

THE RIGHT TO VACCINE

**Violation of the Right of Palestinians
in the Occupied Territories to Get Vaccinated**

Israel, May 2021

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Author:

Adi Granot

Steering Team:

Prof. Nihaya Daoud

Prof. Danny Flic

Attorney Dr. Shelly Kamin-Friedman

Translation: Shoshana Michkin

Graphic Design: Niv Friedman

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SUMMARY

The Zulat Institute calls on Israel's leadership to fulfill its legal and moral obligation to vaccinate all Palestinians in the Occupied Territories under its control.

This position paper deals with the acute gap between the state of corona vaccination in Israel (among the world's highest) and in the Occupied Territories, and with different aspects of Israel's non-compliance with its commitment to provide vaccines to the Palestinians.

Its publication comes a few days after the ceasefire signed in recent days after yet another round of fighting with Hamas that claimed the lives of many and inflicted much damage.

Yet another bloody and painful round of fighting ended between Israel and Hamas a few days ago, during which the Gaza Strip was subject to bombings by the Israel Air Force for more than a week. According to B'tselem, "Israel has killed more than 200 Palestinians to date, about half of them women and minors under the age of 18. Hundreds of homes and other structures have been destroyed, electricity and water networks impaired and roads damaged, and tens of thousands have had to abandon their homes."¹

The trouble is that in crowded and impoverished Gaza, which had been suffering an extremely high rate of morbidity and mortality due to the corona pandemic, the fatality toll will not stop when the fighting is done, but quite the contrary. As a result of the enormous damage caused by the Israeli bombings, it will now be even more difficult for the Gazan population to prevent infection and manage the pandemic.

Israel bombed the only corona laboratory in Gaza, killed one of the only corona experts there, and even hit a hospital,² not to mention

¹ ["Collateral Damage"?](#), B'tselem, 20 May 2021.

² [Rohan Talbot, Advocacy manager, Medical Aid for Palestinians](#), Twitter, 11 May 2021.

the tens of thousands who were displaced and forced to flee because their homes were destroyed in the bombings, and had to find shelter in UNRWA facilities throughout the Gaza Strip in crowded conditions and no option of social distancing.

Gaza needs to be rehabilitated, not only because of the destruction and devastation inflicted by the fighting but because of the impact on its ability to deal with the corona. Lynn Hastings, OCHA's [United Nations Office for the Coordination of Humanitarian Affairs] Coordinator of the Occupied Palestinian Territory, wrote in a message: "The escalation has exacerbated an already dire humanitarian situation in Gaza, generated by nearly 14 years of blockade and internal political divisions, alongside recurrent hostilities. We must also ensure support to continue addressing needs that already existed, including those arising from the ongoing pandemic."³

Both in Israel and in the Occupied Territories live people who yearn for a secure and prosperous life, but repeatedly find themselves hostage to leaders who want to continue an unnecessary and deadly conflict. Now more than ever, in light of the vast destruction it inflicted and to prevent the death of many more people, Israel must fulfill its commitment to vaccinate the Palestinians under its control. Rehabilitating Gaza is not just Israel's humanitarian duty, but also part of what might prevent another round of fighting in the near future.

In addition, totally unconnected to the last round of fighting, in view of the fact that it has the capacity and resources, and as part of its commitment as the occupying power, Israel must immediately proceed to ensure the fulfillment of the right to health and to a dignified life of all residents of the West Bank, Gaza Strip, and East Jerusalem, and see to it that they are given the opportunity to be vaccinated.

The demand to provide vaccines to the Palestinians in the Occupied Territories is in no way connected to our unequivocal call to lift the

³ [Statement by Lynn Hastings, the Humanitarian Coordinator of the occupied Palestinian territory](#), OCHA, 23 May 2021.

siege on Gaza and put an end to Israel's control over it and the rest of the Occupied Territories. However, as long as the occupation continues, Israel must fulfill its commitment to vaccinate all human beings under its rule, and all the more so in the wake of the great destruction it inflicted in recent days in the Gaza Strip.

We begin with a review of the status of the pandemic and of vaccination in Israel and its policies, and contrast it with the serious morbidity and mortality in the Occupied Territories, particularly in Gaza. While Israel is one of the most vaccinated countries in the world, the number of immunized people in the Occupied Territories is very low due to lack of access to vaccines

The appalling condition of the Palestinian health system are primarily to be blamed on the 54 years of occupation, during which the State of Israel has not only enforced a violent and repressive military regime that has not allowed residents of the Occupied Territories to progress, either as individuals or as a community, but has also actively prevented the development of the region.

At the end of April 2021, the rate of active corona cases in Israel was 0.01706% (1,570 out of a total population of 9,197,590), while in the Occupied Territories it was 0.44802% (23,290 out of a total population of 5,198,429).

In this position paper we present Israel's commitment under international law to supply vaccines to the Palestinians. Following two policy papers published earlier this year on the human rights perspective of corona vaccines, the current paper addresses Israel's moral responsibility, in particular its legal commitments by virtue of being the occupying power in the territories and by virtue of various treaties to which it is a signatory.

Consequently, this paper deals with Israel's sovereignty in all the Occupied Territories, including the Gaza Strip, where the nature of Israel's control changed after the 2005 disengagement, and in the large cities in the West Bank, where full Palestinian autonomy was to exist had the Oslo Accords been implemented.

We focus on the blatant discrimination taking place in the Occupied Territories, given the full rollout of vaccines to the settler population versus the unavailability of vaccines for the Palestinians in whose midst these settlers live. We also touch upon the tension between the justified fear that Israel's community immunity might be impaired due to its proximity to the Occupied Territories and the daily passage of people and goods on the one hand, and its illegitimate self-interested policy making vaccine supply contingent on Palestinian reciprocation and its decision to inoculate only Palestinian day laborers who come into contact with Israelis on the other hand.

We then refer to the important petition submitted to the Supreme Court in late March 2021 by a number of organizations with regard to the non-supply of vaccines to the Palestinians, and discuss many of the arguments presented in this context. We also review the numerous steps and actions taken in recent months by Zulat and its leading members to advance a policy in favor of vaccinating Palestinians.

It should be pointed out that insistence on this Israeli commitment in no way normalizes or legitimizes the occupation, which entails a serious, far-reaching, and continuous daily violation of the human rights of millions, or the need to end it immediately.

We present 11 conclusions summarizing the issues discussed in this paper, and specify the ideas and actions that the State of Israel should pursue. Wide-ranging and varied as they are, all these discussions ultimately lead to one clear and unequivocal conclusion:

By virtue of being the occupying power and the sovereign ruler of the Occupied Territories and their residents, the State of Israel must vaccinate all the Palestinians in the West Bank, Gaza Strip, and East Jerusalem, indiscriminately, unconditionally, and without demanding anything in return.

