment of the highest attainable standard of physical and mental health;
- 👤 The obligation of the state to ensure medical service and medical attention in the event of sickness;
- 👤 The obligation of the state to provide the prerequisites to health, like clean drinking water and sewerage infrastructure.

Israel has a National Health Insurance Law that guarantees health care to all residents. However, In recent years, **Israel government funding for health services has undergone serious erosion.**

- 👤 The value of the basket of health services has depreciated, absent a mechanism to update it in accordance with (1) demographic changes, (2) rises in the index of health outputs, and (3) new technologies.
- 👤 The sums earmarked for building and refurbishing hospitals and clinics have dropped more than 60% – from NIS 361.5 million in 2001 to approximately NIS 142.1 million in 2006!

Budget of the Ministry of Health

Calculated on an Age-Adjusted, Per Capita Basis • 2001-2006 • In Shekels • In 2005 prices



Note: Does not include the allocation for the National Health Insurance Law.

Source: Adva Center analysis of Ministry of Finance, *Budget Instructions for the Ministry of Health for Fiscal 2006*, June 2006; Ministry of Finance, CFO, *Financial Report*, various years.

The decrease in public funding results in an increase in private expenditures on health:

for medicines not included in the health basket of the National Health Insurance Law, visits to specialists, lab tests performed outside the hospital, and the purchase of supplemental insurance.

This trend has increased inequality in access to health services between persons with means, who can afford private health services, and persons without means, for whom the public health services are becoming less accessible.

Concerning the obligation to provide prerequisites for health, the Arab minority does not have the same infrastructure as the Jewish majority; Bedouin Arabs in the Negev are still struggling to obtain clean drinking water, sewerage systems and health clinics. Thus, their mortality and morbidity rates are especially high.

In the following figure one can see the increased expenditure on supplemental health insurance in Israeli households and the growing gaps in health expenditures between households in the upper and lower income deciles.

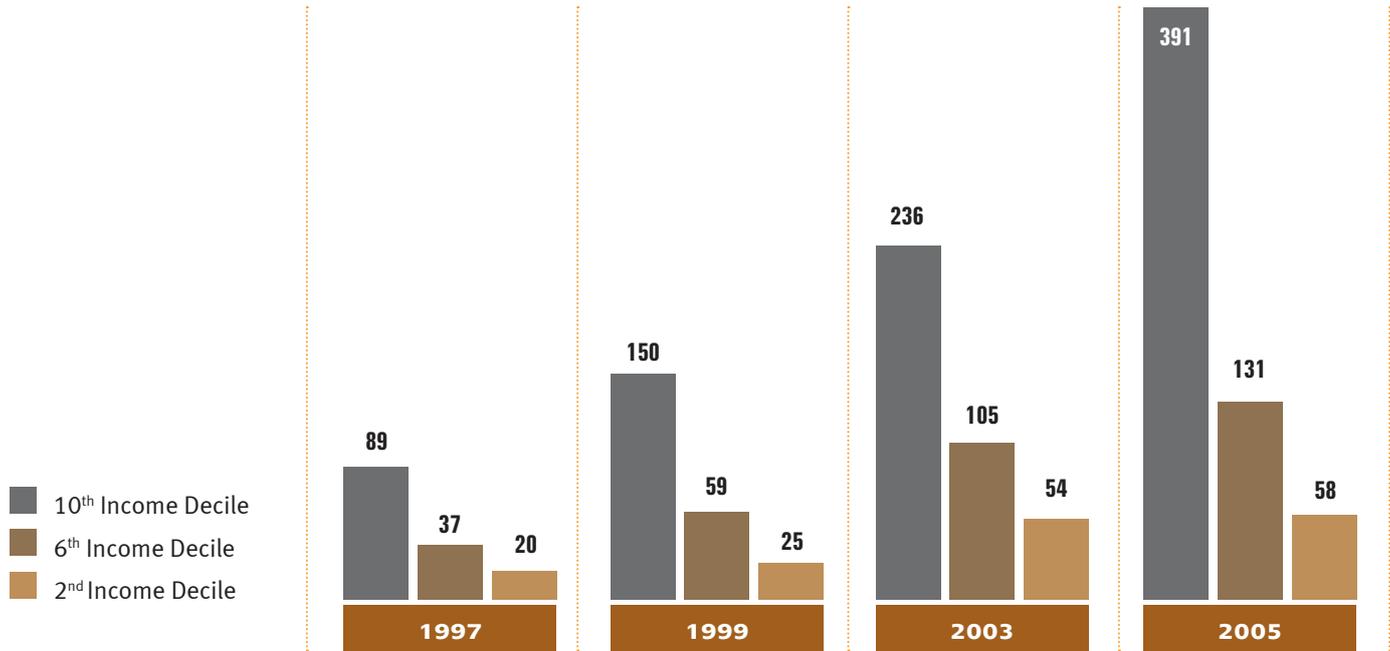


The right of everyone to the enjoyment of the highest attainable standard of physical and mental health