INTRODUCTION

Between January and April 2021, Zulat for Equality and Human Rights and Physicians for Human Rights [PHR] published two policy papers on the human rights perspective of the right to vaccination.

In January, Zulat published [*The Right to Vaccination: Dealing with the Violation of the Right to Vaccines*](#). The paper presented to the Israeli Government a series of demands on immunization policy and proposed to decision-makers a list of practical recommendations from the point of view of human rights, which are directly influenced by this policy.

These recommendations were the product of brainstorming by a multidisciplinary team of experts, which addressed such issues as vaccine development, purchase, and rollout; decision-making processes, including prioritization; informed consent to vaccination; public response and "vaccine hesitancy;" the responsibility of medical staff and compensation of vaccine victims, should any occur.

Zulat has in recent months devoted much effort to dealing with the human rights violations brought about by the corona pandemic. Aeyal Gross, a law professor and member of Zulat's steering committee, aptly described it in an article published last February, where he took a more holistic view of the harm done, noting not only the violations resulting from the measures taken to deal with the crisis, but also from the very outbreak of the pandemic.⁴

The paper discussed Israel's commitment to vaccinate the population under its responsibility and control, including prisoners, asylum seekers, and Palestinians living in the Occupied Territories. As far as the latter are concerned, the team's recommendation was unequivocal: "As long as the occupation continues, Israel has a responsibility to supply vaccines to the Palestinian population in the territories."

After the publication of the aforementioned policy paper, Zulat continued

⁴ [In Israel, The Coronavirus Infringes on Human Rights](#), Aeyal Gross, Haaretz, 25 February 2021.

to promote the issue in the public, parliamentary, and political arenas, contacting, informing, and alerting decision-makers, initiating actions in the media to encourage a public debate on the issue, and more.

In early April, Zulat published [*The Right to Vaccination: Dealing with Vaccine Hesitancy*](#), which also discussed the issue from a human and social rights perspective. In this paper, a team of experts acknowledged the significant contribution that the "green pass" made to reopening of the economy, but warned that any expansion of legislation allowing the transfer of information about vaccinees to public bodies was a slippery slope that would violate their human rights.

The team noted that the way to deal with vaccine hesitancy was to convince the public that getting inoculated was an act of social solidarity. The team recommended the advancement of comprehensive legislation to regulate vaccination policy in Israel, and underscored the commitment to social justice and equality with regard to access to vaccines.

Given that the current paper was written several months after the start of the vaccination campaign in Israel, it also looked at the availability and accessibility of vaccines to various populations and sectors, as well as their response to the option of vaccination and the ensuing impact on the rate of morbidity among them. As for the Palestinian population in the Occupied Territories, the experts affirmed that "the principle of equal access to vaccines has been violated by policymakers through their decision to refrain from supplying vaccines to the Palestinian Authority in sufficient quantities to inoculate all residents of the West Bank and the Gaza Strip."

In this position paper, we seek to focus on the Palestinians and to address in detail various aspects of Israel's commitment to provide them vaccines and ensure their health. It is based on the positions and recommendations of the expert team that drafted the two previous policy papers, on focused research conducted for the purpose of this paper, as well as on Zulat's actions in recent months.

In addition, through this paper we wish to join the general spirit of the petition submitted to the Supreme Court on 25 March 2021 by a number of organizations, including PHR, HaMoked, Gisha, Al-Mizan, Adalah, and Rabbis for Human Rights regarding Israel's obligation to supply vaccines to the Palestinians living under its control in the West Bank and the Gaza Strip (hereafter: "the petition").⁵

It should be emphasized that this paper deals only with the Palestinian residents of the West Bank and Gaza Strip. It does not touch upon the vaccination of the Palestinian residents of East Jerusalem, which was annexed to Israel in contravention of international law, and therefore is not subordinate to the military sovereign like the rest of the Occupied Territories even though it is under the direct control of the Israeli security forces. Israel's commitment to vaccinate the residents of East Jerusalem remains in effect, but stems from slightly different factors, as noted by Ir Amim.⁶

The discussion about Israel's role in providing vaccines to the Palestinians has a number of aspects addressed herein: the status of morbidity and vaccination in Israel and its policy on vaccination of non-citizens; the status of morbidity and vaccination in the Occupied Territories; Israel's moral obligation to provide vaccines to the Palestinians and its legal obligation under international law; the question of the Oslo Accords and the discrimination between settlers and Palestinians; Israel's interest to vaccinate Palestinians who come into contact with Israelis and settlers and to make the supply of vaccines to Gaza contingent on the return of the bodies of soldiers and missing persons.

⁵ [Supreme Court Petition: PHR vs. State of Israel](#), Gisha, 25 February 2021 (Hebrew).

⁶ [Ir Amim Facebook post](#), 21 January 2021 (Hebrew).

MORBIDITY AND VACCINATION IN ISRAEL: STATUS AND POLICY

Status of the Corona Pandemic

Israel's inoculation figures are among the highest in the world (measured by the number of vaccine doses per 100 people).⁷ HMOs are responsible for providing this service to their members under the National Health Insurance Law, which is one of the factors that enabled the great effectiveness of the vaccination campaign in the country.

The vaccine purchase agreements remain confidential, but according to reports in the media⁸ Israel purchased 10 million vaccines from Pfizer (which enables the vaccination of 5 million people) and additional vaccines from Moderna. Therefore, there is no shortage of vaccine in Israel. The petition notes that, "according to Israel's own declarations, it has a stock sufficient for its population and has even sent thousands of doses out of the surplus to 18 countries around the world."⁹ On 19 April, it was announced that Israel had signed agreements with Pfizer to receive millions of corona vaccines by the end of 2022 and the option to purchase a few millions more to deal with variants of the virus.¹⁰

In accordance, Israel is in an excellent situation in terms of the populations eligible for vaccination. The Health Ministry prioritized eligibility at the outset of the vaccination campaign (on 16 December 2020), but shortly afterwards, in early February 2021, it decided to extend it to the entire population aged 16 and above.¹¹ As of 29 April 2021, a significant percentage of the at-risk population had been vaccinated, and vaccination was also very high among the general population (92.4%

7 [Share of People Who Received At Least One Dose of COVID-19 Vaccine](#), Our World in Data, 7 April 2021.

8 [Israel to Receive Last Shipments of Pfizer COVID Vaccines in Next Two Weeks](#), Ido Efrati, Haaretz, 21 February 2021.

9 [Supreme Court Petition: PHR vs. State of Israel](#), Gisha, 25 February 2021 (Hebrew).

10 [Israel Procures 18m. Pfizer, Moderna COVID Vaccine Doses](#), Dani Zaken, Globes, 20 April 2021.

11 For more on status of vaccination in Israel, go to Zulat's position paper [The Right to Vaccination: Dealing With Vaccine Hesitancy](#), April 2021 (Hebrew).

of those aged 80–89; 95% of those aged 70–79; 86% of those aged 60–69).¹²

Policy on Vaccination of Non-Citizens

Over the past few months, as a growing percentage of the Israeli population received the vaccine and following public pressure, Israel began to immunize non-citizens: migrant workers, asylum seekers, and people living in Israel for whatever reason, "in accordance with epidemiological commonsense, the human and legal obligation to do so, following PHR's entreaties, and at the recommendation of professionals."¹³

The first non-Israeli citizens to be inoculated were caregivers who come into daily contact with the at-risk elderly population. Vaccines were subsequently approved for all people living in Israel over the age of 60, regardless of their status, and subsequently for the entire foreign population. At present, vaccination centers are also open to Palestinians with permits to reside in Israel (on humanitarian grounds, due to threats, social welfare cases, family reunification, etc.).

Israel also took steps to vaccinate Palestinian laborers who come to work in its territory and in the settlements. This topic will be discussed in a separate subchapter later on in this paper, but will be examined here primarily with regard to the utilitarian aspects of Israeli policy on vaccine rollout to the Palestinians.

Nevertheless, despite being the sovereign in the Occupied Territories and therefore responsible for all their residents, Israel has so far refrained almost completely from transferring vaccines to the Palestinians. A certain amount was indeed transferred, but the number was too negligible to prevent the spread of the pandemic: some 5,000 vaccines for Palestinian medical teams,¹⁴ and as will be explained below, another 120,000 for Palestinian laborers with permits to work in Israel and in the settlements.

¹² [Coronavirus in Israel: General Situation](#), Israel Ministry of Health.

¹³ [Supreme Court Petition: PHR vs. State of Israel](#), Gisha, 25 February 2021 (Hebrew).

¹⁴ [A Tale of Two Pandemics, Elinor Levy](#), Ynetnews, 13 March 2021

On 22 February 2021, US Secretary of State Antony Blinken asked his Israeli counterpart to facilitate the transfer of vaccines to the Palestinians. Foreign Minister Gabi Ashkenazi's response was that "Israel is the country that has vaccinated the highest number of Palestinians in the world so far."¹⁵ In response to the US request and to the "dribbling" of negligible amounts of vaccines that look more like charity than as a coherent policy, Zulat's Executive Director Einat Ovadia called on the defense minister to vaccinate the entire Palestinian population in the Occupied Territories.¹⁶

Amnesty International's World Human Rights Report published on 7 April 2021, alleging that governments around the world took advantage of the corona pandemic to violate the rights of their citizens, described Israel's attitude toward Palestinians living in the Occupied Territories as follows: "In December, the Israeli Health Ministry distributed COVID-19 vaccines exclusively to citizens and residents of Israel, including Palestinians living in illegally annexed East Jerusalem, discriminating against the nearly 5 million Palestinians living under Israeli military occupation in the West Bank and Gaza in violation of its obligation as occupying power to ensure preventive measures to combat the spread of epidemics."¹⁷

Last January, Zulat announced its public support for a petition that called on Israel to provide vaccines to the Palestinians under its control in the West Bank and Gaza Strip. Zulat's President Zehava Galon was among its signatories.¹⁸

15 [Blinken Asks for Israeli Help in Facilitating COVID Vaccines to the Palestinians](#), Barak Ravid, Axios, 23 February 2021.

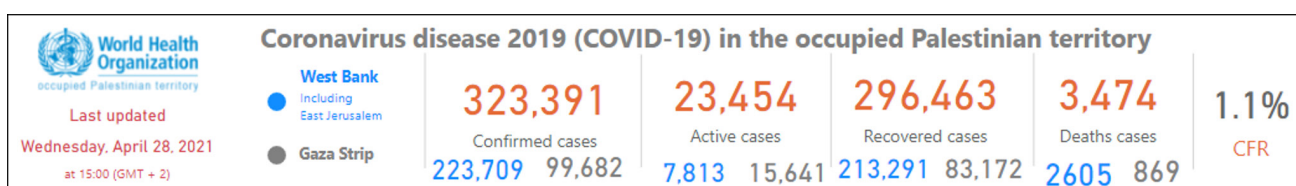
16 [Twitter post](#), Einat Ovadia, Zulat, 23 February 2021 (Hebrew).

17 [Amnesty International Report 2020/21: The State of the World's Human Rights](#), March 2021.

18 [Twitter post](#), Zehava Galon, Zulat, 21 January 2021 (Hebrew).

MORBIDITY AND VACCINATION IN THE OCCUPIED TERRITORIES

Corona morbidity and mortality are high among the Palestinian population in the Occupied Territories. According to the World Health Organization, on 28 April 2021, the West Bank had 223,709 confirmed cases and 2,605 deaths, while the Gaza Strip had 99,682 confirmed cases and 869 deaths. It should be noted that contrary to the decline in morbidity in Israel as a result of the inoculation campaign, morbidity has been on the rise among Palestinians.



Source: [World Health Organization, 28 April 2021](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/situation-reports)

On the same day, there were 1,570 active corona cases in Israel (population: 9,197,590), as opposed to 23,290 active cases among the Palestinians in the Occupied Territories (population: 5,198,429), 0.01706% Vs. 0.44802%.

#	Country, Other	Active Cases	Population
99	Israel	1,570	9,197,590
#	Country, Other	Active Cases	Population
153	Palestine	23,290	5,198,429

Source: [Worldometers.info, 28 April 2021](https://www.worldometers.info/coronavirus/)

According to a report by Gisha from early April, which is based on an update from the Health Ministry in Gaza, the situation there has been worsening at record pace, and the number of sick people has increased dramatically. "More than 75,000 confirmed cases to date, including 15,500 active cases, and 642 deaths. The number of active cases in Gaza

increased by more than 100% over a seven-day period, according to the ministry. In the first week of April alone, 1,500 new cases were reported daily, with the rate of positive tests ranging from 27% to 44% per day."¹⁹

If in April the situation was serious, then now, at the end of the last round of fighting between Israel and Hamas, the situation in Gaza is much more difficult.