Household Expenditure on Health Insurance Beyond the Health Tax

2nd, 6th and 10th Income Decile • 1997-2005 • By Net Household Income • In Shekels • In 2005 Prices



Note: Includes supplemental insurance sold by health funds and private insurance sold by insurance companies.

Source: Shlomo Swirski and Ety Konor-Attias, *Israel: A Social Report – 2006*. December 2006, Adva Center.

The Right to Education (From Articles 13-14 of the International Covenant)

- 👤 The obligation of the state to make primary education compulsory and available free to all;
- 👤 The obligation of the state to make secondary education available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
- 👤 The obligation of the state to make higher education equally accessible to all on the basis of ability, and in particular by the progressive introduction of free education.

Today, primary and secondary school education in Israel is funded almost entirely by the government and is available to most children.

Nevertheless, some phenomena limit the right to education in practice, such as the supplementary payments required from parents, which sometimes amount to thousands of shekels a year.

One group of Israeli citizens does not fully enjoy the right to education: residents of the unrecognized Bedouin villages in the Negev. These settlements have a small number of primary schools and not even one high school.

The public investment in education has shrunk in recent years, during which there were cuts in the number of teaching hours allotted per pupil and the amount earmarked for the construction and refurbishing of classrooms and schools.

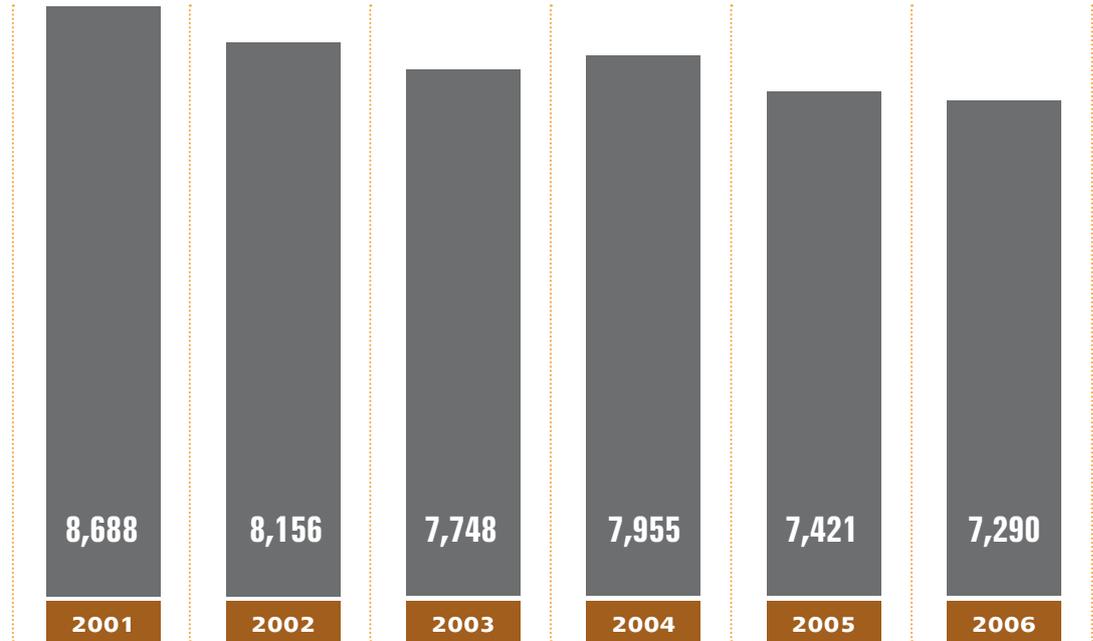


Primary education shall be compulsory and available free to all, secondary education in its different forms . . . shall be made generally available and accessible to all...



Teaching Hours Per Student

2001-2006 • In Shekels • In 2005 Prices



Source: Adva Center, *The Lost Decade: Social Implications of the Proposed Budget for 2007*, Presentation in the Knesset, November 14, 2006.