As a result of the enormous damage caused by the Israeli bombings, it will now be even more difficult for the population to prevent infection and manage the pandemic. Israel bombed the only corona laboratory in Gaza, killed one of the only corona experts there, and even hit a hospital,²⁰ not to mention the tens of thousands who were displaced and forced to flee because their homes were destroyed in the bombings. They had to find shelter in UNRWA facilities throughout the Gaza Strip in crowded conditions and no option of social distancing.

The Palestinian health system is disorganized, resource-poor, and depends on international aid and on Israel's humanitarian gestures or donations in order to function, not to mention its plight as a result of the pandemic, which is mentioned at length in the petition.²¹ Of course, the dismal state of the Palestinian health system cannot be divorced from life under Israel's military control, which has condemned it to "long years of occupation, neglect, severe restrictions, and inability to develop."²²

The petition also emphasizes that "a 2019 UN report on Israel's actions under the International Covenant on Economic, Social and Cultural Rights noted that the failures and shortcomings in the Palestinian Authority's health services in the Gaza Strip and West Bank stem largely from Israel's policy and restrictions on freedom of movement of persons, goods, medicines and information, in violation of the covenant."²³

¹⁹ [Surge in COVID Cases in the Gaza Strip](#), Gisha, 7 April 2021.

²⁰ [Rohan Talbot, Advocacy manager, Medical Aid for Palestinians](#), Twitter, 11 May 2021.

²¹ [Supreme Court Petition: PHR vs. State of Israel](#), Gisha, 25 February 2021 (Hebrew).

²² Ibid.

²³ Ibid.

Moreover, residents of the Occupied Territories cannot exercise their right to vaccination without external assistance. In early March 2021, the PA's Health Ministry announced that it had received 12,000 vaccine doses (10,000 donated by Russia and 2,000 from Israel), of which 2,000 were transferred to the Gaza Strip and 200 to the Jordanian Royal House. The groups that benefitted from these vaccines were medical staff, government ministers, security personnel in the PA's presidential and prime ministerial offices, members of the PLO Executive Committee over the age of 65, students, and the Palestinian football team that was slated to fly abroad.

A few days later, on 17 March 2021, the PA received a shipment of 60,000 Pfizer and AstraZeneca vaccines from the WHO, a third of which was transferred to the Gaza Strip via the Coordinator of Government Activities in the Territories. On 21 March 2021, the Palestinian Health Ministry announced that it had started its vaccination drive, prioritizing unvaccinated medical staff, cancer patients, patients suffering renal failure, and people over the age of 75.²⁴ According to Gisha, 81,600 vaccines either purchased by the PA or donated by countries and international agencies have to date entered the Gaza Strip, home to over 2 million people.²⁵

Nearly 5 million Palestinians live in the West Bank and the Gaza Strip. Therefore, with Israel about to complete its vaccination campaign, the number of vaccines it has transferred to the PA, along with the measly number of vaccines supplied by other factors, has been extremely negligible and has had no impact on halting the spread of the pandemic, improving the health of the population, and helping the collapsing economy.

On 7 April 2021, US Secretary of State Blinken officially announced that the United States was renewing aid to the Palestinians, transferring \$150 million to UNRWA and an additional \$75 million to projects and humanitarian aid in the West Bank. Israel's leadership voiced its

²⁴ [Palestinian Authority Launches COVID Vaccine Drive](#), Jack Khoury, Haaretz, 21 March 2021.

²⁵ [Surge in COVID Cases in the Gaza Strip](#), Gisha, 7 April 2021.

objections to the move, with Ambassador to the United States Gilad Erdan saying that "Israel strongly opposes the anti-Israel and anti-Semitic activities taking place at UNRWA facilities."²⁶

Looking at the coming months, the Palestinians may receive vaccines (as part of the Covax initiative of the WHO in collaboration with other organizations) that will suffice for 20% of the population, which of course is not enough. The petition states as much most explicitly: "The pandemic has severely damaged health but has also caused social, economic, and human damage. The fragile and impoverished economic system in the West Bank and Gaza is unable to absorb the deadly calamity inflicted by the pandemic, whose persistence amid lockdowns and the lack of vaccines has had shocking and destructive repercussions."²⁷

²⁶ [Biden Reverses Trump's Aid Cuts to Palestinians, Including to UNRWA](#), Barak Ravid, Axios, 7 April 2021.

²⁷ [Supreme Court Petition: PHR vs. State of Israel](#), Gisha, 25 February 2021 (Hebrew).

ISRAEL'S MORAL RESPONSIBILITY TO PROVIDE VACCINES TO THE PALESTINIANS

Universal Right to Health

The universal right to health means that every man and woman has the right to receive quality and equitable health services, and that every person has the right to social conditions that define and enable health, such as education, nutrition, quality water, fair and dignified income, and a healthy environment. As the Supreme Court put it, "although the scope of the constitutional right to health has yet to be determined, there is no doubt that ensuring the basic conditions of good health falls within the definition of the right to human dignity. It can also be seen as a derivative of the right to life and the right to protect a person's body."²⁸

Under the International Covenant on Social, Economic and Cultural Rights of 1966, the right to health means that every person has the right to enjoy the highest attainable standard of physical and mental health (Article 12.1). The covenant explicitly states that, for the full realization of the right to health, states must take the necessary steps to ensure the prevention, treatment, and control of communicable diseases (Article 12.2.c).

Vaccine Prioritization

Prioritization is only required when there is a shortage. However, as noted above, there is no shortage of vaccines in Israel, and therefore there appears to be no reason not to vaccinate the Palestinians under its control. Since in practice Israel is refraining from fulfilling its obligation, there is no avoiding the conclusion that this stems from other reasons.

²⁸ [Supreme Court Ruling 7245/10: Adalah vs. Ministry of Social Welfare](#), Adalah, 4 June 2013.

Since Israel no longer needs to prioritize due to a surplus of vaccines, our discussion in this paper refers mainly to Israel's policy at an earlier stage, when prioritization was still needed. It should be noted that today Israel continues to inoculate people who are neither elderly, sick, nor belong to at-risk groups, while it refrains from supplying vaccines to Palestinians belonging to such groups.

Ethical Considerations of Prioritization

For reasons of social justice, priority should be given to groups that are disadvantaged due to such socioeconomic factors as housing density, to cultural-linguistic minorities (Haredim, Arabs, Ethiopians), and to poor populations that are more vulnerable than others to disease.

Palestinians in the Occupied Territories are very poor and many of them live in highly crowded conditions, which greatly increases the coefficient of coronavirus infection. This applies even more to residents of refugee camps in the West Bank,²⁹ and definitely to residents of the Gaza Strip, which according to numerous indicators, is considered the most densely populated region in the world.³⁰

Identity of Decision-Makers

In light of media reports to the effect that the Prime Minister will head a ministerial committee that will oversee the distribution of vaccines,³¹ the complex political situation in Israel today where a parietic government whose decisions regarding the management of the pandemic (such as postponing the implementation of the Traffic Light Model) have often led to undesirable results, and sectarian pressures (some of them exerted on the sly), it is important that unbiased technical experts should take part in the decisions on vaccine prioritization, alongside politicians. This issue has gained even more importance due to the fact that the current government,

29 [Where We Work: West Bank](#), UNRWA.

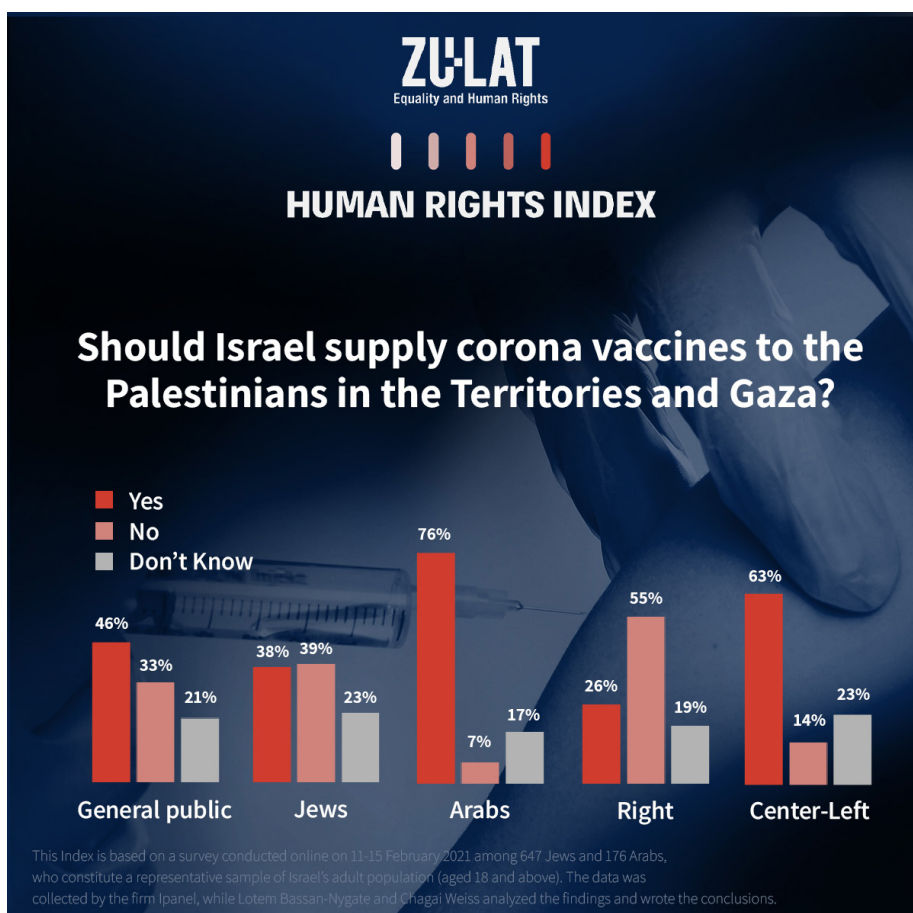
30 [Where We Work: West Bank](#), UNRWA.

31 [See report on complex Israeli negotiations to obtain corona vaccines](#), Kan 11 TV, 10 November 2020 (Hebrew).

as well as its predecessors in the last decade, has gone to great lengths not to put on its agenda the consequences of the occupation from the perspective of Palestinian rights.

Vaccinating the Palestinian population under Israel's control is a moral obligation that should be a foregone conclusion. Addressing party leaders on the subject, Zulat's Executive Director Einat Ovadia called the decision not to do so "an unbearable reality irreconcilable with the moral duty to care for the welfare of people who have been under its rule for over 53 years."³²

This moral duty appears to be clearer to the public than to the government. Zulat's first survey for the Human Rights Index published in March 2021 examined the position of respondents regarding Israel's obligation to provide vaccines to the Palestinians in the Occupied Territories. Of all the Israelis surveyed, only a third opposed the move, while 46% supported it.³³



Source: [Zulat's Human Rights Index](#).

³² [Twitter post](#), Einat Ovadia, Zulat, 4 February 2021 (Hebrew).

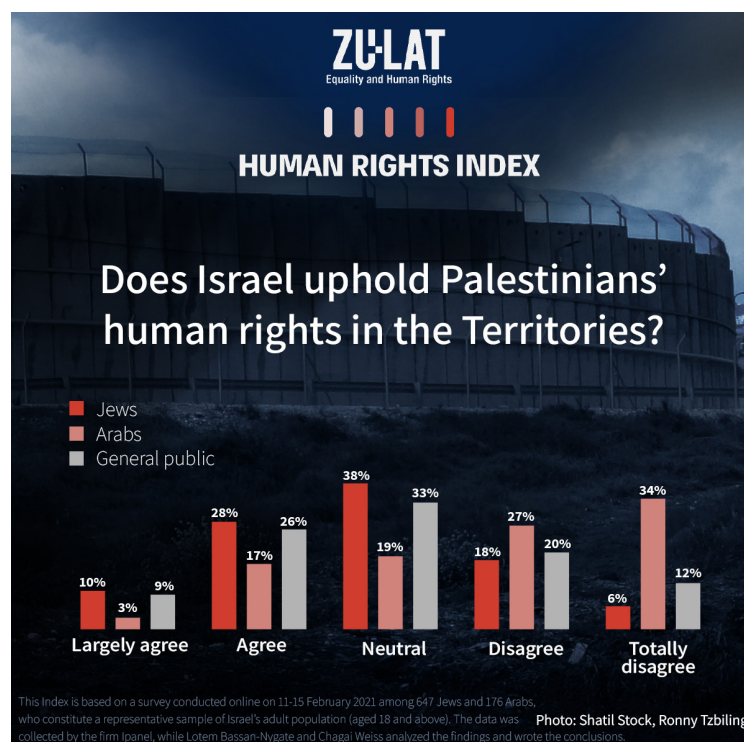
³³ [Zulat's Human Rights Index](#).