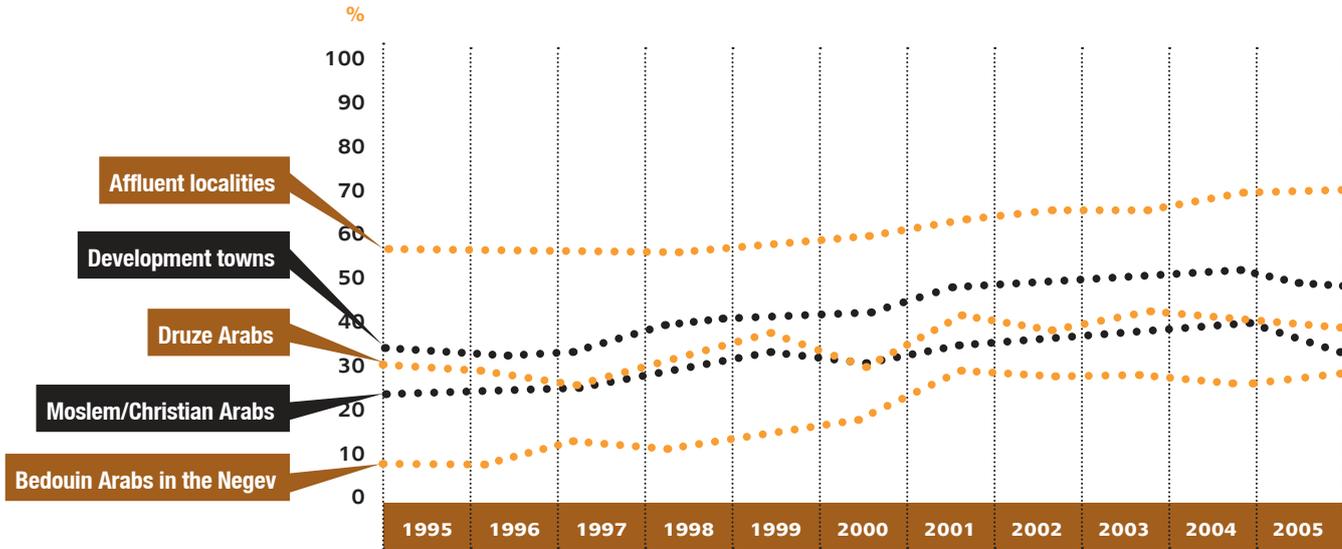
According to the international covenant, the state is obligated to provide accessible education on the basis of ability, without discrimination based on ethnic origin or financial means.

In reality, despite the general increase in the number of students who pass the matriculation exams in Israel, gaps remain in scholastic achievement between various population groups and between affluent and poor communities.

 In 2005, 44.9% of young people passed the matriculation exam. In affluent communities, the percentage was 67.4% and in development towns, 46%. The percentage of those passing the matriculation exam was particularly low in the Arab sector, at 32.2%, and lowest of all among Bedouin in the Negev – only 26.6%.

Success Rates in the Matriculation Exams

By Population Group • 1995-2005

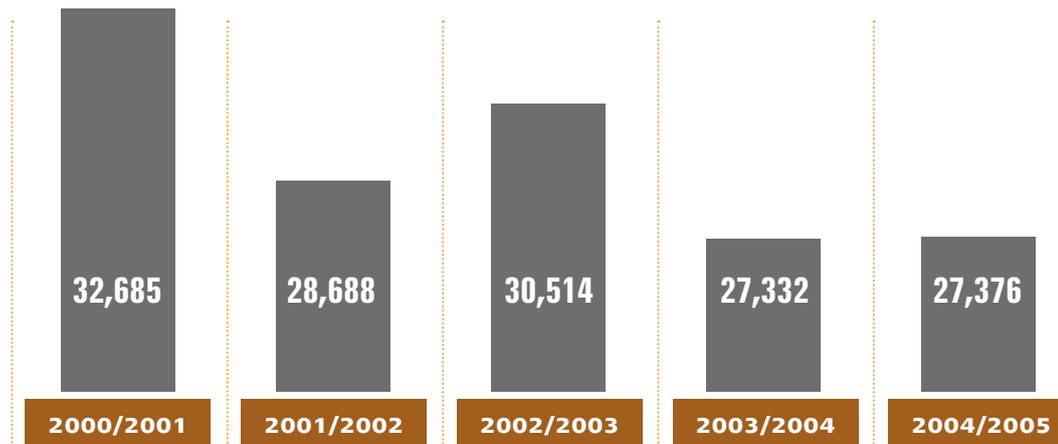


Source: Shlomo Swirski and Itai Schurtz, *Success Rates in the Matriculation Exam, by Locality: 2004-2005*, Adva Center, August 2006.

Cuts in public funding also adversely affected the system of higher education in Israel. This system greatly expanded since the late 1990s, mostly because of the opening of private institutions for higher learning that are accessible to students with means, while development of the public system of higher education has been limited.

Budget for Higher Education

Per Student • 2000/2001-2004/2005 • In Shekels • In 2005 Prices



Note: The budget is based on a calendar year; an adjustment was made to accommodate the academic year.

Source: Adva Center, *The Lost Decade: Social Implications of the Proposed Budget for 2007*, Presentation in the Knesset, November 14, 2006.



Obligation of the state to make higher education equally accessible to all on the basis of capacity...



The Right to Culture (From Article 15 of the International Covenant)

- 👤 The right of everyone to take part in cultural life;
- 👤 The obligation of the state to take steps for the development and diffusion of science and culture.

Government funding for this area is extremely limited, while private funding is increasing.

- 👤 Only a small part of the budget of the Ministry of Education and Culture is earmarked for cultural institutions, and this too has diminished – from 2% of the budget in 2003 to 1.39% of the budget in 2006.
- 👤 Private funding for national expenditures on culture, entertainment, and sports is on the increase: In 2004, households accounted for 82.7% of these expenditures, compared with 81.8% in 2003 and 80% in 1999-2000.

When private money accounts for a massive share of the funding of cultural consumption, **the right to participate in cultural life becomes dependent upon one's means:** In 2004, households from the upper decile spent on culture more than 20 times that spent by households in the lower decile.

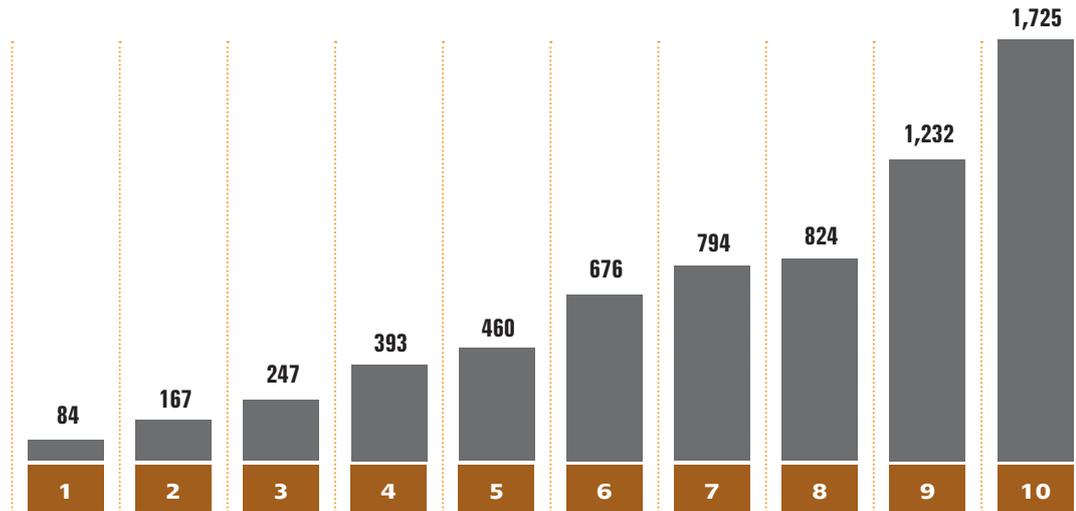


The right of
everyone to
take part in
cultural life



Households' Monthly Expenditures on Cultural Activities

2004 • By Net Household Income by Income Decile • In 2005 Prices



Source: Adva Center analysis of Central Bureau of Statistics, *Survey of Household Expenditures, 2004*, January 2006.

Expenditures on cultural activities include outlays on newspapers, books and writing utensils; cultural and sports events and entertainment; trips and vacations; sporting equipment; computers, internet and accessories.

מֵדָע עַל שׁוּוּיוֹן וְצֶדֶק חִבְרָתִי בְּיִשְׂרָאֵל
מֶרְכֵז «אֲדָפָא» – מַעֲלֹמֹת חֹוֹל הַמְּסָאָה וְהַעֲדָלָה הָאִיחְטָמָעִיָּה בְּיִסְרָאֵל

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