ISRAEL'S LEGAL OBLIGATION TO PROVIDE VACCINES TO THE PALESTINIANS

Along with its moral responsibility to protect and care for the life and health of the residents of the Occupied Territories, the State of Israel also bears a legal obligation to do so. The West Bank and the Gaza Strip have been under military occupation since being captured in the 1967 war, and Israeli law has never been applied to these territories. International laws of war and treaties (such as The Hague Convention and the Fourth Geneva Convention) officially refer to an occupation regime as "belligerent occupation." The Israeli Supreme Court gave a similar interpretation in various rulings, saying that "It is the role of the military commander in the region to ensure the legitimate security interests of Israel and the needs of the civilian population."³⁴

Commitment to Healthcare in the Occupied Territories Under International Law

According to the aforementioned Zulat survey, only a third of Israelis think that Israel protects the human rights of Palestinians in the Occupied Territories.³⁵



Source: [Zulat's Human Rights Index](#).

³⁴ [Supreme Court Ruling 5964/92: Bani 'Odeh vs. State of Israel](#), Psakdin, 20 March 2002 (Hebrew).

³⁵ [Zulat's Human Rights Index](#).

As noted in the petition, "international law, treaties, covenants, and declarations ratified by the State of Israel, or those determined to pertain to the area" apply in the Occupied Territories.³⁶ The petitioners further note that "the conventions and rules in effect in the area, which Israeli court rulings have declared binding, unequivocally state that the military commander should see not only to security, but also to the well-being of the residents of the area, including health."³⁷

Among other things, the petitioners base this Israeli commitment on *Basic Law: Human Dignity and Liberty*, the norms of Jewish law, legislation regarding the importance of vaccination of all human beings, and legislation concerning the military commander's duty to safeguard the health of the general population in the region under his control. In addition, they cite a position paper published by a joint committee of the National Bioethics Council, the Israel Medication Association's ethics bureau, and the Health Ministry from April 2020, according to which such factors as religion, race, nationality, country of origin, and civil status should be ignored when determining prioritization.³⁸

The petition also mentions several sections of the Geneva Convention, including Article 55, which states that "the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate," and Article 60, which asserts that "relief consignments shall in no way relieve the Occupying Power of any of its responsibilities."³⁹ The petitioners also cite the International Covenant on Economic, Social and Cultural Rights of 1966, ratified by Israel in 1991, and to General Note No. 14 of the UN Committee on Economic, Social and Cultural Rights from 2000.⁴⁰

36 [Supreme Court Petition: PHR vs. State of Israel](#), Gisha, 25 February 2021 (Hebrew).

37 Ibid.

38 Ibid.

39 Ibid.

40 Ibid.

The Gaza Question

The petition talks at length about Israel's humanitarian obligations toward Gaza even after the disengagement, especially in light of its continued control over most spheres of life in the Gaza Strip, including the decision on which people, goods, and equipment will enter or exit the area.⁴¹

However, the petition was submitted prior to the last round of fighting, during which the Gaza Strip was subject to bombings by the Israel Air Force for more than a week. According to B'tselem, "Israel has killed more than 200 Palestinians to date, about half of them women and minors under the age of 18. Hundreds of homes and other structures have been destroyed, electricity and water networks impaired and roads damaged, and tens of thousands have had to abandon their homes."⁴²

The very fact that Israel has the ability to conduct such air bombings on the Gaza Strip is evidence of its continued control of the area. This control is no longer exercised primarily through the physical presence of soldiers and settlers on the ground, but has taken a new form of control from the air, sea, and border fences, and comprises destructive and large-scale military operations every few years.

In an article published in February, Zulat President Zehava Galon called on the Attorney General to remind cabinet ministers of Israel's responsibility to supply vaccines to Gaza: "How exactly are they supposed to take care of themselves? Israel is responsible for the blockade that has lasted for 15 years and Gazans have no way to immunize themselves. Everything that enters Gaza (and often doesn't enter) enters with Israeli approval. Make up your minds: Blockade or 'Let them take care of themselves.' The two don't go together."⁴³ Galon repeated her demand in an interview with Yishai Shenrav on Galatz Radio on 15 February 2021, in which she addressed the cabinet ministers, too.⁴⁴

41 [Supreme Court Petition: PHR vs. State of Israel](#), Gisha, 25 February 2021 (Hebrew).

42 ["Collateral Damage"?](#), B'tselem, 20 May 2021.

43 [Gaza, COVID Vaccines and One of the Most Disgraceful Hearings Ever Held by Knesset](#), Zehava Galon, Haaretz.com, 18 February 2021

44 [Zehava Galon's IDF Radio interview](#), YouTube, 15 February 2021 (Hebrew).

Noa Galili, policy and advocacy coordinator at Gisha (one of the petitioners), wrote in an article: "The past year has been a magnifying glass on Israel's infringement of the rights and basic needs of Gaza's 2 million people, half of them children. Israeli rule affects almost every aspect of their lives, but Israel continues to renounce its responsibility and obligations under international and Israeli law. There is no way to solve this moral and legal failure in whose name Israel is willing even to risk its people's lives without understanding that its Gaza policy isn't viable and must change."⁴⁵

The Oslo Question

One of the means by which Israel seeks to rid itself of the responsibility to inoculate the Palestinian population under its control is the claim that the Oslo Accords transferred the responsibility for healthcare to the PA. Prof. Danny Filc, member of the expert committee that formulated the recommendations in Zulat's two policy papers on the corona vaccines, suggested two reasons that refute this argument in an article he wrote:

"First of all, Israel has a responsibility owing to the fact that it was due to its policy that the Palestinian economy and its healthcare system did not develop for over 25 years. Secondly, the Oslo Accords were supposed to be part of a process leading to the establishment of a sovereign Palestinian state in the West Bank and Gaza. But almost 30 years after these agreements were signed, there is no Palestinian state and no Palestinian sovereignty over the West Bank and Gaza. Israel is the de-facto sovereign: It has complete military control, and it determines who and what goes in or out."⁴⁶

This point is also addressed in the petition, noting that the Oslo Accords "did not change its obligation under international law, and Israel is still considered the occupying power in the territories. [...] A special

⁴⁵ [The Coronavirus Gave Israel Another Reason To Choke Gaza](#), Noa Galili, Haaretz, 19 March 2021.

⁴⁶ [Vaccine Supply to Palestinians Not Only Moral Obligation But Health Imperative](#), Danny Filc, Local Talk website, 4 February 2021 (Hebrew).

agreement reached with local elements in an occupied territory can in no way infringe upon the rights of residents of an occupied territory, as spelled out in the Geneva Convention, or exempt the occupying power from its obligations."⁴⁷

Addressing the defense minister, Zulat's Executive Director Einat Ovadia wrote in her op-ed *The Oslo Accords' Flak Jacket*: "Palestinian control of Areas A and B is a bad joke, as these are enclaves within territories under Israeli control.... Israel is strong enough to allow the Palestinians to get vaccinated, even if this hurts Netanyahu at the ballot box."⁴⁸

Discriminatory Vaccine Supply Vis-a-Vis the Settlers

As is well known, not only Palestinians but also more than 400,000 settlers live in the Occupied Territories, and their presence there conforms to the Geneva Convention's definition of the war crime of displacing population from the occupying state to the occupied territory. Furthermore, even though the two populations live in the same territory, each is subject to a different law system and sovereignty: the Palestinians to military law and Israel's occupying force, and the settlers to Israeli law. Hence, while the Palestinians suffer from massive and constant denial of most of their rights, the settlers are to all intents and purposes considered Israelis and enjoy all the rights enjoyed by residents of the State of Israel.

This apartheid-like reality dictates the policy on the corona crisis and vaccines. As noted in the petition, "Jews in the settlements are entitled to all the rights, including the basic right to life and health. In contrast, the vast majority of Palestinians living in the same region, including people obviously belonging to at-risk groups, the elderly and the sick, have no access to vaccines."⁴⁹

⁴⁷ [Supreme Court Petition: PHR vs. State of Israel](#), Gisha, 25 February 2021 (Hebrew).

⁴⁸ [The Oslo Accords' Flak Jacket](#), Einat Ovadia, *The Times of Israel*, 25 February 2021 (Hebrew).

⁴⁹ [Supreme Court Petition: PHR vs. State of Israel](#), Gisha, 25 February 2021 (Hebrew).

Such discrimination is yet another facet in Israel's violation of its legal obligation toward its Palestinian subjects, and as noted in the petition, Article 38 (2) of the Fourth Geneva Convention "sets out the obligation to provide protected residents in need of medical care with services equal to those of its citizens."⁵⁰

50 [Supreme Court Petition: PHR vs. State of Israel](#), Gisha, 25 February 2021 (Hebrew).

THE ISRAELI INTEREST

On the one hand, there is nothing wrong with recognizing that beyond the moral importance and legal commitment, vaccinating the Palestinian population is an Israeli interest that will contribute to protecting the Israeli public from infiltration of the virus, to overcoming the pandemic, and to achieving community immunity. This was also affirmed recently by Prof. Gabi Barabash, a former Health Ministry director general and one of the best-known commentators on the corona topic.⁵¹

The corona virus does not ask for an ID before infecting and does not stop at checkpoints. Denying vaccines to residents of the Occupied Territories is a landmine laid by the government on the way to recovering from the pandemic. Residents of the Occupied Territories come to work in Israel, and Israeli citizens go to the West Bank to visit, shop, etc. Advocate Dr. Shelly Kamin-Friedman, who authored Zulat's first two policy papers on the subject of corona vaccines, further emphasized this point in her op-ed *Israel Has Moral Duty and Health Need to Vaccinate Palestinians*.⁵²

On the other hand, there is a fundamental difference between the realization that Israel's citizens and the PA's residents share the same epidemiological fate due to the daily crossing of people, the geographical proximity, and the attendant physical contacts and continued contagion, and the cynical and utilitarian use made lately of the Palestinians' dependence on Israel's assistance regarding the supply of vaccines.

Vaccine Supply Based on the Benefit to Israel and the Settlers

On 18 February 2021, the Health Ministry announced that the unused Moderna vaccines would be used to vaccinate Palestinian laborers with permits to work in Israel. Moderna's vaccines are very similar to

⁵¹ [Facebook post](#), Zulat, 9 January 2021 (Hebrew).

⁵² [Israel Has Moral Duty and Health Need To Vaccinate Palestinians](#), Shelly Kamin-Friedman, Ynetnews, 12 January 2021.

the Pfizer vaccines given to Israel's citizens but come with different instructions for use, and the Health Ministry refrained from using them to avoid confusion. After the proposal to use them to vaccinate IDF soldiers and prisoners was rejected, it was decided to assign them to Palestinian laborers.⁵³

The vaccination campaign began on 8 March 2021 at compounds placed at the checkpoints between Israel and the West Bank. Health Ministry Director General Prof. Chezy Levy declared during a visit to one such compound that very same day: "This is a very important operation. Every day we host 100,000-130,000 workers who work shoulder to shoulder with Israeli workers and Israeli employers and we thought it was right to inoculate them in order to prevent infection from passing from the PA to here as much as possible. Vaccinating Palestinians is a matter for the Palestinian health organizations and the people who run the PA."⁵⁴

If there was any doubt about the difference between the Palestinian and Israeli interest and the question of which one of the two these vaccines were supposed to serve, here is the answer: the Israeli employers were the ones responsible for scheduling appointments and bringing laborers to the vaccination compounds (in fact, laborers were forbidden from reporting to the site independently), and the operators of the compounds were the Civil Administration and the Defense Ministry's Crossing Points Authority.⁵⁵ It should also be noted that Health Ministry communiques emphasized that employers were not to force laborers to get vaccinated.⁵⁶ However, some laborers testified that the message they got was that if they were not vaccinated, their work permits would not be renewed.⁵⁷

53 [Health Ministry: Palestinian Laborers Working in Israel To Get Moderna Vaccines](#), Meirav Cohen, Walla, 18 February 2021 (Hebrew).

54 [Israel Begins Vaccinating Palestinian Workers Against COVID](#), Haaretz, Nir Hasson, 8 March 2021.

55 [Israel To Vaccinate Palestinian Workers at Settlement and in Checkpoint Starting Sunday](#), Haaretz, Hagar Shezaf, 3 March 2021; [Upon Entering Industrial Zones and Exiting Checkpoints: That's How 110,000 Palestinian Laborers Will Be Vaccinated](#), Amir Buhbut, Walla, 3 March 2021 (Hebrew).

56 [Israel To Vaccinate Palestinian Workers at Settlement and in Checkpoint Starting Sunday](#), Haaretz, Hagar Shezaf, 3 March 2021.

57 [Vaccinated Laborers Heave Sigh of Relief But Worry About Their Families](#), Yanir Yagana, Walla, 8 March 2021 (Hebrew).

Vaccine Supply Contingent on Palestinian Reciprocation

On 15 February 2021, the Subcommittee for Policy and Strategy of the Knesset Foreign Affairs and Defense Committee held a discussion about vaccination in the PA. Committee Chairman Zvi Hauser objected to supplying vaccines to residents of the Gaza Strip, on the grounds that Hamas continues to hold the bodies of Hadar Goldin and Oron Shaul, IDF soldiers killed during Operation Protective Edge in Gaza in 2014, as well as Israeli captives Avera Mengistu and Hisham Shaaban al-Sayed.

Addressing the committee's chairman, Zulat President Zehava Galon wrote in an article titled Gaza, COVID Vaccines and One of the Most Disgraceful Hearings Ever Held by Knesset: "Our basic humanity should spur us to raise an outcry that Gazans' health has become a ball in a game among our cynical and brazen politicians. When we keep a vaccine from a Gazan woman who has done us no harm, we lose part of our humanity."⁵⁸

MK Hauser's position does not exist in a vacuum, but is in line with the official policy of Israel's leadership. Prof. Aviad Hacoen, the attorney of the Goldin family, declared during a Supreme Court hearing on a petition filed by the family: "The only thing we care about is the return to Israel of our children, both soldiers and civilians. It is neither logical nor moral for Israel to make exorbitant humanitarian gestures, however worthy these may be, without making them contingent on the return of our boys."⁵⁹

The State responded: "As far as vaccines are concerned, Israel's policy in the Gaza Strip is based, among other things, on such diplomatic and security considerations as the whereabouts of captive and missing persons, as well as on health considerations related to the fight against the spread of corona. In view of the current situation, Israel has no intention to supply vaccines to the Gaza Strip at the moment. It should be noted that, according to the information available to state officials, the PA has no vaccines and therefore cannot transfer any to the Gaza Strip."⁶⁰

58 [Gaza, COVID Vaccines and One of the Most Disgraceful Hearings Ever Held by Knesset](#), Zehava Galon, Haaretz.com, 18 February 2021. .

59 [Judge Chastises Government: Inconceivable That Goldin Family Should Still Have No Answers](#), Avraham Bloch, Srugim, 15 March 2021 (Hebrew)..

60 [State to Supreme Court: No Intention To Supply Vaccines to Gaza at the Moment](#), Avishai Greenzweig, Globes, 6 January 2021 (Hebrew).

SUMMARY, CONCLUSIONS, AND RECOMMENDED COURSES OF ACTION

The extreme disparity between the vaccination situation in Israel and in the territories under its control has been increasingly growing. **While Israel is one of the most vaccinated countries in the world, the number of immunized Palestinians in the Occupied Territories is very low, mainly due to lack of access to vaccines.**

Both in Israel and in the Occupied Territories live people who yearn for a secure and prosperous life, but repeatedly find themselves hostage to leaders who want to continue an unnecessary and deadly conflict. **Now more than ever, in light of the vast destruction it inflicted and to prevent the death of many more people, Israel must fulfill its commitment to vaccinate the Palestinians under its control.**

The dismal state of the Palestinian health system is the result of 54 years of occupation, during which the State of Israel has not only enforced a violent and oppressive military regime that has not allowed residents of the Occupied Territories to progress, either as individuals or as a community, but has actively prevented the development of the region.

The State of Israel is obligated to provide vaccines to the Palestinians under its control. However, insistence on **this Israeli commitment is in no way meant to normalize or legitimize the occupation,** which entails a serious, far-reaching, and continuous daily violation of the human rights of millions, **or the need to end it immediately.**

1. By virtue of being the entity in control of the Occupied Territories, the State of Israel has a legal obligation and a moral responsibility to provide vaccines to the Palestinians.
2. As the entity that controls the entry of equipment and goods into the Occupied Territories, the State of Israel also has the responsibility to ensure the realization of any effort by other countries or foreign entities to sell or donate vaccines to the Palestinians. Such

humanitarian efforts do not in any way add to or detract from Israel's commitment, and should not be seen as a condition or consideration affecting its commitment.

3. Despite the change in the nature of Israel's control after the disengagement in 2005, Israel is still the sovereign of the Gaza Strip and one of the main entities responsible for the serious humanitarian situation there. Therefore, the obligation to ensure that the right to health of the residents of Gaza is upheld rests with Israel.
4. The argument that Israel is not obligated to provide vaccines to the Palestinians due to the fact that the Oslo Accords transferred some of the powers in the West Bank to the PA is invalid. Israel is still the sovereign of the Occupied Territories, and responsible for the health of its residents and the protection of their human rights.
5. It is inconceivable that Israel should vaccinate the settlers living in the Occupied Territories in violation of international law, but not inoculate the Palestinian residents of the area. The discriminatory immunization policy further underscores the apartheid reality that prevails in the region.
6. Israel's obligation to provide vaccines to the Palestinians in the Occupied Territories is unconditional, and must not be used to advance any Israeli interest or to gain any advantage in contacts with the Palestinian leadership, including on such sensitive issues as missing persons and bodies.
7. The decision to vaccinate only Palestinians who come into contact with Israelis by virtue of working in Israel and in the settlements is unacceptable.
8. Regarding the type of vaccines, their quality, origin, etc., Israel must not differentiate between its citizens and the Palestinians

under its control, and must provide the Palestinians with vaccines of the same quality and effectiveness as the vaccines given to Israelis.

9. The criteria for vaccination and prioritization should be identical, for both Israeli citizens and Palestinians. For that matter, Israel should have vaccinated elderly Palestinians and people with preexisting morbidities before vaccinating the entire Israeli population, and must vaccinate these people before vaccinating Israel's entire population with a third dose.
10. Israel's vaccine diplomacy is ill-chosen. If it has surplus vaccines, Israel should hand them over to countries and communities that need them and not for profit. In any case, even if Israel's leadership chooses to pursue a vaccine diplomacy, it cannot decide that it has enough vaccines to sell out as long as it does not vaccinate all Palestinians in the Occupied Territories.
11. Since there are daily contacts and traffic between Israel and the Occupied Territories, supplying vaccines for the entire Palestinian population in the territories is also an Israeli interest that will contribute to advancing community immunity in Israel.

In conclusion, Israel has not only the obligation but also the ability and resources to vaccinate the Palestinians under its control. As part of its legal obligation as the occupying power and its moral responsibility, it must immediately use these resources to ensure the realization of the right to health and to a dignified life of all Palestinians in the Occupied Territories, indiscriminately and unconditionally, especially in light of the vast destruction it inflicted in the Gaza strip in the recent round of fighting.



In May 2020, we launched Zulat for Equality and Human Rights, a unique institute that combines research and analysis via social media networks and conventional media, and acts as a bridge between the political arena and civil society. Zulat's studies portray the political and public reality, but our work only begins there. As an activist think tank, we fight back by working to set an alternative agenda, change the public discourse, and advance policy and legislation to uphold democracy and human rights. We represent a broad perspective on human rights, that looks at universal rights, civil rights - private as well as collective, and social rights – as a whole. We believe all different types of rights depend and relay on one another.

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